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Call to Order

- 1. Awards and Recognition
- 2. Public Comments Not Related to the Agenda
- 3. Consent Agenda
- 4. <u>King William Treatment Plant Package Membrane Filtration System</u>
 Rejection of all Bids >\$200,000
- Middlesex County Interceptor System Program Phase II Saluda Pump Station (MP013710);
 Middlesex County Interceptor System Program Phase II Hartfield Pump Station (MP013720); Middlesex County Interceptor System Program Phase II - Transmission Force Main (MP013730)
 Rejection of all Bids (>\$200,000)
- 6. <u>Trust Agreement Amendment and Restatement</u>
 Resolution
- 7. <u>Wastewater Revenue Bonds</u> Resolution
- 8. <u>Boat Harbor Treatment Plant Transmission Force Main Section 2 (Land)</u>
 Additional Appropriation, Contract Award (>\$200,000), and Task Order (>\$200,000)
- 9. <u>Boat Harbor Transmission Force Main Land Acquisition</u>
 Acquisition of Real Property and Easement Acquisitions Suffolk, VA
- 10. <u>Capital Improvement Program Internal Labor FY 2025</u> Initial Appropriation
- 11. <u>Fleet Management Fiscal Year 2025</u> Initial Appropriation
- 12. <u>Microbial Source Tracking (MST) Identified Locality Repair Program</u> Initial Appropriation
- 13. Renewable Natural Gas (RNG) at the Atlantic Treatment Plant Contract Award



No. Topic

- 14. <u>Water Quality Department Instrumentation Equipment (FY-2025)</u>
 <u>Initial Appropriation</u>
- 15. Commission Governance Guidelines
- 16. Ethics Policy
- 17. Procurement Policy
- 18. Remote Participation Policy
- 19. Election of Officers
- 20. Finance Committee Appointment
- 21. New Business
- 22. <u>Unfinished Business</u>
- 23. Commissioner Comments
- 24. Informational Items
- 25. Closed Meeting
- 26. Reconvened Meeting



The Commission Chair called the meeting to order at 9:05 a.m.

Name	Title	Present for Item Nos.
Rodriguez, Stephen C.	Commission Chair	1-26
Elofson, Frederick N.	Commission Vice-Chair	Absent
Glenn, Michael E.	Commissioner	1-26
Lakdawala, Vishnu K.	Commissioner	1-26
Levenston, Jr., Willie	Commissioner	1-26
Stern, Nancy J.	Commissioner	1-26
Taraski, Elizabeth	Commissioner	1-26
Templeman, Ann	Commissioner	1-26

1. Awards And Recognition

Action: No action required.

Brief: HRSD is pleased to announce the following:

a. Commissioner Reappointment

Governor Glenn Youngkin has reappointed commission members Stephen Rodriguez of Chesapeake and Ann Templeman of Hampton to continue service on the HRSD Commission. Mr. Rodgriguez was first appointed to the HRSD Commission in 2012, filling an unexpired term and begins his third full term on the Commission. Ms. Templeman previously served on the HRSD Commission from January 2017 until May 2019. She was again appointed in 2021, filling an unexpired term and enters her first full term.

b. Awards - United Way of South Hampton Roads

HRSD's partnership with United Way in helping our community spans over 20 years. Throughout the years HRSD has received numerous awards, and this year, earned the "Bronze Trailblazer Award" for the 14th consecutive year. Commissioner Vishnu Lakdawala and Director of Talent Management Dorissa Pitts-Paige accepted the award on behalf of the HRSD United Way Committee.

Three awards are presented at the annual event - the Bronze Trailblazer (meets one criterion), the Silver Trailblazer (meets two criteria) and the Gold Trailblazer (meets three criteria). The criteria to receive an award are:

All must meet a minimum of \$5,000 contribution and 5 pledges



- 60 percent of company pledges
- Per capita gift minimum of \$75 per person or higher
- Average contribution of \$150 or more per person

HRSD had an average of \$674.13 per contribution and received 54 pledges with 5.8 percent of employees contributing.

Public Comment: None

2. **Public Comments Not Related to Agenda** – None



3. Consent Agenda

Action: Approve the items listed in the Consent Agenda.

Moved:Michael GlennAyes:7Seconded:Willie Levenston, Jr.Nays:0

Brief:

- a. Approval of minutes from previous meeting.
- b. Contract Awards (>\$200,000)

1.	Fairbanks Nijhuis Vertical Turbine Pump and Installation	\$266,272
2.	Seismic Monitoring and Earthquake Hazard Assessment for	\$618,870

Seismic Monitoring and Earthquake Hazard Assessment for Managed Aquifer Recharge Operations in Southeast Virginia – Phase II

- c. Contract Change Orders (>25% of original contract value or \$50,000)
 - 1. <u>Bethel-Poquoson Force Main Phase II (Wythe Creek Road)</u> \$25,480 <u>Replacement</u>
- d. Task Orders (>\$200,000)
 - South Shore Gravity Sewer Improvements Phase One
 Task Order
 Additional Appropriation Regulatory Required (<\$10,000,000)
 \$2,808,253
 - 2. <u>SWIFT Program Management (Program Management Services for</u> \$7,875,324 FY-2025)
- e. Regulatory Capital Improvement Project Initial or Additional Appropriation <\$10,000,000
 - 1. James River Land Improvements Phase I \$450,000

Item(s) Removed for Discussion: None



4. King William Treatment Plant Package Membrane Filtration System Rejection of all Bids >\$200,000

<u>Action</u>: Approve rejection of all bids submitted for the King William Treatment Plant Package Membrane Filtration System project for the Engineering Department.

Moved:Vishnu LakdawalaAyes:7Seconded:Nancy SternNays:0

CIP Project: MP013300

Regulatory Requirement: None

Type of Procurement: Competitive Bid

In accordance with HRSD's competitive sealed bidding procedures, the Procurement Department advertised and solicited bids directly from potential bidders. The project was advertised on March 25, 2024, and one bid was received on April 19, 2024, as listed below:

Bidder	Bid Amount
Sherwood Logan and Associates, Inc.	\$1,691,300

Engineer Estimate:

\$1,600,000

<u>Project Description</u>: This project is intended to increase capacity for King William from 100,000 gallons per day (GPD) Average Daily Flow (ADF) to a firm capacity of 150,000 GPD ADF.

<u>Project Justification</u>: King William Treatment Plant can currently treat 100,000 GPD ADF. Development in King William County has been accelerating in recent years. New subdivisions are planned, and construction has ramped up in existing subdivisions adding additional flow. Buildout of approved subdivisions will require an expansion of capacity beyond 100,000 GPD ADF.

<u>Contract Description</u>: This contract is for a package membrane filtration system for the King William Treatment Plant.

The Bidder took multiple exceptions to HRSD's requirements including, but not limited to, aggressive payment schedules prior to the receipt of equipment, clean water testing, and failure to provide unlocked control system software for the membrane filtration system. Although staff attempted to negotiate the exceptions, they were still found to be unacceptable. After thorough review by HRSD and AH Engineering Consultants, staff finds Bidder non-responsive and recommends rejection of all bids. HRSD intends to re-advertise the solicitation.



Schedule: PER July 2021

Design October 2022 Bid July 2024

Construction November 2024 Project Completion November 2025



Middlesex County Interceptor System Program Phase II – Saluda Pump Station (MP013710); Middlesex County Interceptor System Program Phase II - Hartfield Pump Station (MP013720); Middlesex County Interceptor System Program Phase II -Transmission Force Main (MP013730) Rejection of all Bids (>\$200,000)

<u>Action</u>: Approve rejection of all bids submitted for the Middlesex County Interceptor System Phase II projects.

Moved:Willie Levenston, Jr.Ayes:7Seconded:Michael GlennNays:0

CIP Project: MP013710, MP013720, MP013730

Regulatory Requirement: None

Type of Procurement: Competitive Bid

In accordance with HRSD's competitive sealed bidding procedures, the Engineering Department advertised and solicited bids directly from potential bidders. The project was advertised on January 26, 2024, and only two bids were received on April 18, 2024, as listed below:

Bidder	Bid Amount	
Bridgeman Civil, Inc.	\$81,650,524	
Garney Companies, Inc.	\$81,928,695	

Engineer Estimate: \$45,512,825

Though the low bid was deemed responsive, both bids received are \$36 million (80 percent) over the Engineer's Estimate. Bids for this project are significantly higher than other recent prices for similar projects. HRSD and Kimley-Horn staff recommend rejecting the bid, HRSD continuing to maintain existing assets serving Middlesex County and re-evaluating the project scope and the need for a potential future re-advertisement. The Engineering Department is currently conducting a Master Plan Study for the Middle Peninsula and sewer alternatives for Middlesex County will be included. HRSD staff has reviewed the recommendation with Middlesex County staff and they concur with the recommendation.

<u>Project Description</u>: The Urbanna to Mathews Transmission Force Main project (MP013700) will be closed out after the PER phase of work has been completed and three new CIP projects are being created. Two of the CIP projects will manage the reimbursement between HRSD and the County of Middlesex for the Middlesex Interceptor System Program Phase II-Middlesex Saluda Pump Station (MP013710) and for the Middlesex Interceptor System Program Phase II-Middlesex Hartfield Pump Station (MP013720). The third CIP



project for the Middlesex Interceptor System Program Phase II-Transmission Force Main (MP013730) will be managed and funded by HRSD.

MP013710: This project consists of the construction of a new sanitary sewer pump station in Saluda, Virginia and approximately 1,700 linear feet of 3-inch sewer force main between the proposed Central Middlesex Treatment Plant pump station and the termination point of the Middlesex Interceptor Force Main (IFM) Phase I project and the decommissioning of HRSDs existing Central Middlesex Treatment Plant. The recommended alternative is to construct the new pump station within the footprint of the existing treatment plant. The scope of work generally includes the design and permitting of the new pump station, force main, and developing demolition/decommissioning plans for the existing treatment plant.

<u>MP013720</u>: This <u>project</u> generally consists of the construction of a new sanitary sewer pump station in the Hartfield area and approximately 1,500 linear feet of sewer force main along Wood Brothers Road to convey flow between the pump station and the Middlesex Transmission Force Main in General Puller Highway.

MP013730: This project includes the construction of a 3.2-mile force main from Urbanna to Cook's Corner in addition to a 13 mile force main along Route 33 in Middlesex County from Cook's Corner to the existing Mathews Force Main. This creates the backbone of the Middlesex Force Main solution and includes a horizontal direction drill under the Piankatank River. This interceptor system will convey wastewater from Middlesex County to the York River Treatment Plant and allow for the decommissioning of the Urbanna Treatment Plant. The system will also include the construction of a few new pump station(s). This project will also involve provisions for connection of the Topping service area near the intersection of Route 33 and Route 3 and for connection of the Deltaville service area near Hartfield along General Puller Highway. This project will be funded through the Virginia Clean Water Revolving Loan Fund program.

Project Justification: Middlesex County is developing sewer service areas. In order to provide wastewater treatment, HRSD must expand existing Middlesex treatment plants, install decentralized treatment systems, and/or install conveyance from these service areas to existing wastewater treatment facilities. HRSD has two minor, 100,000 gallons per day (GPD) or less, wastewater treatment facilities in Middlesex County that are near capacity. In addition, the Town of Urbanna has requested HRSD to eliminate surface water discharges. Currently, HRSD must purchase nutrient credits to discharge into the Rappahannock River basin. HRSD has wastewater treatment capacity at the York River Treatment Plant (YRTP). The life cycle cost of conveying sewage to the YRTP is less than the cost of constructing and operating multiple minor wastewater treatment plants in Middlesex County. A conveyance system to the YRTP service area mitigates the risk and expense of incremental expansions



to existing treatment facilities and of more stringent permitting requirements associated with future development in Middlesex County. Consequently, HRSD's strategy is to convey flows from Middlesex to the YRTP.

<u>Discussion Summary</u>: Due to the high bid prices, HRSD is evaluating alternative options in coordination with Middlesex County and the Middle Peninsula Master Plan. The bid prices are the result of the current limited bidding environment, tight market for similar work and the remote location. The existing treatment plant facilities are currently in good working condition and repairs not required as part of the Consent Decree/Rehab Action Plan. Minor plant improvements could be needed to address operational issues over the next few years.



6. Trust Agreement Amendment and Restatement Resolution

<u>Action</u>: Adopt a Resolution approving an amendment and restatement of the Trust Agreement to make clear the debt priorities post-closure of the Senior Trust Agreement

Moved:Ann TemplemanAyes:7Seconded:Nancy SternNays:0

Brief: In May 2024, the Commission approved, and staff subsequently closed, the Series 2024A refunding bonds. The issuance of these bonds resulted in the payoff and discharge of the remaining bonds under the District's senior trust agreement, which is no longer in effect. An amendment and restatement of the current trust agreement, created in 2011 and previously amended in 2016, is necessary to ensure that current and future bond holders know that the debt they hold is no longer subordinate.

The attached <u>resolution</u> gives staff the approval to make the necessary changes to the <u>Trust Agreement</u> that will resolve references to the former senior trust agreement. These changes will make clear that the District's bonds, which were previously described as subordinate, are no longer subordinate. Several other minor changes will clear up outdated references and align terminology, all of which are permitted to be made without bondholder consent.

In summary, the proposed changes will avoid confusion over the nature and description of the District's bonds for both current and future bondholders. Staff feels that making these corrections now will help facilitate future bond transactions.

The resolution was drafted by bond counsel and reviewed by staff.



7. Wastewater Revenue Bonds Resolution

<u>Action</u>: Adopt a Resolution authorizing the issuance and award of one or more series of Hampton Roads Sanitation District wastewater revenue bonds to pay for anticipated fiscal year 2025 capital improvement cash flow requirements.

Moved:Elizabeth TaraskiAyes:7Seconded:Michael GlennNays:0

Brief: In May 2024, the Commission approved the fiscal year 2025 Annual Budget, Financial Forecast and Capital Improvement Plan (CIP). These documents authorized a capital improvement spending program of \$820 million in fiscal year 2025. The spending plan relies on indebtedness of nearly \$426 million. \$40 million is anticipated to be borrowed from the Virginia Clean Water Revolving Loan Fund at a below market interest rate. Some of the indebtedness needed can be drawn from HRSD's existing Water Infrastructure Finance and Innovation Act (WIFIA) loan agreement. The remaining balance, totaling approximately \$270 million in capital spending, was anticipated to be borrowed through an additional WIFIA loan.

In September 2020, HRSD closed on its first WIFIA loan. HRSD's timing was fortunate in that the cash flow needs corresponded with historically low interest rates and specific defined qualifying projects. As a result, HRSD locked in an interest rate of 1.42 percent for a loan with a weighted average life of approximately 34 years to partially fund the qualifying projects. Timing was also fortunate for HRSD's second WIFIA loan, with an interest rate of 1.95 percent for a loan with a weighted average life of approximately 31 years.

HRSD is now entering the peak spending time of its CIP. Interest rates are at "average" historical levels. Staff has determined that it can likely access debt via a capital market issuance with a lower cost of capital (interest rates) versus a WIFIA borrowing to fund its fiscal year 2025 capital cash flow needs. That, coupled with the ability to invest the construction fund to match anticipated construction cash flow needs, may result in significant debt service savings.

The attached <u>resolution</u> also authorizes federally taxable refunding revenue bonds in the event that market conditions are such that a refunding transaction can create debt service savings, consistent with our Financial Policy, of at least three percent of the par value of the refunded bonds.

The following bond documents are provided:

a. Resolution authorizing the issuance and award of one or more series of HRSD Wastewater Revenue Bonds Series 2024B



- b. <u>Preliminary Official Statement</u>
- c. <u>Eleventh Supplemental Trust Agreement</u>
- d. Bond Purchase Agreement
- e. <u>Escrow Deposit Agreement</u>

Staff provided a briefing on the proposed transaction.

<u>Discussion Summary</u>: The closing costs, which includes bond counsel and financial advisor review, is approximately a half million dollars. When comparing various financing alternatives, all estimated costs of issuance are included each transaction.

Staff explained the estimates for the new debt service savings assume a future refunding does not take place. Staff also explained any WIFIA funding must be used within seven years.



8. Boat Harbor Treatment Plant Transmission Force Main Section 2 (Land)
Additional Appropriation, Contract Award (>\$200,000), and Task Order (>\$200,000)

Actions:

- a. Appropriate additional funding in the amount of \$31,442,142.
- b. Award a construction contract to Garney Companies, Inc. in the amount of \$49,360,500.
- c. Approve a task order with CDM Smith, Inc. in the amount of \$2,975,675.

Moved:Michael GlennAyes:7Seconded:Willie Levenston, Jr.Nays:0

CIP Project: BH015720

Regulatory Requirement: Integrated Plan – SWIFT

Budget	\$26,424,000
Previous Expenditures and Encumbrances	(\$3,021,942)
Available Balance	\$23,402,058
Proposed Contract award to Garney Companies, Inc.	(\$49,360,500)
Other Direct Costs	(\$40,000)
Proposed Task Order to CDM Smith, Inc.	(\$2,975,675)
Proposed Contingency	(\$2,468,025)
Project Shortage/Requested Additional Funding	(\$31,442,142)
Revised Total Project Authorized Funding	\$57,866,142

Contract Status with Task Orders:	Amount
Original Contract with Engineer	\$ 487,710
Total Value of Previous Task Orders	\$ 2,031,281
Requested Task Order	\$2,975,675
Total Value of All Task Orders	\$ 5,006,956
Revised Contract Value	\$ 5,494,666
Engineering Services as % of Construction	11.1%

Type of Procurement: Competitive Bid



In accordance with HRSD's competitive sealed bidding procedures, the Engineering Department advertised and solicited bids directly from potential bidders. The project was advertised on March 17, 2024, and two bids were received on May 23, 2024, as listed below:

Bidder	Bid Amount
Garney Companies, Inc.	\$49,360,500
Bridgeman Civil Inc.	\$52,040,000

Engineer Estimate:

\$41,000,000

The design engineer, CDM Smith Inc., evaluated the bids based upon the requirements in the invitation for bid and recommends award to the lowest responsive and responsible bidder Garney Companies, Inc. in the amount of \$49,360,500.

<u>Project Description</u>: This project consists of the on-land transmission force main section connecting the subaqueous force main Section 1 (separate project under BH015710) to the Nansemond Treatment Plant. This project will provide an interceptor force main to be installed using both open cut methods and a trenchless crossing of I-664. HRSD desires to construct this section of force main separate from Section 1 to accommodate coordination with on-going and proposed development of the SWIFT Water and backflush piping from the future Nansemond SWIFT Facility to each of the proposed well sites located west of I-664.

Project Justification: The James River Waste Load Allocation (WLA) requires HRSD to continue reducing the mass of nutrients discharged from associated treatment plant outfalls. The planned reduction of nutrients will largely be completed through implementation of the SWIFT program. The SWIFT master planning effort has determined that advanced water treatment and recharge at Boat Harbor has significant physical limitations including site availability and resiliency to sea level rise. In addition, a financial analysis indicates there is significant long term cost savings associated with consolidating wastewater treatment and SWIFT facilities at Nansemond Treatment Plant. This project will allow HRSD to further reduce the amount of nutrients contributed to the James River basin. Upgrades to Nansemond Treatment Plant to accommodate the additional flow will be completed under a separate capital project.

Contract Description: This contract is for the construction of 6,300-feet of 48-inch HDPE force main, 3,650-feet of SWIFT Water piping that ranges from 12-inch to 30-inch diameter, 3,600-feet of 16-inch backflush piping, and 3,600-feet of 2-inch communications conduit. The project scope also includes a microtunnel crossing under highway I-664.

<u>Contract Analysis of Cost</u>: Initial appropriation amount reflects the construction estimate that was developed at the end of 2019 and was based on the conceptual approach identified in a 2017 feasibility study. The initial project scope included 7,800-feet of 36-inch HDPE force main; 10,512-feet of SWIFT Water piping that ranged from 10-inch to 30-inch; 10,911-feet of 16-inch backflush piping; and 10,911-feet of 2-inch communications conduit.



As the design progressed, the scope of the project was further defined to accommodate site conditions and design considerations. The length of SWIFT and backflush piping was reduced to provide service to only the recharge well sites for which property acquisition was secure. The scope increased to address contaminated soil and groundwater in a portion of the Former Nansemond Ordinance Disposal site through which a portion of the force main runs. The force main diameter was increased by 36 inches to 48 inches to accommodate the final Boat Harbor Pump Station design flow. The depth of the force main was increased in several areas to go under pre-existing utilities. Combination air/vacuum valves with associated monitoring instrumentation were added as design calculations indicated. The construction contract costs were re-estimated at \$38,000,000 in November 2022. The revised capital project estimate was incorporated into HRSD's capital improvement program planning.

Final design was completed in February 2024. The low bid is slightly over 20 percent higher than the engineer's opinion of probable costs, which was submitted prior to bid opening. The linear-foot unit price in both bids for the 48-inch force main were much higher than what was included in the engineer's opinion of probable costs. The force main costs are approximately 40 percent of the total contract value; therefore, the unit price difference was a significant contributor to the total difference between the bids and the estimate. The engineer noted that there was limited recent data of such large high-density polyethylene (HDPE) force main project upon which to base their estimate. The engineer also noted that the limited number contractors bidding on the project (only two) contributed to the higher bids.

The contract will include lump sum and unit price items. The request for additional appropriation includes a contingency of approximately five percent of the construction contract value to accommodate potential unforeseen subsurface conditions that may be encountered in a project of this nature.

<u>Task Order Description</u>: This task order will provide construction administration and inspection services and will be issued as an Amendment to an existing Professional Services Agreement with CDM Smith, Inc.

<u>Task Order Analysis of Cost</u>: The cost for this task order is based on an estimate of labor hours and direct costs required to execute the negotiated scope of work. The total hours budgeted are appropriate for the proposed services. The lump sum fee for construction administration services is 3.8 percent of the construction contract cost and the reimbursable budget for construction inspection services is 2.1 percent of the construction contract cost. These percentages are comparable to other recent HRSD linear projects.

Funding Description: This project is currently included in the Virginia Clean Water Revolving Loan Fund (VCWRLF) and Water Infrastructure Finance and Innovation Act (WIFIA) programmatic loans. Additionally, the project team has applied for grant funding under the Water Quality Improvement Fund (WQIF) program.



Schedule: Construction July 2024

Project Completion June 2026

<u>Discussion Summary</u>: The communications conduit is for connectivity to the well sites and will only be used by HRSD.



Boat Harbor Transmission Force Main Land Acquisition
 Acquisition of Real Property and Easement Acquisitions – Suffolk, VA

Action: Approve the purchase of two subdivided portions of property from Tax Parcel: 6*35 and associated permanent, temporary and ingress/egress easements and the associated total acquisition costs of \$947,836 in accordance with the terms and conditions of the Purchase Agreement with Economic Development Authority of the City of Suffolk (Seller) and GEE's Group Partners, LLC (GEE's) and authorize the General Manager to execute same and related acquisition documents in accordance with those terms and conditions substantially as presented, together with such changes, modifications and deletions as the General Manager may deem necessary.

Moved:Vishnu LakdawalaAyes:7Seconded:Michael GlennNays:0

CIP Project: GN016346

Regulatory Requirement: Integrated Plan – SWIFT

Budget	\$3,000,000
Previous Expenditures and Encumbrances	(\$1,986,114)
Available Balance	\$1,013,886

Project Description: This project consists of the land acquisition to support the Boat Harbor Treatment Plant Transmission Force Main Section 2 (Land) project BH015720. This property and easement acquisition is needed for the force main and well sites. The force main constructed as part of BH015720 will connect the subaqueous force main Section 1 (separate project under BH015710) to the Nansemond Treatment Plant. This project also includes land acquisition for the piping to and from the managed aquifer recharge wells in BH015720, including SWIFT Water and backflush piping from the future Nansemond SWIFT Facility to each of the proposed well sites.

Additional agreements will be needed for the remaining well sites located at other properties to the west of I-664, for which the design of and property negotiations will soon begin.

<u>Project Justification</u>: This project will allow HRSD to reduce the amount of nutrients contributed to the James River basin. Construction efforts are currently underway at the Boat Harbor Treatment Plant and for the James River pipeline crossing efforts. This acquisition is needed to allow connection and conveyance from the north shore (Boat Harbor Treatment Plant flows) under the James River and to the south shore and subsequent treatment efforts at the Nansemond Treatment Plant, as well as SWIFT initiatives.

<u>Analysis of Cost</u>: The cost for the easement is based on an appraisal by Dove Valuations, as well as negotiated settlement with the property owner and site developer that reflects



current market value acquisition costs in the area and the additional costs negotiated to improve the site before HRSD takes ownership.

The <u>Purchase and Sale Agreement</u> is attached and was reviewed by HRSD staff and legal counsel, with edits pending. The deed of bargain and sale will also be reviewed by HRSD staff and legal counsel before execution. A location <u>map</u> is provided for clarification purposes.



10. Capital Improvement Program Internal Labor FY-2025 Initial Appropriation

Action: Appropriate total project funding in the amount of \$4,909,000.

Moved:Willie Levenston, Jr.Ayes:7Seconded:Nancy SternNays:0

CIP Project: AD012730

Regulatory Requirement: None

<u>Project Description:</u> This project will account for internal labor necessary to implement the Capital Improvement Program (CIP). Labor costs are from those individuals working in either the Engineering or Operations Departments tasked with implementing the CIP.

<u>Project Justification</u>: This project will cover internal labor for FY-2025, starting on July 1.

Schedule: Labor hours will be charged to this CIP project as incurred during the fiscal year.



11. Fleet Management Fiscal Year 2025 Initial Appropriation

Action: Appropriate total project funding in the amount of \$4,432,780.

Moved:Ann TemplemanAyes:7Seconded:Nancy SternNays:0

CIP Project: GN020400

Project Description: This project will provide for replacement of aging fleet vehicles and the purchase of additional vehicles to meet the needs of the organization for Fiscal Year 2025. Vehicles are evaluated for replacement when mileage meets or exceeds 100,000 miles on gasoline driven engines and 200,000 miles on diesel driven engines. High maintenance cost and down time is also evaluated.

Funding Description: The initial appropriation for the project is based on cost estimates from vehicle manufacturers and state contracts. Funding for the additional fiscal years in the CIP will be requested each year. Planned replacements for FY-2025 are included in the table below. The amount provided in the CIP is significantly higher due to vehicle price increases. Actual replacements may change within the total appropriation based on final purchase price, delivery schedule or other emerging needs.

Funding includes a 10% contingency for inflation and supply chain issues.

Vehicle No.	Department	New Vehicle to be Purchased	Vehicle Replaceme nt Cost
22	Technical Services Division	2500 Crew Cab 4X4	\$68,000
39	North Shore Electrical and Instrumentation	2500 Cargo Van	\$56,000
81	Operations Project Team	F550 Pickup with Utility Body and Crane	\$160,000
83	System Support	2500 Cargo Van	\$56,000
139	Small Communities Electrical and Instrumentation	F450 with Covered Utility Body	\$100,000
197	Atlantic Treatment Plant	2500 Standard Pickup	\$50,000
255	South Shore Electrical and Instrumentation	2500 4X4 Extended Cab Pickup	\$52,000
266	North Shore Engineering	Sedan	\$28,500
434	Account Investigations	Mid-Sized Extended Cab Pickup	\$45,000
438	System Support	2500 Extended Cab Pickup	\$54,200



Vehicle No.	Department	New Vehicle to be Purchased	Vehicle Replaceme nt Cost
456	South Shore Electrical and Instrumentation	2500 Cargo Van	\$56,500
New	Onancock Treatment Plant	Single Axle Dump Truck	\$195,000
New	South Shore Interceptors	2500 Pickup with Enclosed Body	\$85,500
New	Electrical and Instrumentation	1500 Extended Cab Pickup	\$44,600
New	Onancock Treatment Plant	3 Cubic Yard Sewer Flusher	\$475,000
New	Biosolids Hauling	Road Tractor with Hydraulic Kits	\$227,000
New	Biosolids Hauling	Road Tractor with Hydraulic \$22 Kits	
New	Biosolids Hauling	Road Tractor with Hydraulic \$2 Kits	
New	Biosolids Hauling	Road Tractor with Hydraulic \$227 Kit	
New	Biosolids Hauling	Dump Trailer	\$150,000
New	Biosolids Hauling	Dump Trailer \$150	
New	Biosolids Hauling	Dump Trailer \$15	
New	Biosolids Hauling	Dump Trailer \$150	
New	Biosolids Hauling	Dump Trailer	\$150,000
New	Atlantic Treatment Plant	New Front-End Loader	\$800,000
		Estimated Cost	\$4,029,800
		Contingency (10%)	\$402,980
		Total	\$4,432,780

Schedule: Individual purchases will occur throughout the fiscal year.

Discussion Summary: Staff explained the HRSD fleet currently includes a few electric vehicles. Staff have evaluated adding more electric vehicles to the fleet. However, the wait time to order the vehicles, the reliability of the vehicles, cost for charging stations, wait time for parts and repairs is not sustainable at this time.



12. Microbial Source Tracking (MST) Identified Locality Repair Program FY-2025 Initial Appropriation

Action: Appropriate total project funding in the amount of \$300,000.

Moved:Michael GlennAyes:7Seconded:Elizabeth TaraskiNays:0

CIP Project: GN020910

Regulatory Requirement: Integrated Plan - MST

<u>Project Description</u>: This project will provide funding for the Microbial Source Tracking (MST) Program required as part of the Integrated Plan.

HRSD's Microbial Source Tracking (MST) Program is included as a required element of HRSD's Integrated Plan, representing a targeted approach to managing chronic wastewater inputs to local waters. The program is necessarily collaborative, requiring partnerships with localities and/or the Virginia Department of Health to investigate and identify compromised infrastructure. MST utilizes human-specific indicators such as HF183 to determine if microbial contamination in storm or surface waters is of human origin, indicating sanitary sewer defects. MST projects originate in various ways, with intensive, watershed-scale projects being the most common.

Through the Integrated Plan, HRSD committed to a required spend to manage the program. This MST Reimbursement Program aims to financially support infrastructure repairs done by localities in response to findings from HRSD's MST Program. Eligible projects include not only the watershed-scale projects utilizing sampling in stormwater infrastructure and surface waters but also findings of exfiltration originating from saltwater I/I investigations, and findings resulting from inspections of odor complaints involving human indicator analysis of water samples by HRSD.

MST Reimbursement funds are designated for the inspection and repair of sanitary sewer assets associated with elevated concentrations of human-specific indicators observed in storm or surface water samples collected by HRSD. Reimbursement requests may encompass inspection, diversion, materials, and labor, conducted by the locality or a contractor on the locality's behalf in relation to a specific MST "find".

<u>Project Justification</u>: Several water bodies in the Hampton Roads region remain impaired by bacteria with elevated levels found in dry weather in areas that have no record of sewer overflow and, in some cases, in areas without any public sewer infrastructure. Dry weather, ongoing, sources almost always present a greater impact to water quality than isolated wet weather-related sewer overflows. Surface water monitoring data following SSOs has



indicated that the impacts of a transient SSO on the long-term impairment of a waterway are minimal, supporting the conclusion that waterway impairments in the Hampton Roads area are driven by chronic and persistent sources. Given that the regional sanitary sewer system has no chronic capacity-related overflow locations, the most effective approach toward achieving a higher degree of public health protection is to identify and eliminate the sources of bacterial contamination, specifically those that are known to represent the greatest risk to public health - human sources. To this end, HRSD has implemented its Microbial Source Tracking Program. This focused water quality monitoring effort, in partnership with local governments and the Virginia Department of Health, has been successfully used to identify, locate, and eliminate chronic and persistent non-SSO-related sources of human-sourced bacteria.

Schedule: Reimbursements of locality infrastructure repairs that occurred in the prior fiscal year is expected to be complete in the fall of each fiscal year.



13. Renewable Natural Gas (RNG) Facility at the Atlantic Treatment Plant Agreement

Prior to the start this agenda item, Commissioner Templeman said she would not be participating in the discussion or voting on this particular matter in order to avoid her having a potential conflict of interest.

<u>Action</u>: Authorize the General Manager to execute a Project Development Agreement (PDA) with Johnson Controls, Inc. (JCI)

Moved:Willie Levenston, Jr.Ayes:6Seconded:Michael GlennNays:0

Abstain: Ann Templeman

Regulatory Requirement: None

Type of Procurement: Competitive Negotiation

A Public Notice was issued on March 4, 2024. Three firms submitted proposals on April 12, 2024, and all firms were determined to be responsive and deemed fully qualified, responsible, and suitable to the Professional Services Selection Committee (Committee) and to the requirements in the Request for Proposals. Two firms were short-listed, interviewed, and technically ranked as listed below:

Proposers	Technical Points	Recommended Selection Ranking
Johnson Controls, Inc.	87	1
Terreva Renewables, LLC	72	2

The Committee recommends an award to JCI, whose professional qualifications and proposed services best serve the interest of HRSD.

Project Description: The scope of this project is for JCI to build an RNG recovery and treatment biogas facility and deliver the treated product to the natural gas grid. JCI will finance the improvements necessary to design, build, operate, and maintain the facility with no meaningful monetary compensation from HRSD. JCI will purchase biogas from HRSD and have access via a lease agreement to a small parcel of HRSD land at the Atlantic Treatment Plant (ATP). Although, the value of biogas can fluctuate based on global market conditions, tax policy and supply and demand of natural gas reserves, at this time, subject to further investigation by JCI and HRSD, staff believe this project could generate revenues of about \$400,000 per year. While this project is not being performed as part of the Atlantic Treatment Plant Odor and Solids Improvements project (AT016000), this project will provide some relief from odors specifically associated with flaring of excess biogas by capturing nearly all of the biogas and converting it to RNG. In addition, while no odors from the project



are anticipated, HRSD will take care that facilities installed and operations carried out by JCI under this project are done so to minimize the potential for new offsite odor sources.

Agreement Description: This PDA will facilitate the development of a Lease Agreement and a Biogas Purchase Agreement using the digester gas (biogas) produced at the ATP. Both the Lease and the Biogas Purchase Agreements are intended to remain in effect for 20 years commencing on a date to be specified in the Biogas Purchase Agreement and will be presented to the Commission for consideration later this year. Under the Biogas Purchase Agreement, JCI will have the exclusive right to receive, refine, transport and sell the agreed quantity of such biogas from the Facility. The PDA is being finalized and is under review by legal counsel.

This work is in accordance with the Commission Adopted Procurement Policy.

<u>Discussion Summary</u>: This technology has been in use for a while. The existing digester gas to energy engines will be phased out and the condition of each will be evaluated for future reuse or sale

Developers are partially incentivized to do these types of projects now to take advantage of tax credits provided in the federalInflation Reduction Act. Depending on the success of this project, staff will evaluate if similar projects could be viable at other treatment plants.



14. Water Quality Department Instrumentation Equipment (FY-2025) Initial Appropriation

Action: Appropriate total project funding in the amount of \$1,080,000 (FY-2025).

Moved:Elizabeth TaraskiAyes:7Seconded:Nancy SternNays:0

CIP Project: GN020500 FY-2025

Regulatory Requirement: None

<u>Project Description:</u> This project will provide analytical and sampling equipment for the Water Quality Department for Fiscal Year 2025 to maintain current services and add additional support for various regulatory programs and research projects.

<u>Project Justification</u>: The sampling and analytical equipment will support various projects and programs led by the Water Quality Department to support regulatory monitoring, SWIFT and HRSD research initiatives that include specialized sampling and laboratory analyses.

Schedule: Individual purchases will occur throughout the fiscal year.



15. Commission Governance Guidelines Revisions

Action: Approve revised policy.

Moved: Michael Glenn (Committee Chair) Ayes: 7
Seconded: Not required (Motion from Nays: 0

Committee)

<u>Brief</u>: The Commission Governance Guidelines is one of several policies specifically identified as requiring periodic review by the Operations & Nominations (O&N) Committee.

Staff presented changes to the Operations & Nominations Committee at their May 28, 2024 meeting as follows:

- Section 3.A.1 clarification of policy approval
- Section 3.B.
 - o clarification of types of agreements on the regular and consent agenda
 - o clarification of vendor proposal compensation approval and payment
 - clarification of threshold for initial appropriation of non-regulatory capital improvement projects
- Section 4 update to annual calendar of topics

In addition, minor housekeeping edits have been made throughout the policy to reflect changes to position titles effective July 1.

Staff are not aware of any additional changes to be made at this time. The revised <u>policy</u> has been reviewed by legal counsel.



16. **Ethics Policy**

Action: Approve revised policy.

Moved: Michael Glenn (Committee Chair) Ayes: 7
Seconded: Not required (Motion from Nays: 0

Committee)

Brief: The Ethics Policy is one of several policies specifically identified as requiring annual review by the Operations and Nominations (O&N) Committee in the Commission Governance Guidelines. The Commission approved the original Ethics Policy in October 2015 in response to the Ethics Reform Bill passed during the 2015 session. An argument could be made (and has in the past) that Chapter 31 of Title 2.2, the State and Local Government Conflict of Interests Act does not apply to HRSD as we fall somewhere between a state agency and a local government. Despite this ambiguity, HRSD desires to continue to operate as a model governmental entity, so staff proposed the policy, and the Commission adopted it.

Minor housekeeping edits have been made throughout the policy to reflect changes to position titles effective July 1.

Staff are not aware of any additional changes to be made at this time. The revised <u>policy</u> has been reviewed by legal counsel.



17. **Procurement Policy**

Action: Approve the revised policy.

Moved:Vishnu LakdawalaAyes:7Seconded:Willie Levenston, Jr.Nays:0

Brief: Appendix F of the Procurement Policy has been revised to align the public notice requirements for Public-Private Education Facilities and Infrastructure Act (PPEA) projects with the Virginia Code by eliminating unnecessary public hearings and the requirement to post proposed agreements for 30 days prior to execution. The policy retains provisions for a public hearing and the posting of proposals and negotiated agreements as required by statute.

The Virginia Public Procurement Act (VPPA) requires local governing bodies to adopt specific policies defining local procedures for specific portions of the VPPA. Those requirements are met with this policy.

Minor housekeeping edits have been made throughout the policy and appendices to reflect changes to position titles effective July 1.



18. Remote Participation Policy

Action: Approve the revised policy.

Moved: Michael Glenn (Committee Chair) Ayes: 7
Seconded: Not required (Motion from Nays: 0

Committee)

<u>Brief</u>: The Remote Participation Policy is one of several policies specifically identified as requiring review by the Operations & Nominations (O&N) Committee.

The Commission formally adopted a Remote Participation Policy on July 28, 2015. There have been several changes to the Code of Virginia related to remote participation since that time, the most recent being during the 2024 Legislative Session.

Legal counsel reviewed the extensive revisions to the O&N Committee at their May 28, 2024 meeting as follows:

- Section 1 Purpose and need
- Section 2 Addition of Caregiver definition
- Section 2 Change to Quorum definition
- Section 3 Changes to Guiding Principles for Individual Commissioner Participation
- Section 3.1 Procedures for Individual commissioner remote participation
- Section 4 Guiding principles for all-virtual meetings
- Section 4.1 Addition of procedures for all-virtual meeting when there is a declared emergency
- Section 4.2 Procedures for all-virtual meetings when there is no declared emergency (includes General Assembly change to allowed number of meetings conducted virtually)
- Section 5 New requirement to adopt the policy on an annual basis.

Staff are not aware of any additional changes to be made at this time. The revised <u>policy</u> has been reviewed by legal counsel.



19. Election of Officers

<u>Action</u>: Elect Stephen C. Rodriguez as Chair and Willie Levenston, Jr. as Vice-Chair of the Commission for the coming fiscal year.

Moved: Michael Glenn (Committee Chair) Ayes: 7
Seconded: Not required (Motion from Nays: 0

Committee)

<u>Brief</u>: The Commission is required by the Enabling Act to elect a Chair and Vice-Chair each year. The Commission Chair appointed Commissioners Glenn, Levenston and Stern to the Operations and Nominations Committee in May.

Committee Chair Glenn said the Committee polled each Commission member to determine their willingness to serve as Chair or Vice-Chair or their recommendation to appoint another Commission member to these offices.

Commissioner Glenn then submitted the following nominations for the fiscal year beginning July 1, 2024: Chair, Stephen C. Rodriguez and Vice-Chair Willie Levenston, Jr.



20. Finance Committee Appointment Fiscal Year 2025

<u>Action</u>: The Chair appointed Vishnu Lakdawala, Willie Levenston, Jr., and Elizabeth Taraski to the Finance Committee for Fiscal Year 2025.

<u>Brief</u>: In accordance with the HRSD Commission Governance Guidelines (adopted October 2013), the Commission maintains two standing committees: (1) Finance and (2) Operations and Nominations (O&N). These committees report as needed to the full Commission.

The Finance Committee meets periodically to review HRSD's financing activities, budgets and annual audits. Three members of the Commission are appointed each year by the Chair to serve on the Finance Committee for a one-year term beginning July 1.

The Finance Committee will meet as follows for FY-2025:

Other financial issues

•	Annual Comprehensive Financial Report (ACFR) review	October 2024
•	Budget review (after regular meeting)	January 28, 2025
•	CIP review and prioritization	March 2025
•	Budget review (after regular meeting)	March 25, 2025
•	Budget review	March/April 2025

All meetings of the Finance Committee are public meetings subject to the Virginia Freedom of Information Act (FOIA) requirements. Committee members serve at the pleasure of the Chair without limitation as to the number of one-year terms. Committee members continue serving until a replacement is appointed by the Chair.

Public Comment: None

As needed



- 21. **New Business** None
- 22. Unfinished Business None

23. Commissioner Comments

Commissioner Taraski asked for an update on the odors at the Atlantic Treatment Plant. General Manager, Jay Bernas said an emergency declaration was initiated to expedite the procurement for improvements (see Informational Items section below).

Staff continue to investigate every odor complaint and make repairs as needed. A citizen petition requesting that HRSD fix the odors immediately was sent to the Virginia Beach City Council. Staff have been working with the Ocean Lakes Civic League to provide updates on the ongoing \$75 million Reliability and Odor Control Improvements (ROCI) capital improvement project

In an effort to engage the community surrounding the Atlantic Treatment Plant, a Community Odor Task Force was created with approximately a dozen community members who will share input and ideas. A community day featuring information and tours was held a couple weeks ago with 22 people attending including City of Virginia Beach Vice Mayor Rosemary Wilson. The Virginia Beach Vice Mayor is scheduled to meet with staff and tour the facilities on July 1.

We know odors are a big issue for the community and are working hard to address it and develop a permanent solution. The ROCI program was created specifically to address odor issues and it is the 2nd highest priority project. Staff are working with the task force to identify special occasions/events in which some processes that don't impact treatment (curing, FOG receiving station) are shut down during special events such as graduation, and other events suggested by the task force.



24. Informational Items

Action: No action required.

<u>Brief</u>: The items listed below were presented for information.

- a. Management Reports
 - (1) General Manager
 - (2) Communications
 - (3) Engineering
 - (4) Finance
 - (5) Information Technology
 - (6) Operations
 - (7) Talent Management
 - (8) Water Quality
 - (9) Report of Internal Audit Activities
 - (10) Internal Audit Accounts Payable and ProCards
- b. <u>Strategic Measures Summary</u>
- c. <u>Emergency Declaration Atlantic Treatment Plant Odor and Solids Improvements 2023</u>



25. Closed Meeting

<u>Action</u>: Motion to go into closed meeting to consider legal matters concerning probable litigation and consultation with legal counsel regarding specific legal matters requiring the provision of legal advice concerning the interpretation of a contract and rights of the parties under the contract as provided for in Code of Virginia §2.2-3711A.7 and A.8.

Moved:Willie Levenston, Jr.Ayes:7Seconded:Michael GlennNays:0

Exemption Descriptions:

A7. Consultation with legal counsel and briefings by staff members or consultants pertaining to probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

A8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.



COMMISSION MEETING MINUTES June 25, 2024

26. Reconvened Meeting

<u>Certification of Proceedings</u>: Pursuant to Section 2.2-3712.D of the Code of Virginia, a roll call vote was conducted to certify that to the best of each Commission member's knowledge: (i) only public business matters lawfully exempted from open meeting requirements under this chapter, and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered. Any Commissioner who believes there was a departure from these two requirements shall so state prior to the vote, indicating the substance of the departure.

Roll Call Vote:

Ayes:

7

Nays:

0

Action: No action required.

Public Comment: None

Next Commission Meeting Date: July 23, 2024 at the HRSD North Shore Operations Center,

2389 G. Avenue, Newport News, VA

Meeting Adjourned: 10:34 a.m.

SUBMITTED:

APPROVED

Jennifer V. Cascio

Commission Secretary

Stephen C. Rodriguez

Commission Chair

HRSD Commission Meeting Minutes June 25, 2024 Attachment #1

3. Consent Agenda

Resource: Bob Rutherford

CONSENT AGENDA ITEM 3.b.1 – June 25, 2024

Subject: Fairbanks Nijhuis Vertical Turbine Pump and Installation

Contract Award (>\$200,000)

Recommended Action: Award a contract to Sydnor Hydro Inc. in the amount of \$266,272.

Regulatory Requirement: None

Type of Procurement: Competitive Bid

In accordance with HRSD's competitive sealed bidding procedures, the Procurement Department advertised and solicited bids directly from potential bidders. The project was advertised on May 3, 2024, and one bid was received on June 7, 2024 as listed below:

Bidder	Bid Amount
Sydnor Hydro Inc.	\$266,272

HRSD Estimate: \$233,600

<u>Contract Description</u>: This contract is for the purchase and installation of a Fairbanks Nijhuis vertical turbine pump. This pump is used for Nitrate Recycling for the Biological Nutrient Process at Virginia Initiative Plant (VIP). Pumps were installed in 2015 as part of the VIP NRI Project-Contract A.

<u>Analysis of Cost</u>: The HRSD Estimate did not reflect installation of the pump. The price is found to be fair and reasonable based on the budget quote and market analysis. HRSD negotiated a three percent cost savings due to one bid received.

This work is in accordance with the Procurement Policy Commission Adopted Policy.

Resource: Jamie Mitchell

CONSENT AGENDA ITEM 3.b.2. – June 25, 2024

Subject: Seismic Monitoring and Earthquake Hazard Assessment for Managed Aquifer Recharge

Operations in Southeast Virginia – Phase II

Contract Award (>\$200,000)

<u>Recommended Action</u>: Award a contract to Virginia Polytechnic Institute and State University (Virginia Tech) in the amount of \$245,836 for one year with two renewal options and an estimated cumulative value of \$618,870.

Regulatory Requirement: None

<u>Project Description</u>: Managed aquifer recharge through HRSD's SWIFT program will replenish depleted groundwater supplies within the Potomac Aquifer System (PAS). Withdrawals from the PAS have far exceeded the natural recharge rate, and after decades of use, the pressure within the confined aquifer has been greatly reduced. Recharging the PAS through the SWIFT program will increase pressure and water levels to create a sustainable source of groundwater for eastern Virginia. In addition to increasing water quantity, SWIFT may increase pore fluid pressure within the deep aquifer system to levels sufficient to help mitigate coastal land subsidence. While there are numerous economic and societal benefits of the SWIFT program, there may also be potential for changes in pressure to cause unintended seismic activity. The seismic data will be the key data source for understanding both the hazard, and the physical processes involved.

The objectives of the current project are to continue operations and maintenance of the Hampton Roads Seismic Network (HRSN) and to perform a network sensitivity analysis to identify the HRSN minimum magnitude earthquake detection capability. To meet the objective, this study will consist of three tasks to be completed over a three-year timeframe: network operations and maintenance, network sensitivity analysis, and earthquake hazard analysis. With the James River SWIFT managed aquifer recharge (MAR) site expected to come online in mid-2026, this three-year period of performance comprises the initial injection phase of the SWIFT, which will enable the project team to make initial assessments of MAR-induced seismicity within the study area.

This work is in accordance with the Commission Adopted Procurement Policy.

Attachment: Virginia Tech Proposal PW6YEUJJ Phase II Research Study

HAMPTON ROADS SEISMIC NETWORK PHASE II

Ryan M. Pollyea, Ph.D. (Principal Investigator)
Martin C. Chapman, Ph.D. (Co-Principal Investigator)
Mahesh Parija, Ph.D. (Sr. Personnel)
Department of Geosciences, Virginia Tech, Blacksburg, Virginia

VT Proposal #: PW6YEUJJ

1. Introduction

The Sustainable Water Initiative for Tomorrow (SWIFT) is an innovative aquifer recharge project designed to enhance long-term groundwater resource sustainability in southeast Virginia while offsetting coastal land subsidence and saltwater intrusion to the Coastal Plain Aquifer system. The SWIFT project is based on the principle of managed aquifer recharge (MAR), which replenishes groundwater aquifers by reinjecting unused water and/or tertiary treated wastewater. Groundwater replenishment targets for SWIFT are on the order of 50 million (50M) gallons of water per day (189,500 m³/day) through a network of seven injection sites located in southeast Virginia. In addition to enhancing the sustainability of groundwater resources in southeast Virginia, the SWIFT injection wells will increase pore fluid pressure within the deep aquifer system to levels sufficient for mitigating coastal land subsidence. While there are numerous economic and societal benefits of the SWIFT project, there may also be the potential for fluid injections to cause unintended seismic activity.

Fluid injections into deep geologic formations induced earthquakes in a wide range of geological engineering applications, including geothermal energy production (Deichmann & Giardini, 2009), oilfield wastewater disposal (Ellsworth, 2013), and fossil fuel recovery (NRC, 2013). These deep fluid injections cause pore pressure to propagate radially and vertically away from injection wells. When pressure fronts intersect faults, the effective normal stress decreases in equal proportion to the fluid pressure change less any poro-elastic relaxation (Zoback & Hickman, 1982). Given a sufficient rise in pore fluid pressure within faults optimally aligned to the regional stress field, the effective normal stress may drop below the Mohr-Coulomb failure threshold, which triggers earthquakes (Raleigh et al., 1976; Hubbert & Willis, 1957). In Alfalfa County, Oklahoma, oilfield wastewater disposal caused the annual rate of magnitude-2.5 or greater (M2.5+) earthquakes to increase from nil before 2013 to more than 320 M2.5+ earthquakes in 2015 (Pollyea et al., 2019). This dramatic rise in earthquake frequency occurred as the volume of wastewater injections in Alfalfa County, Oklahoma, increased from ~3 million gallons per day (10,950 m³/day) in 2010 to over 41 million gallons per day (156,000 m³/day) in 2014 (Pollyea et al., 2019). By comparison, the target cumulative injection rate for SWIFT is proposed to be on the order of 50 million gallons per day (189,500 m³/day) in perpetuity. Previous research on injection-induced earthquakes shows that seismic monitoring is the most cost-effective way to manage and mitigate injection-induced seismicity (Walters et al., 2015; NRC, 2013).

To begin understanding the potential for injection-induced seismicity associated with the SWIFT project, the Hampton Roads Seismic Network (Figure 1) was installed in December 2021 and became fully operational in March 2022. The HRSN is a five-station, fully autonomous seismic monitoring network that transmits data in real-time to servers at Virginia Tech. As part of the initial project to install HRSN, the Virginia Tech team also developed data transfer and earthquake detection protocols to provide long-term earthquake monitoring throughout the operational lifetime of the SWIFT project. Although no natural earthquakes have been detected within the study area to date, HRSN has been detecting regional and telesesimic (long-range) earthquakes since coming online in March 2022, including the M2.6 earthquake that occurred ~9 km offshore from Assateague Island on February 8, 2023 (Figure 2). The objectives of this current project are to (i) to continue operations and maintenance of HRSN through June 2027 and (ii) perform a network sensitivity analysis to identify the HRSN minimum magnitude earthquake detection capability. With the James River SWIFT MAR site expected to come online in mid-2026, this three-year period of performance comprises the initial injection phase of the SWIFT, which will enable the project team to make initial assessments of MAR-induced seismicity within the study area.

2. PROJECT PLAN

The objectives of this project are to continue operations and maintenance of the Hampton Roads Seismic Network and complete a network sensitivity study to assess the earthquake detection capabilities throughout the study area. This project comprises three primary tasks:

- **Task 1:** Network operations and maintenance;
- Task 2: Network sensitivity analysis; and
- Task 3: Earthquake hazard analysis.

These tasks will be completed over a three-year timeframe, FY25 – FY27, as illustrated in the project timeline (Figure 3).

Task 1: Network operations & maintenance.

The Hampton Roads Seismic Network (HRSN) was installed by this project team in December 2021 (Fig. 1) and became fully operational in March 2022. Network design criteria and technical specifications are provided in the peer-reviewed conference paper, Introducing the Hampton Roads Seismic Network: Minimizing the Risk of Injection-Induced Seismicity in Virginia by Pollyea et al. (2022), which is included with this proposal as Appendix A. The HRSN is a fully autonomous seismic monitoring network that transfers seismic data in real-time from each station to the project server at Virginia Tech, where the data are analyzed daily for the presence of local and remote earthquakes. To date, HRSN has not detected any natural earthquakes within the study area; however, a M2.6 earthquake that occurred ~9 km offshore Assateague Island on February 8, 2023 (8:21 PM EST), was clearly recorded at four of the HRSN stations (Figure 2). As a result, the project team is confident that the network configuration will detect small, unfelt earthquakes throughout the study area. Within this context, project Task 1 comprises daily operations and maintenance (O

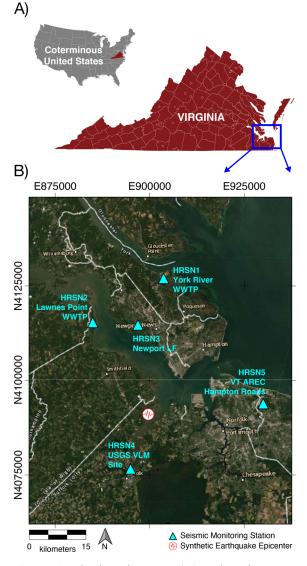


Figure 1: Site location map (A) and station configuration map (B) for the Hampton Roads Seismic Network.

& M) activities for HRSN, which include (i) daily inspection of the network 'state-of-health' data feed, which includes communications efficiency, data buffer capacity, battery voltage, equipment temperature, etc., (ii) taking immediate corrective action to resolve issues that may arise, e.g., gaps in data transfer from internet outages and occasional repairs, and (iii) daily inspection of automatic earthquake detections to separate real earthquakes from spatially correlated noise, which is common in noisy urban environments. Network O & M activities are performed by Dr. Mahesh Parija, who is a Research Associate in the Department of Geosciences at Virginia Tech.

Task 2: Network sensitivity analysis

The objective of Task 2 is to identify the minimum-magnitude earthquake detection capability for the HRSN on the basis of ambient noise levels at each of the five seismic monitoring stations. Because the minimum detection threshold depends on distance between an earthquake hypocenter and each seismic monitoring station, the HRSN detection capability will depend on earthquake location. To assess the

spatially-variable minimum earthquake detection thresholds throughout the study area, this study will combine stochastic ground motion simulations (i.e., synthetic seismograms) with measured noise data from each HRSN station. Specifically, a grid will be established across the HRSN study area and, because the distance from each grid node to each seismic station is known, we will generate synthetic seismograms for M1.0, M1.5, M2.0, and M2.5 earthquakes occurring at each grid node. For each synthetic earthquake, the corresponding synthetic seismogram will be embedded into a four-minute section of ambient noise data for each HRSN station. The combined dataset for each synthetic earthquake at each grid node will be fed into our earthquake detection algorithm to identify the lowest earthquake magnitude that can be detected at each grid cell of the domain. Once the lowest detectable earthquake magnitude is known for each grid node, then we will produce an earthquake detection threshold map to identify where earthquake detection gaps may occur within the study area. These results will inform our ability to detect MAR-induced earthquakes with the current network configuration, while providing a tool for assessing the need to reconfigure and/or add monitoring stations in advance of full-scale MAR operations at the James River and Nansemond SWIFT sites. This research task is provisionally planned as a PhD dissertation research project for Mr. Ethan Conley, who has been developing the basement fluid pressure propagation model for the James River and Nansemond MAR sites.

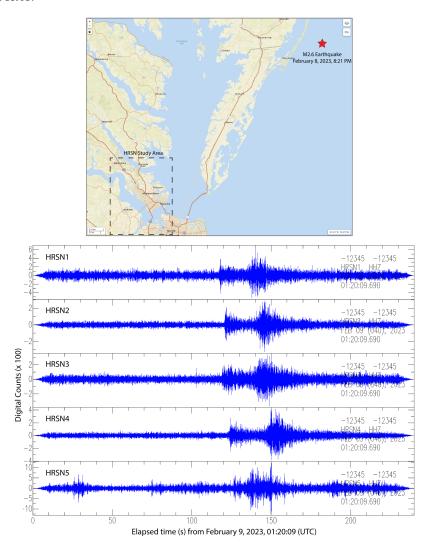


Figure 2: Epicenter (upper) and seismic waveforms (lower) recorded at HRSN from the M2.6 earthquake that occurred ~9 km offshore from Assateague Island at 8:21 PM (EST) on February 8, 2023.

Task 3: Earthquake Hazard Analysis. The objective of hazard analysis is to be able to make probabilistic statements about the location, frequency, magnitude and expected levels shaking of future shocks. For example, if local earthquakes are detected in connection with MAR activities at the James River site, then we will be able to estimate the probability of an earthquake of a given moment magnitude occurring during a specified time interval, within a specified part of the study area. This type of analysis makes use of the fact that earthquakes follow a stochastic process in time. Furthermore, the magnitudes are exponentially distributed, meaning that small earthquakes are much more likely to occur in a given time interval than a larger earthquake. A useful model which we will test is known as the Gutenberg-Richter recurrence law. This is a linear relationship between the base 10 logarithm of the rate of earthquakes per unit time with magnitudes greater than some value M, and M itself. The slope of the relationship is approximately equal to -1, implying that for every magnitude 4 or greater earthquake, there should be approximately 10 magnitude 3 or greater events, and 100 magnitude 2 or greater events or 100,000 magnitude -1 or greater events. The relationship works for very small events with negative magnitudes, which are the most likely to occur in connection with MAR operations at the James River SWIFT site. Once the slope of the relationship is estimated from the data, the rates of small earthquakes can be used to make estimates of the rates of larger shocks, that may or may not have occurred. The earthquakes can be modeled as either a clustered or un-clustered stochastic process in time. Catalogs of natural earthquakes with foreshocks and aftershocks removed often exhibit un-clustered behavior, and follow what is known as a Poisson process, meaning that the earthquakes are statistically independent. We will initially test this model. It has been shown that induced earthquakes sometimes follow a more clustered process, meaning that the earthquakes are not statistically independent because they are driven by changes in pore fluid pressure, which follows a well-known space-time scaling relationship. Various models can be used for this type of behavior. If known or suspected induced earthquakes are detected by HRSN, then much of the work for Task 3 will be to test these various models and develop a reliable means to assess the hazard. In addition to the spatial and temporal behavior of the seismicity, a complete assessment of hazard requires models for ground motion prediction. Fortunately, much of this work has been recently accomplished, in a major project (NGA-East) funded by the Nuclear Regulatory Commission and others, and recent results developed by PI Chapman for the Atlantic Coastal Plain will be particularly useful. Finally, the hypocenter locations and focal mechanisms (nature of fault slip) will have a direct bearing on the stress field, and will therefore be influenced by the induced fluid pore-pressure changes. The seismic data will be critical in identifying the faults that are favorably oriented in the stress field, and will also give much insight into the hydrological processes causing the pressure changes. It is anticipated that these processes will not be stationary, but will change with time, and the seismic data will be the key data source for understanding both the hazard, and the physical processes involved. Task 3 is will begin contemporaneously with the start of MAR operations at the James River site, which we provisionally estimate to be mid-2026.

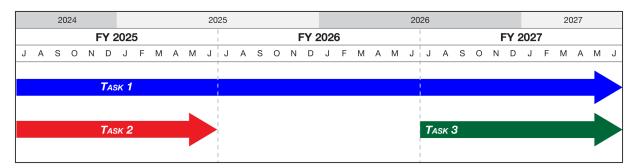


Figure 3: Project timeline.

3. PROJECT PERSONNEL

This project is jointly led by Drs. Ryan M. Pollyea and Martin C. Chapman, who have more than 45 years of combined experience managing groundwater and seismological investigations. Since 2016, Pollyea and Chapman have collaborated on several high-impact research studies elucidating the relationship between injection volume, fluid composition and earthquake occurrence in Oklahoma. Biographical summaries for Pollyea and Chapman are presented below. This project also provides 90% research funding for Dr. Mahesh Parija, Research Associate at Virginia Tech, to perform daily operations of the seismic network, earthquake event detection, and earthquake hazard analysis. A general position description for the Research Associate is presented in the Budget Justification that accompanies this proposal.

Biographical Summaries

Dr. Ryan M. Pollyea, PI, is an Associate Professor of Geosciences in the Department of Geosciences at Virginia Tech with affiliate faculty appointments in the Center for Coastal Studies and Department of Mining and Minerals Engineering. Dr. Pollyea specializes in the geologic fluid system dynamics and subsurface fluid injections. His research contributions include 37 peer-reviewed journal articles and conference proceedings that span a wide range of hydrogeological domains, including injection-induced seismicity, fracture-rock characterization, and geologic CO₂ sequestration. His research in the area of injection-induced seismicity has been published in leading journals, such as *Nature Communications* and *Energy & Environmental Science*. This work has received international media coverage from *National Geographic* and *Scientific American*, among others. Pollyea previously served a four-year appointment as Associate Editor of *Hydrogeology Journal* and he has been invited to speak at national and international venues, including several U.S. Department of Energy Carbon Storage Workshops, the 2018 Oklahoma Seismicity Workshop, and as a visiting scholar to the Department of Civil and Environmental Engineering at the University of Strathclyde, Glasgow. In addition to his academic portfolio, Pollyea has 10 years of prior experience as a consulting geologist in the geotechnical and environmental sectors.

Dr. Martin Chapman, Co-PI, is a Research Professor of Geophysics in the Department of Geosciences at Virginia Tech and director of the Virginia Tech Seismological Observatory. Dr. Chapman has authored more than 75 peer-reviewed journal articles and technical reports. His expertise in earthquake seismology is internationally recognized through a membership on the USGS National Seismic Hazard and Risk Assessment Steering Committee and current appointment as Associate Editor of *Bulletin of Seismological Society of America*.

Dr. Mahesh Parija, Sr. Personnel, is a Research Associate in the Department of Geosciences at Virginia Tech. Dr. Parija is a strong-motion seismologist who came to Virginia Tech in January 2022 to provide operational support to HRSN. Dr. Parija earned his Ph.D. from the Wadia Institute of Himalayan Geology in 2018, and subsequently worked for the National Geophysical Research Institute in Hyderbaad, India. Dr. Parija specializes in earthquake seismic hazard evaluation, seismic imaging, and the application of AI/ML methods and deep learning for earthquake detection analysis.

Budget: Hampton Roads Seismic Network Phase II PI: Ryan M. Pollyea & Co-PI: Martin C. Chapman Department of Geosciences, Virginia Tech

PERFORMANCE PERIOD: 07/01/2024 - 06/30/2027

NAME/POSITION Pollyea/FI (33%, SMR) Chapman/CoPI (17%, SMR) Parija/Research Associate (90%, CY) Conley/GRA (12 mo) TOTAL PERSONNEL SALARIES	FY 2025 \$ 16,421 \$ 6,335 \$ 66,690 \$ 37,575 \$127,021	FY 2026 \$ 17,242 \$ 6,652 \$ 70,025 \$ 93,919	FY2027 \$ 18,105 \$ 6,984 \$ 73,526 \$ 98,615	### TOTAL \$ 51,768 \$ 19.971 \$ 210,241 \$ 37,575 \$ 319,555
FRINGE BENEFITS* Pollyea (33%, SMR) Chapman (17%, SMR) Parija (90%, CY) Conley (GRA) TOTAL FRINGE BENEFITS	\$ 1,092 \$ 421 \$ 23,408 \$ 3,694 \$ 28,615	\$ 1,147 \$ 24,579 \$ 26,168	\$ 1,204 \$ 464 \$ 25,808 \$ 27,476	\$ 3,443 \$ 1,327 \$ 73,795 \$ 3,694 \$ 82,259
TOTAL SALARIES & FRINGES	\$155,636	\$120,087	\$126,089	\$401,814
MATERIALS/SUPPLIES - Annual maintenance/repairs	\$ 1,500	\$ 1,500	\$ 3,500	\$ 6,500
SERVICES - ATT Wireless - Kinemetrics: Technical/software support	\$ 3,600 \$ 12,750 \$ 16,350	\$ 3,780 \$ 12,750 \$ 16,530	\$ 3,969 \$ 12,750 \$ 16,719	\$ 11,349 \$ 38,250 \$ 49,599
TUITION COSTS	\$ 16,183	0	0	\$ 16,183
TRAVEL (domestic)	\$ 7,000	\$ 7,000	\$ 7,000	\$ 21,000
TOTAL DIRECT COSTS	\$196,669	\$145,117	\$153,310	\$495,096
	\$ 49,167	\$ 36,279	\$ 38,328	\$123,774
<pre>g Z3% (per hksD requirement) Base for indirect costs:</pre>	\$196,669	\$145,117	\$153,310	\$495,096
* Fringe Rates SMR Faculty: 6.65% after 6/30/24 Research Associate: 35.10% after 6/30/24 GRA: 9.83% after 6/30/24	\$245,836	\$181,396	\$191,638	\$618,870

DETAILED BUDGET JUSTIFICATION

1. Salaries and Wages

Ryan Pollyea. (PI) Will be responsible for overall project supervision, technical communications with HRSD, project reporting, site coordination and research tasks 1 - 3. Four weeks of summer salary is requested for each year of the project. The total salary request is \$51,768 and is calculated using his current 9-month academic year base-salary of \$144,188. This salary request includes 5% annual adjustments in years 2 and 3.

Martin Chapman. (CoPI) Will serve Task 1 on an advisory basis by providing technical guidance to the project Research Associate. Dr. Chapman will also provide oversight of the earthquake hazard calculations (Task 3). Two weeks (0.5 months) of summer salary is requested for each year of the project. The total salary request is \$19,971 and is calculated using his current 9-month academic year base-salary of \$111,250. This salary request includes 5% annual adjustments in years 2 and 3.

Mahesh Parija. (Research Associate). Dr. Parija will be assigned to the project at 90% capacity, and he will be responsible for daily operations and maintenance tasks associated with the seismic monitoring network (Task 1), supporting the network sensitivity study (Task 2), and leading the earthquake hazard analysis (Task 3). The total salary request is \$210,241, which is based on 90% of a full-time (12-month) salary of \$72,000 per year, and 5% adjustments are applied in Years 2 and 3.

<u>Ethan Conley.</u> (GRA). Funds are requested for a 12-month GRA in year 1 of the project. The GRA will be responsible for network sensitivity analysis (Task 2). The total salary request is \$37,575.

2. Fringe Benefits

The standard VT fringe benefits rate effective July 1, 2024 is 6.75% for summer faculty. The standard VT fringe benefits rate effective July 1, 2024 is 35.10% for research associates and postdoctoral scholars. The standard VT fringe benefits rate effective July 1, 2024 is 9.83% for GRAs. Fringe Benefits include FICA, workers compensation, unemployment compensation, medical insurance, group life insurance, employee retirement compensation, faculty and staff fee waivers, and educational leave. Total amount requested is \$82.259.

3. Materials/Supplies

Funds for miscellaneous field supplies are requested in each year of the project to support anticipated maintenance and unanticipated reparis at the HRSN stations. Anticipated maintenance requirements include, vegetation removal, cleaning solar panels, repairing animal damage (e.g., chewed cable housings). Unanticipated repairs may include replacing station hardware, such as lightning arrestors, solar charge controllers, etc. This project requests \$1,500 per year in miscellaneous field supplies with an additional \$2,000 request in year 3 for scheduled battery replacement. The total amount requested for materials/supplies is \$6,500.

4. Contractual Services

Funds for ATT wireless network connectivity to each seismic station are requested for each year of the project. The project is currently paying \$300/mo for wireless data access across all five stations. We anticipate that this rate will remain for project year 1 (\$3,600) and we further anticipate 5% cost escalation in year 2 (\$3,780) and year 3 (\$3,969). The total amount requested for wireless data access is \$11,349.

Funds are requested for technical and software support from Kinemetrics for the all three years of the project. For each year, \$3,750 is requested for Annual Remote Maintenance of the real-time database and an additional \$9,000 per year is requested for annual software maintenance update of the Antelope real-time seismic data acquisition system. The total amounted requested for technical and software support is \$38,250.

5. Travel

Travel funds are requested for each year of the project to facilitate quarterly site visits for network maintenance and troubleshooting, attending professional meetings with the HRSD technical team, and presenting research results at professional conferences.

- Quarterly 3-day site visits: \$500 per trip \times 2 people per trip \times 4 trips per year = \$4,000 per year
- Meeting/conference travel: \$1,500 per trip \times 1 person per trip \times 2 trips per year = \$3,000 per year
- Annual travel cost: \$7,000 per year

The total travel request is \$21,000 over the 3-year project duration.

6. Tuition Costs

This project requests \$16,183 for tuition costs associated with 1-year of GRA support proposed in the first year of the project. The GRA will be responsible for network sensitivity analysis (Task 2).

7. Indirect Costs

Calculated using total direct costs. Pursuant to sponsor requirements, the indirect rate is 25%. Total amount requested is \$123,774.

Resource: Bruce Husselbee

CONSENT AGENDA ITEM 3.c.1. – June 25, 2024

Subject: Bethel-Poquoson Force Main Phase II (Wythe Creek Road) Replacement

Contract Change Order (>25% of original contract value or \$50,000)

Recommended Action: Approve a change order to the contract with MEB in the amount of \$25,480.

CIP Project: YR014300

Regulatory Requirement: None

Budget	\$4,199,224
Previous Expenditures and Encumbrances	(\$3,775,493)
Available Balance	\$423,731
Proposed Change Order No. 3 to MEB	(\$25,480)
Revised Total Project Authorized Funding	\$4,199,224

Contract Status with Change Orders:	Amount	Cumulative % of Contract
Original Contract with MEB	\$2,221,539	
Total Value of Previous Change Orders	\$648,759	29.2%
Requested Change Order	\$25,480	
Total Value of All Change Orders	\$674,239	30.4%
Revised Contract Value	\$2,895,778	

Time (Additional Calendar Days)	382

<u>Project Description</u>: This project replaced approximately 3,700 linear feet of 20-inch force main along Wythe Creek Road from north of Huntlandia Way to Wythe Creek. The attached <u>map</u> depicts the project location.

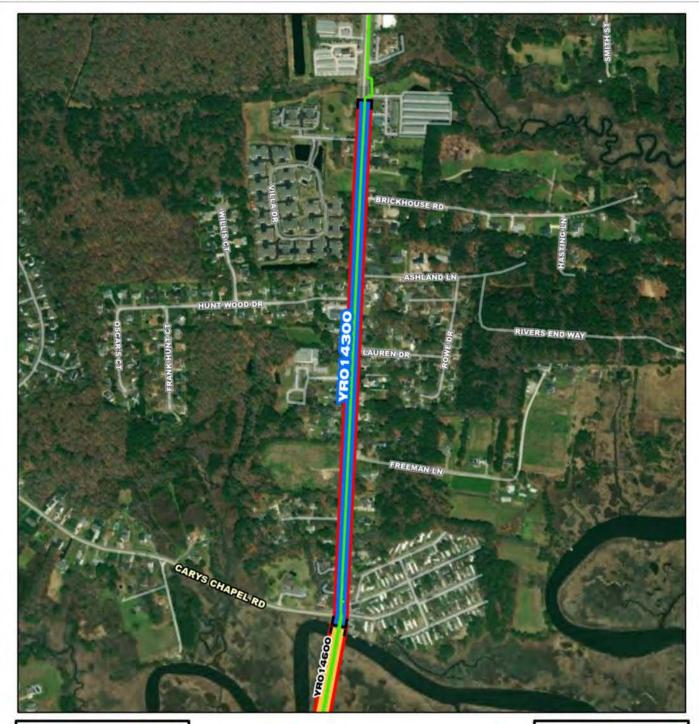
Project Justification: On February 11, 2020, North Shore Operations personnel removed and replaced 16-feet of PCCP that failed. The failure was caused by severe crown corrosion. A closed-circuit television (CCTV) inspection was performed during the repair, and approximately 80 linear feet downstream and 100 LF upstream of the pipe was found to be severely corroded, specifically at pipe joints. During the repair, a steady flow of clear water was flowing out of the upstream pipe. The source of the clear water is unknown and unusual in a force main/pressurized system. The presence of the water is of concern as it may be the result of upstream issues.

<u>Change Order Description</u>: This account reconciliation change order includes quantity overrun and underrun items such as backfill and roadway restoration. The change order also includes an additional 382 days of contract time extension due to various delays during construction.

<u>Analysis of Cost</u>: The cumulative value of MEB's Change Order Nos. 1 and 2 exceeded the Commission approval threshold of 25 percent above the original contract value. This account reconciliation change order has been reviewed by RK&K and determined to be reasonable for quantity overruns and underruns.

The project has encountered multiple unexpected field conditions, mostly related to unknown existing utility conflicts. Construction is complete as of June 2024, and the change order is for final account reconciliation purposes.

Schedule: Project Completion June 2024



VR014300

- Project Interceptor Line
- Project Interceptor Point
- Project Pump Station Point
- Project Area

Legend

- * CIP Interceptor Point
- ☆ CIP Pump Station Point
- CIP Interceptor Line
- III CIP Abandonment
- CIP Project Area
 - HRSD Interceptor Force Main
- HRSD Interceptor Gravity Main
- WIF HRSD Treatment Plant
- HRSD Pressure Reducing Station
- PS HRSD Pump Station

					Feet
0	230	460	920	1,380	1,840

YR014300

Bethel-Poquoson Force Main Phase II (Wythe Creek Road) Replacement







Resource: Bruce Husselbee

CONSENT AGENDA ITEM 3.d.1. – June 25, 2024

Subject: South Shore Gravity Sewer Improvements Phase One

Task Order (>\$200,000)

Additional Appropriation - Regulatory Required Capital Improvement Project

(<\$10,000,000)

Recommended Actions:

a. Approve a task order with Bridgeman Civil, Inc. in the amount of \$422,751.

b. Appropriate additional funding in the amount of \$2,808,253.

CIP Project: GN015000

Regulatory Requirement: Rehab Action Plan Phase 2 (2025 Completion)

Budget	\$942,804
Previous Expenditures and Encumbrances	(\$857,006)
Available Balance	\$85,798
Proposed Change Order No. # to Engineer/Contractor	(\$0)
Proposed Task Order to Engineer/Contractor	(\$422,751)
Proposed Contingency	(\$2,470,000)
Project Shortage/Requested Additional Funding	(\$2,806,953)
Revised Total Project Authorized Funding	\$3,749,757

Contract Status with Task Orders:	Amount
Original Contract with Engineer	\$0
Total Value of Previous Task Orders	\$15,258,938
Requested Task Order	\$422,751
Total Value of All Task Orders	\$15,681,689
Revised Contract Value	\$15,681,689
Engineering Services as % of Construction	NA

<u>Project Description</u>: This project will rehabilitate and/or replace gravity sewer segments at four locations in the South Shore Interceptor System. Project locations include Arctic Avenue Pump Station, Seay Avenue Pump Station, Elmhurst Lane Pump Station, and the intersection of Powhatan Avenue/Bolling Avenue.

<u>Project Justification</u>: Condition assessment activities indicate that assets at these four project locations present a material risk of failure due to physical condition defects and Inflow and Infiltration (I/I).

<u>Task Order Description</u>: This task order will provide construction services for the rehabilitation work at the Elmhurst Lane Pump Station. Work consists of rehabilitation of a 24-inch diameter sanitary sewer pipeline using cured-in-place lining, rehabilitation of one sanitary sewer manhole, as well as installation of one new sanitary sewer manhole. Additional work activities include bypass pumping operations, heavy pipe and wet well cleaning, and site restoration.

<u>Analysis of Cost</u>: The task order fee utilizes established unit prices as set in HRSD's FY-2024 Sewer Repair and Condition Assessment contract. These estimates have been reviewed by the consulting engineer, Gannett Fleming, and are considered reasonable.

The additional appropriation requested within the proposed contingency also includes funding for the two remaining project locations (Seay Avenue Pump Station and the intersection of Powhatan Avenue/Bolling Avenue), for which we have preliminary engineer and/or contractor cost estimates.

This work is in accordance with the Commission Adopted Procurement Policy.

Schedule: Construction July 2024

Project Completion August 2024

CONSENT AGENDA ITEM 3.d.2. - June 25, 2024

Subject: SWIFT Program Management (Program Management Services for FY-2025)

Task Order (>\$200,000)

Recommended Action: Approve a task order with AECOM in the amount of \$7,875,324.

CIP Project: GN016320

Regulatory Requirement: Integrated Plan – SWIFT

Budget \$80,000,000
Previous Expenditures and Encumbrances (\$61,860,516)
Available Balance \$18,139,484

Contract Status:	Amount
Original Contract with AECOM	\$5,264,440
Total Value of Previous Task Orders	\$56,247,279
Requested Task Order	\$7,875,324
Total Value of All Task Orders	\$64,122,603
Revised Contract Value	\$69,387,043

<u>Project Description</u>: The SWIFT Full-Scale Implementation Program (FSIP) Management team is managing the delivery of the advanced water treatment facilities to take HRSD's already highly treated wastewater and produce SWIFT water. The Program Management team is also delivering conveyance, wastewater treatment plant improvements, and other such projects to support full-scale SWIFT implementation. The Program Management team will implement the processes, procedures, and systems needed to design, procure, construct, permit, manage, and integrate the new SWIFT related assets.

Task Order Description: This task order will provide professional engineering services during FY-2025 for multiple tasks associated with the program management of the SWIFT FSIP. These services will provide program administration, staff augmentation (approximately five full-time staff), program management (approximately seven full-time equivalents), federal and state agency funding compliance support, program sustainability monitoring, program document controls and information management, public outreach, HRSD's Community Commitment Program support, annual industry outreach event support, risk identification and tracking, schedule and budget management, quality assurance reviews of deliverables, support of HRSD capital improvement program planning related to the SWIFT FSIP, and technical support of projects on an as needed basis.

<u>Analysis of Cost</u>: The professional engineering services task order includes the scope and fee for the seventh year of the program (FY-2025). It is intended that subsequent program management services scopes and fees will be negotiated annually. The proposed activities and number of hours associated with each task are a reasonable estimate of the effort required. The labor rates for each staff category in the proposed fee are in accordance with the approved FY-2025 labor rates, which reflect an adjustment between three and six percent compared to FY-2024. The program management rate schedule is comparable with the typical rate schedule of HRSD's General Engineering Services providers. The proposed scope, rate schedule, and budget fee are reasonable and appropriate for the seventh year of the program. Actual costs for the past three fiscal years are summarized below:

FY-2022 \$5.7MFY-2023 \$6.7MFY-2024 \$5.5M

Compensation for program management services will be on a time and materials basis.

Resource: Bruce Husselbee

CONSENT AGENDA ITEM 3.e.1 – June 25, 2024

Subject: James River Land Improvements – Phase I

Additional Appropriation - Regulatory Required Capital Improvement Project

(<\$10,000,000)

Recommended Action: Appropriate additional funding in the amount of \$450,000.

CIP Project: GN016344

Regulatory Requirement: Integrated Plan – SWIFT

Budget	\$10,574,579
Previous Expenditures and Encumbrances	(\$10,361,738)
Available Balance	\$212,841
Proposed Change Order No. 8 to Howard Brothers Contractor, Inc.	(\$390,908)
Proposed Contingency	(\$271,933)
Project Shortage/Requested Additional Funding	(\$450,000)
Revised Total Project Authorized Funding	\$11,024,579

<u>Project Description</u>: This project will provide design and construction of improvements to the land surrounding the James River Treatment Plant (JRTP), including development of a nearly one mile of linear park and trail system. The trail consists of elevated timber boardwalk structures and asphalt on grade trails within HRSD's open space easement and in the City Farm section of Riverview Farm Park. The attached <u>map</u> depicts the project location.

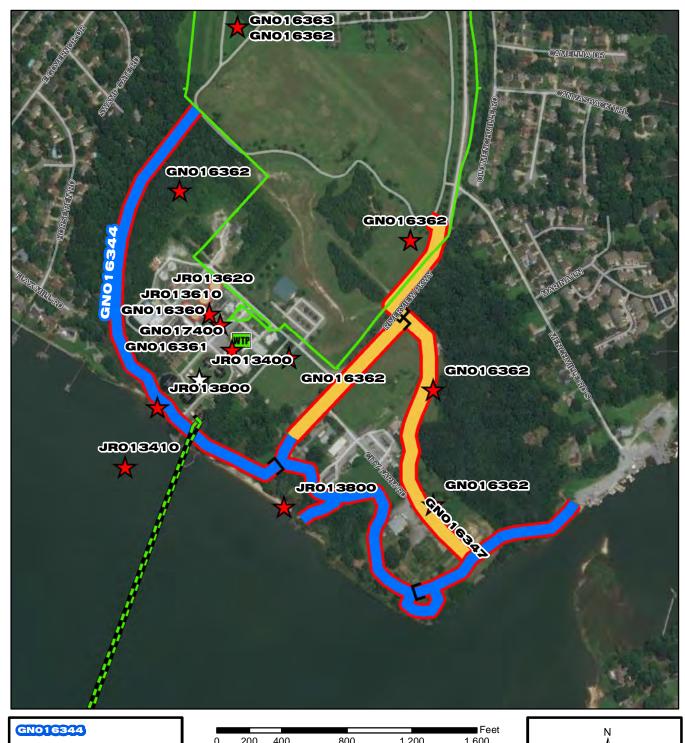
<u>Project Justification</u>: HRSD Commission approved an Agreement with the City of Newport News (City) in 2020 to purchase approximately 10 acres of land adjacent to the JRTP and receive the required easements for managed aquifer recharge wells, buildings, and related piping. Among the requirements stated in the land purchase Agreement is the commitment by HRSD to design and construct public access trails, which will be operated and maintained by the City.

<u>Funding Description</u>: The City will be responsible for the cost of construction of these additional improvements. HRSD will compensate the contractor for the work and the City will reimburse HRSD for all payments made on its behalf at the end of the project. Contractor change orders remain under 25 percent of the project cost; therefore, approval of the proposed change order is not included in this request.

A Cost Sharing Agreement with the City for reimbursement of construction costs associated with improvements to the project requested by the City was approved by Commission in September 2023.

The cost of construction of the City's requested improvements has now exceeded the amount appropriated in the project. The additional appropriation of \$450,000 is needed to complete the requested improvements for construction of a new overlook and miscellaneous items. Due to the potential for unforeseen conditions, which have been discovered on HRSD's and the City's property, such as unmitigated septic tanks and a cemetery, approximately 15 percent of the change order value has been included in the contingency request in addition to maintaining the available project balance.

Schedule: Project Completion October 2024





PS HRSD Pump Station

200 400 800 1,200 1,600

GN016344

James River Land Improvements Phase 1





HRSD Commission Meeting Minutes June 25, 2024 Attachment #2

5. Middlesex County Interceptor System Program Phase II – Saluda Pump Station (MP013710); Middlesex County Interceptor System Program Phase II - Hartfield Pump Station (MP013720); Middlesex County Interceptor System Program Phase II - Transmission Force Main (MP013730) Rejection of all Bids (>\$200,000)

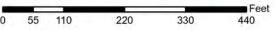




- Project Interceptor Line
- Project Interceptor Point
- Project Pump Station Point
- Project Area

Legend

- ★ CIP Interceptor Point
- CIP Pump Station Point
- CIP Interceptor Line
- CIP Abandonment
- CIP Project Area
 - HRSD Interceptor Force Main
- HRSD Interceptor Gravity Main
- WTP HRSD Treatment Plant
- HRSD Pressure Reducing Station
- PS HRSD Pump Station



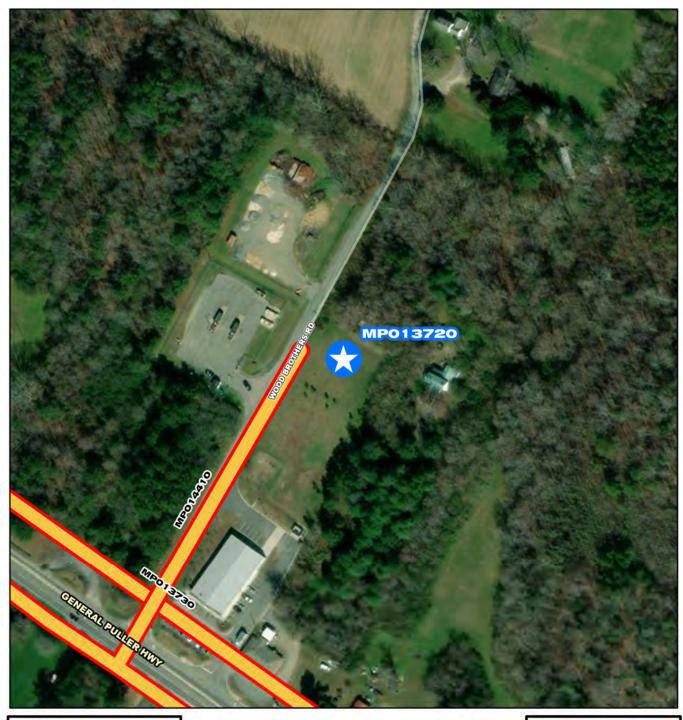
MP013710

Middlesex Interceptor System Program Phase II-Saluda Pump Station











- Project Interceptor Line
- Project Interceptor Point
- Project Pump Station Point
- Project Area

Legend

- ★ CIP Interceptor Point
- ☆ CIP Pump Station Point
- CIP Interceptor Line
- CIP Abandonment
- CIP Project Area
- HRSD Interceptor Force Main
- === HRSD Interceptor Gravity Main
- WTP HRSD Treatment Plant
- HRSD Pressure Reducing Station
- PS HRSD Pump Station

					Feet
0	55	110	220	330	440

MP013720

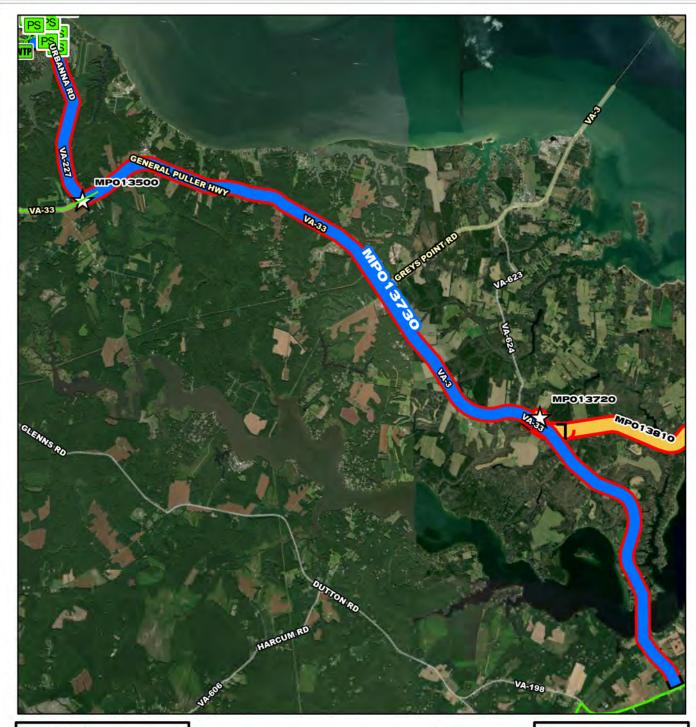
Middlesex Interceptor System
Program Phase II-Hartfield Pump
Station





CIP Location







- Project Interceptor Line
- Rroject Interceptor Point
- Project Pump Station Point
- Project Area

Legend

- ★ CIP Interceptor Point
- ☆ CIP Pump Station Point
- CIP Interceptor Line
- III CIP Abandonment
- CIP Project Area
 - HRSD Interceptor Force Main
- HRSD Interceptor Gravity Main
- WTP HRSD Treatment Plant
- HRSD Pressure Reducing Station
- HRSD Pump Station

Feet 0 2,0004,000 8,000 12,000 16,000

MP013730

Middlesex Interceptor System **Program Phase II-Transmission Force Main**







HRSD Commission Meeting Minutes June 25, 2024 Attachment #3

6. Trust Agreement Amendment and Restatement Resolution

Hampton Roads Sanitation District Resolution of June 25, 2024

HAMPTON ROADS SANITATION DISTRICT COMMISSION

A RESOLUTION AUTHORIZING THE AMENDMENT AND RESTATEMENT OF THE TRUST AGREEMENT RELATING TO HAMPTON ROADS SANITATION DISTRICT WASTEWATER REVENUE BONDS

Adopted June 25, 2024

Resolution

RESOLUTION AUTHORIZING THE AMENDMENT AND RESTATEMENT OF THE TRUST AGREEMENT RELATING TO HAMPTON ROADS SANITATION DISTRICT WASTEWATER REVENUE BONDS

WHEREAS, the Hampton Roads Sanitation District (the "District") was 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;

WHEREAS, by virtue of Chapter 66 of the Acts of Assembly of Virginia of 1960, as amended (the "Act"), the Commission is authorized and empowered, among other things:

- (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 Act and pledged for their payment, for the purpose of 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;

WHEREAS, as provided by the Act, the District is constituted as a political subdivision of the Commonwealth of Virginia and established as a governmental instrumentality to provide for the public health and welfare;

WHEREAS, the Commission has previously executed and delivered a Master Trust Indenture, dated as of December 1, 1993, as amended and restated as of March 1, 2008 (as supplemented and as further amended and supplemented from time to time, the "Discharged Trust Agreement"), between the District and The Bank of New York, as Trustee (The Bank of New York Mellon Trust Company, N.A., as successor in interest to The Bank of New York, the "Prior Trustee"), to secure the payment of certain senior obligations of the District that were payable from the Net Revenues (as defined in the Discharged Trust Agreement) of the District;

WHEREAS, all obligations heretofore secured by the Discharged Trust Agreement have been discharged or defeased under the terms of the Discharged Trust Agreement, and the lien of the Defeased Trust Agreement has been discharged;

WHEREAS, the Commission authorized the execution and delivery of a Trust Agreement, dated as of October 1, 2011 (the "Original Trust Agreement"), as amended and restated as of March 1, 2016, as further amended and supplemented (the Original Trust Agreement, as so amended, restated and supplemented, the "Trust Agreement"), each by and between the District and The Bank of New

York Mellon Trust Company, N.A., as successor trustee (in such capacity, the "Trustee"), to provide for the issuance of Parity Obligations (as defined in the Trust Agreement);

WHEREAS, the Commission desires to amend and restate the Trust Agreement to reflect the discharge of the Discharged Trust Agreement and to make certain other amendments permitted, without the consent of the owners of Parity Obligations, pursuant to Section 1101 of the Trust Agreement;

WHEREAS, a draft of the proposed amendment and restatement of the Trust Agreement (the "Amended and Restated Trust Agreement") has been presented at this meeting; and

WHEREAS, the Commission has determined that, in the judgment of the Commission and the District, the changes to the Trust Agreement to be made by the Amended and Restated Trust Agreement will not materially and adversely affect the holders of any Bonds (as defined in the Trust Agreement) affected by the Amended and Restated Trust Agreement;

Now, Therefore, the HAMPTON ROADS SANITATION DISTRICT COMMISSION DOES HEREBY RESOLVE, as follows:

Section 1. Definitions. Capitalized words and terms used in this Resolution and not defined herein shall have the same meanings in this Resolution as such words and terms are given in the Trust Agreement.

Section 2. Authorization and Execution of Amended and Restated Trust Agreement. The form, terms and provisions of the Amended and Restated Trust Agreement are hereby approved in all respects, and the Chair of the Commission, the Vice Chair of the Commission, the General Manager/Chief Executive Officer of the District or the Deputy General Manager/Chief Financial Officer of the District (each, a "Delegate"), any one of whom may act, are hereby authorized and directed to execute and deliver the Amended and Restated Trust Agreement in substantially the form presented to this meeting, or as otherwise provided by this Resolution, together with such changes, modifications and deletions as such Delegates, with the advice of counsel, may deem necessary or desirable; such execution and delivery shall be conclusive evidence of the approval and authorization thereof by such Delegates.

Section 3. Further Actions. The Delegates are each authorized and directed (without limitation except as may be expressly set forth herein) to take such action and to execute and deliver any such documents, certificates, undertakings, agreements or other instruments as they, with the advice of counsel, may deem necessary or desirable to effectuate the transactions contemplated or occasioned by the Amended and Restated Trust Agreement, including but limited to the amendment, modification or restatement of any documents heretofore executed by the District in connection with issuance of Bonds or Parity Obligations under the Trust Agreement.

Section 4. Delegates' Certificate. Each Delegate may execute a certificate or certificates evidencing the determinations made or other actions carried out pursuant to the authority granted in this Resolution, and any such certificate shall be conclusive evidence of the actions or determinations as stated therein.

Section 5. Ratification of Prior Acts. The actions heretofore taken by the Delegates in connection with the proposed execution and delivery of the Amended and Restated Trust Agreement are hereby ratified.

Section 6. Effective Date. This Resolution shall take effect immediately upon its passage.

[END OF RESOLUTION]

Adopted by the Hampton Roads Sanitation District Commission on June 25, 2024.

Stephen C. Rodriguez, Chair

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 October 1, 2011, as amended and restated as of March 1, 2016, as further amended and restated as of 1, 2024

Securing

SubordinateSenior Obligations

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THIS TRUST AGREEMENT, dated for convenience of reference as of October 1, 2011 2024, and effective on , 2024 (the "Effective Date"), by and between

HAMPTON ROADS SANITATION DISTRICT,

a political subdivision of the Commonwealth of Virginia, by Hampton Roads Sanitation District Commission, the Commission 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, 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 Trust Agreement being hereinafter sometimes called the "Trustee"),

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 Commission 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, among other things:

- (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, as provided by the Enabling Act, the District was constituted a political subdivision of the Commonwealth of Virginia and established as a governmental instrumentality to provide for the public health and welfare; 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 Defeased Trust Agreement"), between the District and The Bank of New York Mellon Trust Company, N.A., as successor Trustee (in such capacity, the "Senior Prior Trustee"), pursuant to which District may provide for issuance and incurrence of saud incurred senior obligations, as defined therein (the "Prior Senior Obligations—(as defined herein"); and

WHEREAS, Section 705 of the Senior Defeased Trust Agreement permits the issuance of Subordinated Indebtedness (as defined in the Senior Trust Agreement) subject to the conditions recited therein; and has been defeased and discharged, and no Prior Senior Obligations remain outstanding thereunder; and

WHEREAS, the Commission has, from time to time, issued Subordinated Indebtedness to the Virginia Resources Authority ("VRA") for purposes of financing improvements to the Wastewater System (as defined in the Senior Trust Agreement) (such Subordinated Indebtedness and any additional Subordinate Indebtedness delivered to VRA from time to time, the "VRA Subordinate Obligations"); and

WHEREAS, the Commission District executed and delivered a Trust Agreement, dated as of October 1, 2011 (the "Original Trust Agreement"), between the District and The Bank of New York Mellon Trust Company, N.A., as Trustee (in such capacity, the "Trustee") to provide for the issuance of Bonds (as defined hereintherein) payable solely from the Net Revenues Available for Debt Service (as defined hereintherein) 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

WHEREAS, the Commission has District, with the consent of the Holders and in accordance with Section 1102 of the Original Trust Agreement, determined to amend and restate amended and restated the Original Trust Agreement as of March 1, 2016 with the execution and delivery hereof(as so amended and restated and as further amended and supplemented prior to the Effective Date, the "Prior Trust Agreement"); and

WHEREAS, under the Prior Trust Agreement the Bonds issued thereunder were heretofore subordinate and junior in right of payment to all senior obligations issued under the Defeased Trust Agreement; and

WHEREAS, the Commission has determined, in accordance with Section 1101 of the Prior Trust Agreement, to further amend and restate the Prior Trust Agreement to reflect the defeasance and discharge of the Defeased Trust Agreement and to make other amendments to the Prior Trust Agreement permitted by Section 1101 of the Prior Trust Agreement, by executing and delivering this Trust Agreement; and

WHEREAS, the Commission has determined that none of the changes, modifications and amendments to the Prior Trust Agreement made by the execution and delivery of this Trust Agreement materially and adversely affect the rights of the holders of any Bonds or other Senior Obligations (as defined herein) that are outstanding on the Effective Date of this Trust Agreement; and

WHEREAS, the Commission has determined that the Bonds and the certificate of authentication to be endorsed by the Bond Registrar on all Bonds as provided herein shall be, respectively, substantially in the form to be set forth in the applicable Series Agreement authorizing the issuance of such Bonds; and

WHEREAS, under the Constitution and laws of the Commonwealth of Virginia, including the Enabling Act, the District is authorized to enter into this Trust Agreement, to issue the Bonds as hereinafter provided for the purposes hereinbefore stated, and to do or cause to be done all the acts and things herein provided or required to be done as hereinafter covenanted; and

WHEREAS, all acts, conditions and things required by the Constitution and laws of the Commonwealth of Virginia, including the Enabling Act, to happen, exist and be performed precedent to and in the execution and delivery of this Trust Agreement have happened, exist and have been performed as so required to make this Trust Agreement, as amended and restated (the "Trust Agreement"), a valid and binding trust agreement securing the Bonds in accordance with its terms; and

WHEREAS, the Trustee has accepted the trusts created by this Trust Agreement and in evidence thereof and in approval of the amendment and restatement of the Original Trust Agreement, has joined in the execution hereof;

NOW, THEREFORE, THIS 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 ParitySenior Obligations by the Holders (both as hereinafter defined) 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 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 are to be issued, authenticated, delivered, secured and accepted by all persons who shall from time to time be or become Holders thereof, and to secure the payment of all ParitySenior Obligations at any time issued and Outstanding under this Trust Agreement and the interest thereon according to their 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 Trust Agreement in the name of and on behalf of the District, and by this Trust Agreement has given, granted, bargained, aliened, remised, released, conveyed, transferred, assigned, confirmed, set over and pledged, and does hereby give, grant, bargain, alien, remise, release, convey, transfer, assign, confirm, set over and pledge unto the Trustee, and its successor or successors in trust, all money and securities held by the Trustee in the 2011 Trust Agreement Bond Fund and in the 2011 Trust Agreement Debt Service Reserve Fund (both as hereinafter defined) and, until applied in payment of any item of the 2011 Trust Agreement Issuance Costs (as hereinafter defined) or Capital Improvement Program Costs (as hereinafter defined) in

accordance with Section 403 hereof, all <u>moneysmoney</u> and securities in the <u>2011 Trust Agreement</u> Issuance Fund (as hereinafter defined) and the <u>2011 Trust Agreement</u> Construction Fund (as hereinafter defined).

TO HAVE AND TO HOLD all the same with all privileges and appurtenances hereby conveyed and assigned, or agreed or intended so to be, to the Trustee and its successor or successors in trust and to them and their assigns forever, subject to the exceptions, reservations and matters herein recited.

IN TRUST, NEVERTHELESS, upon the terms and trusts herein set forth, for the benefit, security and protection of all and singular the present and future Holders of the ParitySenior Obligations issued or to be issued under and secured by this Trust Agreement, without preference, priority or distinction as to lien or otherwise, except as may otherwise be provided herein, of any one Bond over any other Bond by reason of priority in their issue, sale or otherwise, all as herein provided;

Provided provided, however, that if the District, its successors or assigns, shall well and truly pay, or cause to be paid, or provide for the payment of, pursuant to the provisions of this Trust Agreement, the principal of Parity Senior Obligations and the interest due or to become due thereon, at the times and in the manner mentioned in the Parity Senior Obligations and this Trust Agreement, according to the true intent and meaning thereof and hereof, and shall cause the payments to be made into the 2011 Trust Agreement Bond Fund as required under this Trust Agreement, and shall pay or cause to be paid to the Trustee all sums of money due or to become due to it in accordance with the terms and provisions hereof, then upon such performance and payments this Trust Agreement and the rights hereby granted shall cease, determine and be void, as provided in Article XII hereof; otherwise this Trust Agreement to be and remain in full force and effect.

THIS TRUST AGREEMENT FURTHER WITNESSETH and it is expressly declared that all ParitySenior Obligations issued and secured hereunder are to be issued, authenticated, delivered and dealt with, and all said property hereby given, granted, bargained, aliened, remised, released, conveyed, transferred, assigned, confirmed, set over and pledged is to be dealt with and disposed of, under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the District has agreed and covenanted, and does hereby agree and covenant, with the Trustee and with the respective Holders, from time to time, of ParitySenior Obligations, or any part thereof, as follows:

(End of preamble, granting, habendum and witnessing clauses)

ARTICLE I.

DEFINITIONS

- **Section 101.** Meaning of Words and Terms. In addition to words and terms elsewhere defined in this Trust Agreement, the following words and terms as used in this Trust Agreement shall have the following meanings, unless some other meaning is plainly intended:
 - "Accreted Amount" means with respect to Capital Appreciation Bonds, the amount set forth in the Series Agreement authorizing the issuance of such Capital Appreciation Bonds as the amount representing the initial public offering price, plus the accumulated and compounded interest on such Capital Appreciation Bonds.
 - "Additional Bonds" means Bonds, if any, issued by the District, subsequent to the issuance of the 2011 Bondsafter the Effective Date, under Section 209 of this Trust Agreement, including Additional Bonds issued in exchange for other such Additional Bonds pursuant to Section 205 of this Trust Agreement or in replacement for mutilated, destroyed, stolen or lost Additional Bonds pursuant to Section 211 of this Trust Agreement.
 - "Audited Financial Statements" means the annual financial statements of the District as audited and reported on by a firm of independent public accountants, for a twelve-month period constituting a Fiscal Year or other period indicated, prepared in accordance with generally accepted accounting principles.
 - "Balloon Long-Term Indebtedness" means Long-Term Indebtedness 25% or more of the principal payments of which is due in a single year, which portion of the principal is not required by the documents pursuant to which such Indebtedness is issued to be amortized by redemption prior to such date.
 - <u>"Bond Fund"</u> means the Hampton Roads Sanitation District (Virginia) Bond Fund created and so designated by Section 501 of this Trust Agreement.
 - "Bond Registrar" means the Bond Registrar at the time serving as such under this Trust Agreement whether the original or a successor bond registrar.
 - "Bonds" means the 2011 Initial Bonds so designated by and issued under Section 208, and any Additional Bonds issued under Section 209, of this Trust Agreement, including Bonds issued in exchange for other such Bonds pursuant to Section 205 of this Trust Agreement or in replacement for mutilated, destroyed, stolen or lost Bonds pursuant to Section 211 of this Trust Agreement.
 - "Business Day" means any day on which banks located in the city in which the principal corporate trust office of the Trustee is located and in New York, New York, are open for commercial banking purposes.

"Capital Appreciation Bonds" means Bonds the interest on which is compounded at the rates and on the dates set forth in the Series Agreement authorizing the issuance of such Bonds and is payable upon redemption or on the maturity date of such Bonds. Nothing in this Trust Agreement shall prohibit the District from designating in such Series Agreement any such Bonds by a name other than Capital Appreciation Bonds.

"Capital Improvement Program Costs" means and includes all items of cost that may be paid from the proceeds of Indebtedness of the District and includes the items referred to in Section 402 of this Trust Agreement.

"Code" means the Internal Revenue Code of 1986, as amended.

"Coincidental Maximum Annual Debt Service" means the highest amount of debt service due and payable on the Senior Obligations and Parity Obligations—in the then-current or any succeeding Fiscal Year. For purposes hereof, debt service due and payable on the Senior Obligations for any Fiscal Year shall be—determined by reference to the Principal and Interest Requirements—(as defined in the Senior Trust Agreement) and debt service due and payable on Parity Obligations for any Fiscal Year shall be determined by reference to the Principal and Interest Requirements—(, as defined herein).

"Commission" means the Hampton Roads Sanitation District Commission, which is the governing body of the District.

"Commonwealth" means the Commonwealth of Virginia.

<u>"Construction Fund"</u> means the Hampton Roads Sanitation District (Virginia) Construction Fund created and so designated by Section 402 of this Trust Agreement.

"Contracted Services" means services rendered or facilities provided to the District for the performance for or on behalf of the District of functions similar to those performed by the District from a specific project, projects or systems, pursuant to a contract, whether a financing lease, a service agreement or another arrangement.

"Corporate Trust Office" means the office of the Trustee at which its principal corporate trust business is conducted, which at the date hereof is located at 919 East Main 500 Ross Street, Suite 1602, Richmond, Virginia 23219 12th Floor, Pittsburgh, Pennsylvania 15262, Attention: Corporate Trust Department.

"Credit Facility" means a line of credit, letter of credit, standby bond purchase agreement or similar credit enhancement or liquidity facility, including self-liquidity provided by the District, established to provide credit or liquidity support for Indebtedness.

"Cross-over Date" means, with respect to Cross-over Refunding Indebtedness, the date on which the principal portion of the related Cross-over Refunded Indebtedness is to be paid or redeemed from the proceeds of such Cross-over Refunding Indebtedness.

"Cross-over Refunded Indebtedness" means Indebtedness refunded by Cross-over Refunding Indebtedness.

"Cross-over Refunding Indebtedness" means Indebtedness issued for the purpose of refunding other Indebtedness if the proceeds of such refunding Indebtedness are irrevocably deposited in escrow to secure the payment on the applicable redemption date or maturity date of the refunded Indebtedness, and the earnings on such escrow deposit (i) are required to be applied to pay interest on such Refunding Indebtedness until the Cross-over Date and (ii) shall not be used directly or indirectly to pay interest on the Refundedrefunded Indebtedness.

"Current Interest Bonds" means Bonds the interest on which is payable on the Interest Payment Dates provided therefor in the Series Agreement authorizing the issuance of such Bonds.

"Debt Service Component of Contracted Services" means that part of the payment for Contracted Services for which the District is obligated to pay that the chief financial officer of the District shall have determined in writing in an Officer's Certificate at the time the District commits to receive such Contracted Services to be for the purpose of paying a fixed charge or the principal of and interest on obligations, directly or indirectly associated with rendering the Contracted Services, of the person providing the Contracted Services.

<u>"Debt Service Reserve Fund"</u> means the Hampton Roads Sanitation District (Virginia) Debt Service Reserve Fund created and so designated by Section 501 of this Trust Agreement.

"Debt Service Reserve Fund Requirement" means (i) on the Effective Date, zero (0) and (ii) if, and to the extent, the District in its sole discretion determines to fund the Debt Service Reserve Fund, the Debt Service Reserve Fund Requirement specified in a Series Agreement.

"**Defaulted Interest**" means Defaulted Interest as defined in Section 203 of this Trust Agreement.

"Defeasance Obligations" means, except as otherwise provided in a Series Agreement, noncallable (i) Government Obligations, (ii) evidences of ownership of a proportionate interest in specified Government Obligations, which Government Obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian, (iii) obligations issued pursuant to Section 21B(d)(3) of the Federal Home Loan Bank Act, as amended by Section 511(a) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, and commonly known as "interest strips" of the Resolution Funding Corporation, (iv) Defeased Municipal Obligations, and (v) evidences of

ownership of a proportionate interest in specified Defeased Municipal Obligations, which Defeased Municipal Obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity as custodian.

"**Defeased Municipal Obligations**" means, except as otherwise provided in a Series Agreement, obligations of state or local government municipal bond issuers which are rated at the time of acquisition the highest rating by at least two of the three Rating Agencies, meeting the following conditions:

- (i) (A) such obligations are not to be redeemed prior to maturity or the Trustee has been given irrevocable instructions concerning their call for redemption, and (B) the issuer of such obligations has covenanted not to redeem such obligations other than as set forth in such instructions;
- (ii) such obligations are secured by Government Obligations that may be applied only to interest, principal, and premium payments on such obligations;
- (iii) the principal of and interest on such Government Obligations (plus any cash in the escrow fund with respect to such pre-refunded obligations) are sufficient to meet the liabilities of the obligations;
- (iv) the Government Obligations serving as security for the obligations are held by an escrow agent or trustee; and
- (v) such Government Obligations are not available to satisfy any other claims, including those against the trustee or escrow agent.

"Derivative Agreement" means, without limitation, (i) any contract known as or referred to or which performs the function of an interest rate swap agreement, forward payment conversion agreement or futures contract; (ii) any contract providing for payments based on levels of, or changes or differences in, interest rates or other indices; (iii) any contract to exchange cash flows or payments or series of payments; (iv) any type of contract called, or designed to perform the function of, interest rate floors or caps, options, puts or calls, to hedge or minimize any type of financial risk, including, without limitation, payment, rate or other financial risk; and (v) any other type of contract or arrangement that the District determines is to be used, or is intended to be used, to manage or reduce the cost of Indebtedness, to convert any element of Indebtedness from one form to another or to protect against any type of financial risk or uncertainty.

"Derivative Agreement Counterparty" means, with respect to a Derivative Agreement, the Person that is identified in such agreement as the counterparty to, or contracting party with, the District.

"Derivative Indebtedness" means all or any portion of Indebtedness of the District which bears interest at either:

- (a) a variable rate for any period of time meeting the requirements set forth in clauses (a)(i) and (a)(ii) below:
 - (i) the District shall have issued or entered into a Derivative Agreement in respect of all or such portion of such Indebtedness, and
 - (ii) such Derivative Agreement provides that, during the period that such Indebtedness bears interest at a variable rate, the District will pay a fixed rate and the provider of the Derivative Agreement will pay a variable rate, then in such case such Indebtedness, taken together with the Derivative Agreement, shall be deemed to result in a net fixed rate payable by the District for such period of time (the "Hedged Fixed Rate"), for so long as the District and the party(ies) with whom the District has entered into the Derivative Agreement shall make all payments required to be made by the terms of the Derivative Agreement, or
- (b) a fixed rate for any period of time meeting the requirements set forth in clauses (b)(i) and (b)(ii) below:
 - (i) the District shall have issued or entered into a Derivative Agreement in respect of all or such portion of such Indebtedness, and
 - (ii) such Derivative Agreement provides that during the period that such Indebtedness bears interest at a fixed rate the District will pay a variable rate and the provider of the Derivative Agreement will pay a fixed rate, then such Indebtedness, taken together with the Derivative Agreement, shall be deemed to result in a net variable rate payable by the District for such period of time (the "Hedged Variable Rate"), assuming the District and the party(ies) with whom the District has entered into the Derivative Agreement make all payments required to be made by the terms of the Derivative Agreement.

"District" means the Hampton Roads Sanitation District, a political subdivision of the Commonwealth of Virginia.

"District Representative" means each of the persons at the time designated to act on behalf of the District in a written certificate furnished to the Trustee, which certificate shall contain the specimen signature(s) of such person(s) and shall be signed on behalf of the Commission by its Chair or Vice ChairmanChair or the General Manager/Chief Executive Officer of the District.

<u>"Effective Date"</u> means the date on which this Trust Agreement is executed and delivered in accordance with Section 208 hereof (_______, 2024).

"Enabling Act" means Chapter 66 of the Acts of Assembly of Virginia of 1960, as amended.

"Event of Default" means any one or more of those events set forth in Section 801 of this Trust Agreement.

- "Financial Statements" means the unaudited financial statements of the District for the Fiscal Year or other period indicated, pro forma or otherwise, and containing the same financial information as the Audited Financial Statements.
- "Fiscal Year" means the twelve-month period beginning on July 1 of one calendar year and ending on June 30 of the following calendar year or such other twelve-month period designated by the Commission.
- "Fitch" means Fitch <u>Ratings</u>, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and their assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, "Fitch" shall be deemed to refer to any other nationally recognized statistical rating organization designated by the District by notice to the Trustee.
- "Government Obligations" means direct obligations of, or obligations the <u>timely</u> payment of principal of and interest on which are fully and unconditionally guaranteed by, the United States of America.
- "Hedged Fixed Rate" means Hedged Fixed Rate as defined in the definition of Derivative Indebtedness.
- "Hedged Variable Rate" means Hedged Variable Rate as defined in the definition of Derivative Indebtedness.
- "Holder" means an owner of any <u>Senior</u> Obligation issued in other than bearer form.
- "Indebtedness" means (i) all indebtedness of the District for borrowed money, (ii) all installment sales, conditional sales and capital lease obligations incurred or assumed by the District, and (iii) the Debt Service Component of Contracted Services.
- "Independent Consultant" means a firm or firms which are not, and no member, stockholder, director, officer, trustee or employee of which is, an officer, director, trustee or employee of the District, and which is a professional management or engineering consultant of national repute for having the skill and experience necessary to render the particular report required by the provision hereof in which such requirement appears.
- "Independent Insurance Consultant" means a firm or Person person selected by the District, who is not an officer, director, trustee or employee of the District, and which or who is qualified to survey risks and to recommend insurance coverage for wastewater treatment systems and organizations engaged in such operations and is selected by the District.
- <u>"Initial Bonds"</u> means the Bonds issued pursuant to the Prior Trust Agreement prior to the Effective Date of this Trust Agreement and outstanding on the Effective Date, as described in Exhibit B hereto.

"Interest Payment Date" means each date described as such in a Series Agreement.

"Interest Requirements" for any Fiscal Year means the amount that is required to pay interest on all Outstanding ParitySenior Obligations.

"Investment Obligations" means any and all investment obligations authorized by (A) the Investment of Public Funds Act, being Section 2.2-4500 et seq., Code of Virginia, 1950, as amended, (B) the Government Non-Arbitrage Investment Act, being Section 2.2-4700 et seq., Code of Virginia, 1950, as amended, and (C) successor statutes to those described in (A) and (B) above, as the same shall be from time to time amended.

"Issuance Costs" has the meaning given to such term in Section 401(c).

<u>"Issuance Fund"</u> means the Hampton Roads Sanitation District (Virginia) Issuance Fund created and so designated by Section 401 of this Trust Agreement.

"Junior Obligations" means Indebtedness of the District the terms of which shall provide that it shall be subordinate and junior in right of payment to the prior payment in full of the Senior Obligations and the Parity Obligations to the extent and in the manner set forth below:

In the event (a) of any insolvency or bankruptcy proceedings, and any receivership, liquidation, reorganization, arrangement or other similar proceedings in connection therewith, relative to the District or to its Property, or in the event of any proceedings for voluntary liquidation, dissolution or other winding up of the District whether or not involving insolvency or bankruptcy, (b) any Junior Obligation is declared or otherwise becomes due and payable before its expressed maturity because of the occurrence of an event of default occurring under the documents pursuant to which such Junior Obligation is issued; and such declaration has not been rescinded and annulled, or (c) any Event of Default (as defined in the Senior Trust Agreement) under the Senior Trust Agreement shall occur and be continuing with respect to any Senior Obligation or any Event of Default under this Trust Agreement shall occur and be continuing with respect to any Parity Obligation and (1) written notice of such default shall have been given to the District and (2) judicial proceedings shall be commenced in respect of such Event of Default within 180 days in the case of a default in payment of principal or interest on Senior Obligations or Parity Obligations and within 90 days in the case of any other default after the giving of such notice, then, first, the Holders of Senior Obligations shall be entitled to receive payment in full of all principal, premium and interest on all Senior Obligations before the Holders of the Parity Obligation are entitled to receive any payment on account of principal or interest upon the Parity Obligations and, second, the Holders of Parity Obligations shall be entitled to receive payment in full of all principal, premium and interest on all Parity Obligations before the Holders of the Junior Obligations are entitled to receive any payment on account of principal, premium or interest upon the Junior Obligations.

"Lien" means any mortgage, deed of trust or pledge of, security interest in or encumbrance on any Property of the District which that secures any Indebtedness or any other obligation of the District.

"Long-Term Debt Service Coverage Ratio" means, for any period of time, the ratio determined by dividing the Net Revenues by the Coincidental Maximum Annual Debt Service.

"Long-Term Debt Service Requirement" means, for any period of twelve (12) consecutive calendar months for which such determination is made, the aggregate of the payments to be made in respect of principal and interest (whether or not separately stated) on Outstanding Long-Term Indebtedness during such period, also taking into account:

- with respect to Balloon Long-Term Indebtedness which that is not (i) amortized by the terms thereof (a) the amount of principal which would be payable in such period if such principal were amortized from the date of incurrence thereof over a period of the lesser of thirty (30) years and the number of years until final maturity of such Indebtedness on a level debt service basis, at an interest rate equal to the market rate for a fixed rate obligation, set forth in an opinion, delivered to the District and the Trustee, of a banking institution, an investment banking institution or an independent registered municipal advisor, selected by the District and knowledgeable in municipal finance, as the interest rate at which the District could reasonably expect to borrow the same by incurring Indebtedness with the same term as assumed above; provided, however, that if the date of calculation is within twelve (12) calendar months of the actual final maturity of such Indebtedness, the full amount of principal payable at maturity shall be included in such calculation or (b) principal payments or deposits with respect to Indebtedness secured by an irrevocable letter of credit issued by, or an irrevocable line of credit with, a bank or other financial institution, provided such credit arrangement is rated in one of the three highest rating categories by at least two of the Rating Agencies or rated in the highest short-term rating category by at least two of the Rating Agencies, nominally due in the last Fiscal Year in which such Indebtedness matures may, at the option of the District, be treated as if such principal payments or deposits were due as specified in any credit agreement issued in connection with such letter of credit, line of credit or insurance policy or pursuant to the repayment provisions of such letter of credit, line of credit or insurance policy, and interest on such Indebtedness after such Fiscal Year shall be assumed to be payable pursuant to the terms of such credit agreement or repayment provisions;
- (ii) with respect to Long-Term Indebtedness which that is Variable Rate (but not Hedged Fixed Rate) Indebtedness, the interest on such Indebtedness shall be calculated at 120% of the rate which is equal to the average of the actual interest rates which were in effect (weighted according to the length of the period during which each such interest rate was in effect) for the most recent twelve-month period immediately preceding the date of calculation for which such information is available (or shorter period if such information is not

available for a twelve-month period), except that with respect to new Variable Rate Indebtedness the interest rate for such Indebtedness for the initial interest rate period shall be 120% of the average of the SIFMA Swap Index for last 12 whole months for which such Index is available and thereafter shall be calculated as set forth above;

- (iii) with respect to any Credit Facility, (a) to the extent that such Credit Facility has not been used or drawn upon, the principal and interest relating to such Credit Facility shall not be included in the Long-Term Debt Service Requirement and (b) to the extent such Credit Facility has been drawn upon, the payment provisions of such Credit Facility with respect to repayment of principal and interest thereon shall be included in the Long-Term Debt Service Requirement; and
- with respect to Derivative Indebtedness, (i) for any historical computation, the interest on such Indebtedness shall be calculated by adding (A) the amount of interest payable by the District on such Derivative Indebtedness pursuant to its terms and (B) the amount of regularly scheduled payments made by the District pursuant to the Derivative Agreement and subtracting (C) the amount of regularly scheduled payments made by the Derivative Agreement Counterparty pursuant to the Derivative Agreement; (ii) for any historical pro forma or forecasted computation, if the Derivative Agreement Counterparty has a long-term credit rating of at least "A" (without regard to any rating refinement or gradation by numerical modifier or otherwise) assigned to it by at least one Rating Agency then rating the Indebtedness and does not have a long-term rating of less than "A" (without regard to any rating refinement or gradation by numerical modifier or otherwise) from any Rating Agency then rating the Indebtedness and has not defaulted on its payment obligations thereunder as of the date of computation, the interest on such Derivative Indebtedness shall be calculated at the Hedged Fixed Rate or the Hedged Variable Rate, as the case may be; and (iii) in all other instances, the amount of interest payable by the District on such Derivative Indebtedness shall be calculated as if such Derivative Agreement had not been executed; and
- (v) in the case of Indebtedness having the benefit of a Credit Facility that provides for a term loan facility that requires the payment of the principal in one (1) year or more, the Indebtedness shall be considered Balloon Long-Term Indebtedness and shall be assumed to have the maturity schedule provided in clause (i)(a) of this definition;

provided, however, that (i) interest shall be excluded from the determination of Long-Term Debt Service Requirement to the extent the same is provided from the proceeds of the Long-Term Indebtedness, (ii) the aggregate of the payments to be made with respect to principal and interest on Outstanding Long-Term Indebtedness shall not include principal and interest payable from Qualified Escrow Funds, and (iii) principal shall be excluded from the determination of Long-Term Debt Service Requirement on

Short-Term Indebtedness issued under the provisions of Section 704(c) and secured by a Credit Facility.

"Long-Term Indebtedness" means all obligations having a maturity of a term longer than one year for borrowed money incurred or assumed by the District, including (a) Short-Term Indebtedness if secured by a Credit Facility containing a commitment to provide financing to retire such Short-Term Indebtedness and such commitment provides for the repayment of principal on terms which that would, if such commitment were implemented, constitute Long-Term Indebtedness, and (b) the current portion of Long-Term Indebtedness, for any of the following:

- (1) money borrowed for an original term, or renewable at the option of the borrower for a period from the date originally incurred, longer than one year;
- (2) leases whichthat are required to be capitalized in accordance with generally accepted accounting principles having an original term, or renewable at the option of the lessee for a period from the date originally incurred, longer than one year;
- (3) installment sale or conditional sale contracts having an original term in excess of one year; and
- (4) the Debt Service Component of Contracted Services in connection with Contracted Services rendered or provided pursuant to a contract having an original term of more than one year.

"Maximum Annual Debt Service" means, at any given time of determination, the greatest Long Term Debt Service Requirement for the then current or any succeeding Fiscal Year.

"Maximum Annual Debt Service on the Parity Obligations" means, at any given time of determination, the maximum coincidental Principal and Interest Requirements for the Parity Obligations for the then current or any succeeding Fiscal Year.

"Moody's" means Moody's Investors Service, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and their assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, "Moody's" shall be deemed to refer to any other nationally recognized statistical rating organization designated by the District by notice to the Trustee.

"Net Book Value" when used in connection with Property, Plant and Equipment or other Property, means the value of such property, net of accumulated depreciation, as recognized by the District in conformity with generally accepted accounting principles.

"Net Revenues" means all revenues received by the District from its Wastewater System less Operating Expenses, provided, that Net Revenues shall not include any Transition Charge.

"Net Revenues Available for Debt Service" means all Net Revenues less debt service on Senior Obligations.

"Officer's Certificate" means a certificate signed by a District Representative.

Each Officer's Certificate presented pursuant to this Trust Agreement shall state that it is being delivered pursuant to (and shall identify the section or subsection of), and shall incorporate by reference and use in all appropriate instances all terms defined in, this Trust Agreement. Each Officer's Certificate shall state (i) that the terms thereof are in compliance with the requirements of the section or subsection pursuant to which such Officer's Certificate is delivered or shall state in reasonable detail the nature of any non-compliance and the steps being taken to remedy such non-compliance and (ii) that it is being delivered together with any opinions, schedules, statements or other documents required in connection therewith.

"Operating Expenses" means those current expenses paid by the District that may be required to pay the cost of maintaining, repairing and operating the Wastewater System, including, but not limited to, reasonable and necessary usual expenses of administration, operation, maintenance and repair, costs for billing and collecting the rates, fees and other charges for the use of or the services furnished by the Wastewater System, insurance premiums, credit enhancement and liquidity support fees, legal, engineering, auditing and financial advisory expenses, expenses and compensation of the Trustee, and deposits into a self-insurance program. Operating Expenses shall exclude allowance for depreciation and amortization and expenditures for extraordinary maintenance or repair or improvements. Operating Expenses shall also exclude expenses for improvements that will not be owned by the District but which will, in the reasonable determination of the Commission, as evidenced by a resolution thereof, maintain or improve the integrity of the Wastewater System.

"Opinion of Bond Counsel" means an opinion in writing signed by an attorney or firm of attorneys acceptable to the Trustee and experienced in the field of municipal bonds whose opinions are generally accepted by purchasers of municipal bonds.

"Opinion of Counsel" means an opinion in writing signed by an attorney or firm of attorneys who may be counsel for the District or other counsel selected by the District.

"Outstanding"," when used with reference to Bonds or other Parity Senior Obligations, means, as of a particular date, all Bonds and Parity other Senior Obligations theretofore issued under this Trust Agreement, except:

(1) Bonds and Parity other Senior Obligations theretofore cancelled by the Bond Registrar or delivered to the Bond Registrar for cancellation;

- (2) Bonds and Parityother Senior Obligations for the payment of which money, Defeasance Obligations, or a combination of both, sufficient to pay, on the date when such Bonds and other Senior Obligations are to be paid, the principal amount of, and the interest accruing to such date on, the Bonds or other Senior Obligations to be paid, has been deposited with the Trustee or the Bond Registrar in trust for the Holders of such Bonds or other Senior Obligations; Defeasance Obligations shall be deemed to be sufficient to pay Bonds or other Senior Obligations on a specified date if the principal of and the interest on such Defeasance Obligations, when due, will be sufficient to pay on such date the principal of, and the interest accruing on, such Bonds or other Senior Obligations to such date;
- (3) Bonds and Parityother Senior Obligations in exchange for or in lieu of which other Bonds or Parityother Senior Obligations have been issued; and
- (4) Bonds and Parityother Senior Obligations deemed to have been paid in accordance with Section 1201 of this Trust Agreement;

provided, however, that Bonds and Parityother Senior Obligations owned or held by or for the account of the District or any affiliate or any subsidiary or controlled affiliate of the District shall not be deemed Outstanding Bonds or Outstanding ParitySenior Obligations for the purpose of any consent or other action or any calculation of Outstanding Bonds or Outstanding ParitySenior Obligations provided for in Article VIII, Article XI and Article XII of this Trust Agreement, and neither the District nor any affiliate, subsidiary or controlled affiliate of the District as registered owners of such Bonds or Parityother Senior Obligations shall be entitled to consent or take any other action provided for in Article VIII, Article XI and Article XII of this Trust Agreement. Notwithstanding the foregoing, Bonds or Parityother Senior Obligations owned or held for the account of the District or an or any affiliate or any subsidiary or controlled affiliate of the District shall not be deemed to be paid unless the District delivers, or causes such Bonds or Parityother Senior Obligations to be delivered, to the Trustee with the express written instructions of a District Representative directing the Trustee to cancel such Bonds or other Senior Obligations pursuant to Section 506(b) hereof.

"Parity Obligations" means Bonds and VRA Subordinate Obligations.

"Permitted Liens" shall have the meaning given in Section 710 hereof.

"Predecessor Bonds" of any particular Bond means every previous Bond evidencing all or a portion of the same debt as that evidenced by such particular Bond, and, for purposes of this definition, any Bond authenticated and delivered under Section 211 of this Trust Agreement in lieu of a lost, destroyed or stolen Bond shall be deemed to evidence the same debt as the lost, destroyed or stolen Bond.

"[P]rincipal" means (a) with respect to any Capital Appreciation Bond, the Accreted Amount thereof (the difference between the stated amount to be paid at maturity and the Accreted Amount being deemed unearned interest), except as used in connection with the authorization and issuance of Bonds and with the order of priority of

payments of Bonds after an Event of Default, in which case "principal" means the initial public offering price of a Capital Appreciation Bond and the difference between the Accreted Amount and the initial public offering price shall be deemed to be interest and (b) with respect to any Current Interest Bond, the principal amount of such Bond payable at maturity or in satisfaction of a sinking fund requirement, if applicable.

"Principal and Interest Requirements" for any Fiscal Year means the sum of the Principal Requirements and Interest Requirements for such Fiscal Year.

"Principal Payment Date" means each date described as such in a Series Agreement.

"Principal Requirements" for any Fiscal Year means the amount required to pay the principal of all Outstanding Parity Senior Obligations coming due in such Fiscal Year.

"**Property**" means any and all rights, titles and interests in and to any and all property whether real or personal, tangible or intangible and wherever situated.

"Property, Plant and Equipment" means all Property of the District which is property, plant and equipment under generally accepted accounting principles.

"Qualified Escrow Funds" means amounts deposited in a segregated escrow fund, or other similar fund or account, in connection with the issuance of Indebtedness which fund is required by the documents establishing such fund to be applied toward the District's payment obligations with respect to principal, premium, if any, or interest on (a) the Indebtedness secured thereby which is issued under the documents establishing such fund or (b) Indebtedness secured thereby which was issued prior to the establishment of such fund.

"Qualified Reserve Fund Substitute" means (i) an irrevocable letter of credit, naming the Trustee as beneficiary, issued by any domestic or foreign bank, or any branch or agency thereof, whose long-term debt obligations are rated in one of the two highest rating categories by at least two of the Rating Agencies that shall rate such obligations, or (ii) a policy of reserve fund insurance naming the Trustee as beneficiary, issued by an insurance company or financial institution whose claims paying ability is rated in one of the two highest rating categories by at least two of the Rating Agencies that shall rate such obligations, in either case (A) in an amount not less than the Debt Service Reserve Fund Requirement, (B) the terms of which allow the Trustee to make the draws required by Section 504 of this Trust Agreement and (C) that provides that the issuer of which shall not have been given a lien on any portion of the property of the District unless such lien also secures the Bonds on a parity basis.

"Rate Covenant" means the rate covenant of the District set out in Section 705(a) of this Trust Agreement.

"Rating Agency" or "Rating Agencies" means one or more of Fitch, Moody's or Standard & Poor's S&P for so long as it is a nationally recognized statistical rating organization and any new, nationally recognized statistical rating organization.

"Regular Record Date" means, for any Series of Bonds or Parity Senior Obligations, the record date or dates established for the Bonds or Parity Senior Obligations of such series in a Series Agreement.

"Responsible Officer" means, when used with respect to the Trustee, any vice president, assistant vice president, senior associate or other officer of the Trustee within the corporate trust office specified in Section 1302 (or such corporate trust office so designated in a Series Agreement or any successor corporate trust office) having direct responsibility for the administration of this Trust Agreement.

<u>"S&P"</u> means S&P Global Ratings, a division of S&P Global Inc., a corporation organized and existing under the laws of the State of New York, its successors and their assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, "S&P" shall be deemed to refer to any other nationally recognized statistical rating organization designated by the District by notice to the Trustee.

"Securities Depository" means The Depository Trust Company, New York, New York, or other recognized securities depository selected by the District, which maintains a book-entry system in respect of the Bonds, and shall include any substitute for or successor to the securities depository initially acting as Securities Depository.

"Securities Depository Nominee" means, as to any Securities Depository, such Securities Depository or the nominee of such Securities Depository in whose name there shall be registered on the registration books maintained by the Bond Registrar the Bond certificates to be delivered to and immobilized at such Securities Depository during the continuation with such Securities Depository of participation in its book-entry system.

"Senior Bond Fund" means the means the Hampton Roads Sanitation District (Virginia) Wastewater Revenue Bonds Bond Fund created and so designated by Section 501 of the Senior Trust Agreement.

"Senior Bonds" shall have the meaning given the term "Bonds" by the Senior Trust Agreement.

"Senior Obligations" means Bonds and all Indebtedness" shall mean Indebtedness, including, but not limited to VRA Obligations, secured on a parity with the Senior Bonds under the terms of the Senior Trust Agreement.

"Senior Debt Service Reserve Fund" means the Hampton Roads Sanitation District (Virginia) Wastewater Revenue Bonds Debt Service Reserve Fund created and so designated by Section 501 of the Senior Trust Agreement.

"Senior Obligations" means, collectively, Senior Bonds and Senior Indebtedness and, if the District is required to fund the Senior Debt Service Reserve Fund pursuant to the provision of Section 706(a) of the Senior Trust Agreement, the District's funding obligations under such section.

"Senior Trust Agreement" means that certain trust agreement, dated as of March 1, 2008, as the same may be supplemented and amended from time to time, between the District and The Bank of New York Mellon Trust Company, N.A., as successor Trustee.

"Series Agreement" means a supplemental trust agreement entered into or the resolution adopted by the Commission providing for the issuance of Bonds or ParitySenior Obligations pursuant to Section 208 or Section 209 of this Trust Agreement. A Series Agreement shall include any Officer's Certificate delivered by a District Representative or Representatives to whom authority has been delegated by the terms of the Series Agreement to provide the details of such BondsSenior Obligations and, for purposes of additional VRA Subordinate Obligations, a Series Agreement shall include such resolutions adopted by the Commission or financing agreements authorized thereby specifying the details of such additional VRA Subordinate Obligations.

"Short-Term Indebtedness" means all obligations for borrowed money, other than the current portion of Long-Term Indebtedness, incurred or assumed by the District for any of the following:

- (1) money borrowed for an original term, or renewable at the option of the borrower for a period from the date originally incurred, of one year or less;
- (2) leases which that are capitalized in accordance with generally accepted accounting principles having an original term, or renewable at the option of the lessee for a period from the date originally incurred, of one year or less; and
- (3) installment purchase or conditional sale contracts having an original term of one year or less.

"SIFMA Swap Index" means The Securities Industry and Financial Market Association Municipal Swap Index as of the most recent date for which such index was published or such other weekly, high-grade index comprised of seven-day, Tax-Exempttax-exempt variable rate demand notes published by Bloomberg, or its successor, or otherwise designated by The Securities Industry and Financial Market Association; provided, however, that, if such index is no longer available or its successor, the "SIFMA Swap Index" shall mean such other reasonably comparable index selected by the remarketing agent appointed by the District in connection with Variable Rate Indebtedness.

"Special Record Date" for the payment of any Defaulted Interest on Bonds means a date fixed by the Trustee pursuant to Section 203 of this Trust Agreement.

<u>"Subordinate Obligations"</u> means Indebtedness of the District the terms of which shall provide that it shall be subordinate and junior in right of payment to the prior payment in full of the Senior Obligations to the extent and in the manner set forth below:

In the event (a) of any insolvency or bankruptcy proceedings, and any receivership, liquidation, reorganization, arrangement or other similar proceedings in connection therewith, relative to the District or to its Property, or in the event of any proceedings for voluntary liquidation, dissolution or other winding-up of the District whether or not involving insolvency or bankruptcy, (b) any Subordinate Obligation is declared or otherwise becomes due and payable before its expressed maturity because of the occurrence of an event of default occurring under the documents pursuant to which such Subordinate Obligation is issued; and such declaration has not been rescinded and annulled, or (c) any Event of Default under this Trust Agreement shall occur and be continuing with respect to any Senior Obligation and (1) written notice of such default shall have been given to the District and (2) judicial proceedings shall be commenced in respect of such Event of Default within 180 days in the case of a default in payment of principal or interest on Senior Obligations and within 90 days in the case of any other default after the giving of such notice, then the Holders of Senior Obligations shall be entitled to receive payment in full of all principal, premium and interest on all Senior Obligations before the Holders of the Subordinate Obligations are entitled to receive any payment on account of principal or interest upon the Subordinate Obligations.

"Standard & Poor's" means Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc., a corporation organized and existing under the laws of the State of New York, its successors and their assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, "Standard & Poor's" shall be deemed to refer to any other nationally recognized statistical rating organization designated by the District by notice to the Trustee.

"State" means the Commonwealth of Virginia.

"Supplement" means an agreement, including a Series Agreement, supplemental to, and authorized and executed pursuant to the terms of, this Trust Agreement.

"Tax-Exempt" with reference to Bonds or other Parity Obligations means any such Bonds or Parity Obligations so designated in the related Series Agreement.

"Tax Certificate" means a certificate or comparable instrument of the District delivered by the District and containing undertakings of the District with reference to Tax-Exempt ParitySenior Obligations.

<u>"Tax-Exempt"</u> with reference to Bonds or other Senior Obligations means any such Bonds or Senior Obligations so designated in the related Series Agreement.

"Total Operating Revenues" means, with respect to the District, as to any period of time, total operating revenues, determined in accordance with generally accepted accounting principles.

"Transition Charge" means any rates, fees, charges or surcharges relating to the Wastewater System or the customers thereof established by irrevocable rate order or other action or instrument, and applicable to or by the District, in conjunction with the issuance of debt or other securities under a separate resolution, indenture or similar instrument (other than the Senior Trust Agreement, this Trust Agreement or other instrument securing Indebtedness secured by revenues of the Wastewater System) to the extent such rates, fees, charges or surcharges are pledged or otherwise encumbered or conveyed as security for such debt or other securities.

"Trust Agreement" means this Trust Agreement, entered into by and between Hampton Roads Sanitation District and The Bank of New York Mellon Trust Company, N.A., as Trustee, dated as of October 1, 2011, as amended and restated as of March 1, 2016, as amended, as further amended and restated as of 1, 2024, and effective on the Effective Date, including any Series Agreement and any other trust agreement amendatory hereof or supplemental hereto.

"Trust Agreement" means this Trust Agreement, including any Series Agreement and any other trust agreement amendatory hereof or supplemental hereto.

"2011 Trust Agreement Bond Fund" means the Hampton Roads Sanitation District (Virginia) Subordinate Wastewater Revenue Bonds Bond Fund created and so designated by Section 501 of this Trust Agreement.

"2011 Trust Agreement Construction Fund" means the fund created and so designated by Section 402 of this Trust Agreement.

"2011 Trust Agreement Debt Service Reserve Fund" means the Hampton Roads Sanitation District (Virginia) Subordinate Wastewater Revenue Bonds 2011 Trust Agreement Debt Service Reserve Fund created and so designated by Section 501 of this Trust Agreement.

"2011 Trust Agreement Debt Service Reserve Fund Requirement" means (i) on the date of issuance of the 2011 Bonds (as defined in Section 208), zero (0) and (ii) if, and to the extent, the District in its sole discretion determines to fund the 2011 Trust Agreement Debt Service Reserve Fund, the 2011 Trust Agreement Debt Service Reserve Fund Requirement specified in a Series Agreement.

"2011 Trust Agreement Issuance Fund" or "Issuance Fund" means the fund created and so designated by Section 401 of this Trust Agreement.

"Variable Rate Indebtedness" means any portion of Indebtedness the interest rate on which is not established at the time of incurrence at a fixed or constant rate until maturity.

"VRA Senior Obligations" means Senior Obligations issued to VRA.

"VRA Subordinate Obligations" means the District's VRA Subordinate Obligations or other evidences of indebtedness, as further described in Exhibit A hereto,

and such additional <u>ParitySenior</u> Obligations issued to VRA payable on a parity with <u>ParitySenior</u> Obligations issued pursuant to this Trust Agreement.

"Wastewater System" means the wastewater treatment system of the District₂ as it may at any time exist, and includes all improvements and expansions thereof and additions thereto except as may otherwise be provided by resolution of the Commission.

- **Section 102.** Rules of Construction. (a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, the words "Senior Obligation"," "Bond"," "owner"," "Holder" and "person" shall include the plural as well as the singular number and the word "person" shall mean any individual, corporation, limited liability company, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.
- (b) Any provision of this 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.
- (c) All determinations with respect to the calculation of Net Revenues, Net Revenues Available for Debt Service, Long-Term Debt Service Coverage Ratio, Long-Term Debt Service Requirements, interest, principal, Interest Requirements, Principal Requirements and indebtedness Indebtedness of the District and the incurrence tests in Section 704 shall be made with reference to the District's Audited Financial Statements or Financial Statements, as the case may be, and generally accepted accounting principles consistently applied.

(End of Article I)

ARTICLE II.

DETAILS OF BONDS; ISSUANCE OF BONDS, PARITY SUBORDINATE INDEBTEDNESS AND SENIOR OBLIGATIONS

- Section 201. <u>Limitation on Indebtedness</u>. (a) The District may incur indebtedness Indebtedness by issuing Bonds or incurring other <u>ParitySenior</u> Obligations hereunder or by creating <u>JuniorSubordinate</u> Obligations under any other document. The principal amount of <u>ParitySenior</u> Obligations evidencing Indebtedness that may be created hereunder and the principal amount of Indebtedness that may be created under other documents are is not limited except as limited by the provisions hereof, including Section 209 and Section 704, or the provisions of any other document securing <u>ParitySenior</u> Obligations.
- (b) No Bonds may be issued under the provisions of this Trust Agreement except in accordance with the provisions of this Article, *provided*, *however*, that nothing herein shall prohibit the District from issuing or incurring additional ParitySenior Obligations through the sale and delivery of additional VRA Subordinate Obligations, subject to the limitations and requirements of Section 209 and Section 704 hereof.
 - A. Bonds shall be issued or incurred in such forms as may from time to time be created by <u>a</u> related Series Agreement permitted hereunder. Each Bond or series of Bonds shall be created by a different Series Agreement and shall be designated in such a manner as will differentiate such Bonds from any other Bonds and <u>ParitySenior</u> Obligations.
 - B. The District and the Trustee may from time to time enter into a Series Agreement or the Commission may from time to time adopt a Series Agreement in order to issue Bonds hereunder. Each such Series Agreement shall, with respect to Bonds issued hereunder, set forth the date thereof, and the date or dates on which the principal of and redemption premium, if any, and interest on such Bonds shall be payable, and the form of such Bonds and such other terms and provisions as shall conform with the provisions hereof.
 - C. With respect to Bonds issued hereunder, simultaneously with or prior to the execution, authentication and delivery of such Bonds pursuant to this Trust Agreement:
 - (i) All requirements and conditions to the issuance of such Bonds, if any, set forth in the Series Agreement or in this Trust Agreement shall have been complied with and satisfied, as provided in an Officer's Certificate, a certified copy of which shall be delivered to the Trustee; and
 - (ii) The District shall have delivered to the Trustee an Opinion of Counsel to the effect that (1) registration of such Bonds under the Securities Act of 1933, as amended, and qualification of this Trust Agreement or the Supplement or resolution under the Trust Indenture Act of 1939, as amended, are not required,

or, if such registration or qualification is required, that all applicable registration and qualification provisions of said acts have been complied with, and (2) the Trust Agreement, the Series Agreement and the Bonds are valid, binding and enforceable obligations of the District in accordance with their terms, except as enforceability may be limited by bankruptcy, insolvency, fraudulent conveyance and other laws affecting creditors' rights generally and usual equity principles.

Bonds authorized hereunder may be issued in one or more series that may be (c) delivered from time to time. The District shall by Series Agreement authorize such series and shall specify, to the extent appropriate: (1) the authorized principal amount of such series; (2) the purposes to be financed with the proceeds of such series, or the Bonds or other indebtedness Indebtedness to be refunded or refinanced with the proceeds thereof, including costs of issuance; (3) the 2011 Trust Agreement Debt Service Reserve Fund Requirement, if any, and the funding of the 2011 Trust Agreement Debt Service Reserve Fund, if any; (4) the date and terms of maturity or maturities of the Bonds of such series, or the dates of payment of the Bonds on the demand of the Owner thereof; (5) the interest rate or rates of the Bonds of such series, which may include variable, adjustable, convertible or other rates, original issue discount, Capital Appreciation Bonds, Current Interest Bonds, municipal multipliers or other deferred interest arrangements and zero interest rate Bonds, provided that the interest cost of such series shall never exceed for such series the maximum interest rate, if any, permitted by law in effect at the time such series is issued; (6) the Interest Payment Dates for such series of Bonds; (7) the denominations, numbering, lettering and series designation of such series of Bonds; (8) the paying agents and place or places of payment of such Bonds; (9) any terms of redemption not inconsistent with the provisions of this Trust Agreement, which may include redemption at the election of the Owner thereof to the extent permitted by law; (10) the amount and date of each mandatory sinking fund or other redemption requirement, if any, for such series of Bonds; (11) the use to be made of the proceeds of such series of Bonds, including deposits required to be made into the Issuance Fund; and (12) any other terms or provisions applicable to the series of Bonds not inconsistent with the provisions of this Trust Agreement or the Enabling Act. All of the foregoing may be added by a Series Agreement at any time or from time to time prior to the issuance of such series of Bonds.

Series Agreement, the definitive Bonds are issuable in fully registered form in denominations of \$5,000 or any whole multiple thereof and shall be substantially in the form hereinabove set forth, with such appropriate variations, omissions and insertions as may be necessary or appropriate to conform to the provisions of this Trust Agreement. All Bonds may have endorsed thereon such legends or text as may be necessary or appropriate to conform to any applicable rules and regulations of any governmental authority or of any securities exchange on which the Bonds may be listed or any usage or requirement of law with respect thereto.

Section 203. <u>Details of Bonds</u>. The Bonds shall be dated and shall be stated to mature, all as provided in the applicable Series Agreement.

Each Bond shall bear interest from the Interest Payment Date next preceding the date on which it is authenticated unless it is (a) authenticated upon any Interest Payment Date in which event it shall bear interest from such Interest Payment Date or (b) authenticated prior to the first

Interest Payment Date in which event it shall bear interest from its date; provided, however, that if at the time of authentication of any Bond interest is in default, such Bond shall bear interest from the date to which interest has been paid.

The Bonds shall be executed with the manual or facsimile signatures of the Chairman or Vice Chair of the Commission and of the Secretary or any Assistant Secretary of the Commission and a facsimile of the official seal of the Commission shall be printed thereon.

In case any officer a facsimile of whose signature shall appear on any Bonds shall cease to be such officer before the delivery of such Bonds, such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery, and also any Bonds may bear the facsimile signatures of such persons as at the actual time of the execution of such Bonds shall be the proper officers to sign such Bonds although at the date of such Bonds such persons may not have been such officers.

Both the principal of and the interest on the Bonds shall be payable in any coin or currency of the United States of America that is legal tender for the payment of public and private debts on the respective dates of payment thereof. The principal of all Bonds shall be payable at the corporate trust office of the Bond Registrar for the delivery of Bonds upon the presentation and surrender of such Bonds as the same shall become due and payable.

Interest on any Bond which that is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid by check mailed to the person in whose name that Bond is registered at the close of business on the Regular Record Date.

Any interest on any Bond which is payable, but is not punctually paid or duly provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the Holder on the relevant Regular Record Date solely by virtue of such Holder having been such Holder; and such Defaulted Interest may be paid by the District, at its election in each case, as provided in Subsection A or B below:

A. The District may elect to make payment of any Defaulted Interest on the Bonds to the persons in whose names such Bonds (or their respective Predecessor Bonds) are registered at the close of business on a Special Record Date for the payment of such Defaulted Interest, which shall be fixed in the following manner. The District shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Bond and the date of the proposed payment (which date shall be such as will enable the Trustee to comply with the next sentence hereof), and at the same time the District shall deposit or cause to be deposited with the Trustee an amount of money equal to the sum of the unpaid fees and expenses of the Trustee, if any, and the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the persons entitled to such Defaulted Interest as in this subsection provided. Thereupon the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than fifteen (15) nor fewer than ten (10) days prior to the date of the proposed payment and not fewer than ten (10) days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the District of such Special Record Date and, in the name and at the expense of the District, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first-class postage prepaid, to each Holder at his address as it appears in the registration books maintained under Section 206 of this Trust Agreement not fewer than ten (10) days prior to such Special Record Date; provided that such notice shall be sent by registered or certified mail or overnight express delivery to any Holder which is a Securities Depository Nominee. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been mailed as aforesaid, such Defaulted Interest shall be paid to the persons in whose names the Bonds (or their respective Predecessor Bonds) are registered on such Special Record Date and shall no longer be payable pursuant to the following subsection B.

B. The District may make payment of any Defaulted Interest on the Bonds in any other lawful manner not inconsistent with the requirements of any securities exchange on which such Bonds may be listed and upon such notice as may be required by such exchange, if, after notice given by the District to the Trustee of the proposed payment pursuant to this Subsection, such payment shall be deemed practicable by the Trustee.

Subject to the foregoing provisions of this Section, each Bond delivered under this Trust Agreement upon transfer of or in exchange for or in lieu of any other Bond shall carry all the rights to interest accrued and unpaid, and to accrue, which were carried by such other Bond and each such Bond shall bear interest from such date, so that neither gain nor loss in interest shall result from such transfer, exchange or substitution.

Section 204. Authentication of Bonds. Only such Bonds as shall have endorsed thereon a certificate of authentication substantially in the form set forth in the Series Agreement authorizing such Bonds, duly executed by the Bond Registrar, shall be entitled to any benefit or security under this Trust Agreement. No Bond shall be valid or obligatory for any purpose unless and until such certificate of authentication on the Bond shall have been duly executed by the Bond Registrar, and such certificate of the Bond Registrar upon any such Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under this Trust Agreement. The Bond Registrar's certificate of authentication on any Bond shall be deemed to have been duly executed if signed by an authorized officer of the Bond Registrar, but it shall not be necessary that the same officer sign the certificate of authentication on all of the Bonds that may be issued hereunder at any one time.

Section 205. Exchange of Bonds. Bonds, upon surrender thereof at the corporate trust office of the Bond Registrar for the delivery of Bonds, together with an assignment duly executed by the registered owner or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar, may, at the option of the registered owner thereof, be exchanged for an equal aggregate principal amount of Bonds of the same maturity and series, of any denomination or denominations authorized by this Trust Agreement, bearing interest at the same rate, and in the same form as the registered Bonds surrendered for exchange.

The District shall make provision for the exchange of the Bonds at the corporate trust office of the Bond Registrar for the delivery of Bonds.

Section 206. Negotiability, Registration and Transfer of Bonds. The Bank of New York Mellon Trust Company, N.A., is hereby appointed as Bond Registrar and as such shall keep books for the registration and registration of transfer of Bonds as provided in this Trust Agreement. Said registration books shall be available at all reasonable times for inspection by the District, the Trustee and their agents and representatives, and the Bond Registrar shall provide to the Trustee and the District, upon their written request, an accurate copy of the names and addresses of the Holders set forth on such books.

The Bond Registrar shall evidence acceptance of the duties, responsibilities and obligations of the Bond Registrar under this Trust Agreement by the execution of the Certificate of Authentication on the Bonds.

The transfer of any Bond may be registered only upon the books kept for the registration and registration of transfer of Bonds upon surrender thereof to the Bond Registrar together with an assignment duly executed by the registered owner or such owner's attorney or legal representative in such form as shall be satisfactory to the Bond Registrar. Upon any such registration of transfer the District shall execute and the Bond Registrar shall authenticate and deliver in exchange for such Bond a new registered Bond or Bonds, registered in the name of the transferee, of any denomination or denominations authorized by this Trust Agreement in the aggregate principal amount equal to the principal amount of such Bond surrendered or exchanged, of the same maturity and series and bearing interest at the same rate.

In all cases in which Bonds shall be exchanged or the transfer of Bonds shall be registered hereunder, the District shall execute and the Bond Registrar shall authenticate and deliver at the earliest practicable time Bonds in accordance with the provisions of this Trust Agreement. All Bonds surrendered in any such exchange or registration of transfer shall forthwith be cancelled by the Bond Registrar. No service charge shall be made for any registration, transfer, or exchange of Bonds, but the District and the Bond Registrar may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any transfer or exchange of Bonds.

Section 207. Ownership of Bonds. Except as may be provided in an applicable Series Agreement relating to the provider of a Credit Facility, the District, the Trustee, the Bond Registrar and any agent of the District may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and interest on such Bond, and for all other purposes whatsoever, whether or not such Bond be overdue, and, to the extent permitted by law, neither the District, the Trustee, the Bond Registrar nor any such agent shall be affected by notice to the contrary.

Section 208. Execution and Delivery of Trust Agreement. The Trustee shall execute and deliver this Trust Agreement as of the Effective Date, but only if there shall be filed or deposited with the Trustee the following:

Section 208. <u>Authorization of Series 2011 Bonds</u>. There shall be issued under and secured by this Trust Agreement a series of revenue bonds of the District designated "Hampton Roads Sanitation District (Virginia) Subordinate Wastewater Revenue Bonds, Series 2011" (the

"2011 Bonds") for the purpose of (i) paying a portion of the Capital Improvement Program Costs and (ii) paying the Issuance Costs of the 2011 Bonds.

The 2011 Bonds shall be stated to mature, shall bear interest and may be made subject to mandatory and optional redemption, and shall have such other details, all as provided in the related Series Agreement.

The 2011 Bonds shall be executed substantially in the form and in the manner hereinabove set forth and shall be deposited with the Bond Registrar for authentication, but before the Bonds shall be delivered by the Bond Registrar, there shall be filed or deposited with the Trustee the following:

- (a) a copy, certified by the Secretary or any Assistant Secretary of the Commission, of the resolution of the Commission authorizing the execution of this Trust Agreement, the 2011 Bonds and this Trust Agreement, designating the Trustee and the Bond Registrar, approving the award of, or authorizing Designated Representatives to award, the Bonds, and directing the authentication and delivery of the Bonds to or upon the order of the purchasers thereof upon payment of the purchase price of the Bonds and the accrued interest thereon;
- (b) a fully executed counterpart of this Trust Agreement, duly executed by the District;
 - (c) the fully executed Bonds;
- (d) copies of insurance certificates and a statement, signed by the Independent Insurance Consultant of the District, to the effect that the insurance required by this Trust Agreement is in effect:
- (c) (e) an Opinion of Counsel for the District substantially to the effect that (1) the District has the power and authority to execute and deliver this Trust Agreement and the Bonds and to consummate the transactions contemplated by such instruments; (2) this Trust Agreement and the Bonds have has been duly authorized, executed and delivered by the District; and (3) the District has received, and there are currently in full force and effect with respect to the District, all consents, approvals, authorizations and orders of governmental or regulatory authorities, if any, necessary to conduct its business as it is currently being conducted; and (4) the execution and delivery of this Trust Agreement and the Bonds by the District and its compliance with the terms of such instrumentsthereof, under the circumstances contemplated by such instrumentshereby, do not and will not in any material respect conflict with, or constitute on the part of the District a breach of or default under, any indenture, mortgage, deed of trust, agreement or other instrument to which the District is a party or by which the District or any of its property is bound or conflict with, violate or result in a breach of any law, public administrative rule or regulation, judgment, court order or consent decree to which the District or any of its property is subject; and
- (d) (f) an Opinion of Bond Counsel to the District, which may be given in reliance on the Opinion of Counsel to the District described in clause (e)(2) above, to the effect that this Trust Agreement and the Bonds constitute constitutes a valid and binding agreements agreement of the District, enforceable in accordance with theirits terms, except to the extent that the

enforceability of the same may be limited by bankruptcy, insolvency or other laws affecting creditors' rights generally or by usual equity principles; and.

(g) if any VRA Subordinate Obligations remain outstanding, an Officer's Certificate to the effect that the District has complied with any applicable restrictions imposed by such VRA Subordinate Obligations on the issuance or incurrence of Indebtedness such as such Bonds.

When the documents mentioned in paragraphs (a) to (g), inclusive, of this Section shall have been filed with the Trustee and when the 2011 Bonds shall have been executed and authenticated as required by this Trust Agreement, the Trustee shall deliver the 2011 Bonds at one time to or upon the order of the purchasers named in the resolution mentioned in paragraph (a) of this Section, but only upon payment to the Trustee of the purchase price of the Bonds and the accrued interest thereon. The Trustee shall be entitled to rely upon the resolution mentioned in paragraph (a) of this Section as to all matters stated therein.

Simultaneously with the delivery of the 2011 Bonds, the proceeds thereof shall be applied by the Trustee as provided in the related Series Agreement.

Section 209. <u>Terms and Conditions for Incurrence of Additional ParitySenior Obligations.</u>

Section 209. (a) The District covenants and agrees that it will not incur any Indebtedness hereunder, other than the 2011 Initial Bonds, if, after giving effect to all other Indebtedness incurred by the District, such Indebtedness could not be incurred pursuant to this Section 209. Indebtedness may be incurred only in the manner and pursuant to the terms set forth in the following subsections.

- (b) Additional Bonds, that is Bonds in addition to the 2011 Initial Bonds,—and other ParitySenior Obligations, may be issued or incurred if, prior to incurrence thereof, the District shall file or cause to be filed with the Trustee an Officer's Certificate (which may rely upon certificates or other evidence prepared by the officials of the District) demonstrating and stating that the incurrence test in Section 704, if applicable by its terms, will be met with respect to such separate issuance of Additional Bonds or incurrence of other ParitySenior Obligations. The District may incur ParitySenior Obligations in one or more separate issuances, which ParitySenior Obligations may be issued in any form or combination of forms permitted by this Trust Agreement.
 - (i) Before any Additional Bonds shall be issued or other ParitySenior Obligations incurred, the District shall execute and deliver or adopt a Series Agreement authorizing the issuance of such Bonds or the incurrence of such other ParitySenior Obligations, fixing the amount and the details thereof as provided in Sections 202 and 203 hereof and describing in brief and general terms the purpose for issuing such ParitySenior Obligations. Bonds may be issued and ParitySenior Obligations may be incurred for any purpose permitted under the Enabling Act.
 - (ii) The District in the Series Agreement may (a)(i) establish the 2011—Debt Service Reserve Fund Requirement and (ii) determine to fund the 2011 Trust Agreement Debt Service Reserve Fund to an amount equal to the 2011 Trust Agreement—Debt

Service Reserve Fund Requirement and fix the provisions with respect thereto or (b) determine not to make any deposit to the 2011 Trust Agreement Debt Service Reserve Fund.

- The Additional Bonds of each series shall be designated "Hampton Roads (iii) Sanitation District (Virginia) [Subordinate] Wastewater Revenue [Bonds] [Notes], [Refunding] Series" (inserting the year such Bonds are issued and any other distinctive letter or number-and, if there are no longer any Senior Obligations outstanding under the Senior Trust Agreement, the words "Subordinate" may be omitted), shall be stated to mature, subject to the right of prior redemption as therein set forth, on the date or dates specified therein, in such year or years not later than maximum maturity permitted by law, shall bear interest at a rate or rates not exceeding the maximum rate then permitted by law, shall be numbered and shall have such redemption provisions, all as provided in the Series Agreement. Except as to any differences in the maturities thereof or in the rate or rates of interest or the provisions for redemption or the provisions regarding the respective accounts and subaccounts within the 2011 Trust Agreement Bond Fund and the 2011 Trust Agreement Debt Service Reserve Fund, all such Additional Bonds shall be on a parity with each other and the 2011 Initial Bonds and any Parity Subordinate Indebtedness other Senior Obligations and shall be entitled to the same benefit and security of this Trust Agreement, including, in particular, the pledge of Revenues in Section 701.
- (iv) The proceeds (including <u>any</u> accrued interest) of the Additional Bonds and the proceeds, if any, of any other <u>ParitySenior</u> Obligations shall be applied simultaneously with the delivery thereof as provided in the Series Agreement for the particular <u>ParitySenior</u> Obligations.
- (v) In the case of Bonds or ParitySenior Obligations issued to refund Outstanding Bonds or ParitySenior Obligations, the District may direct the Trustee (A) to withdraw moneysmoney and Investment Obligations from the 2011 Trust Agreement Bond Fund and the 2011 Trust Agreement Debt Service Reserve Fund and any appropriate accounts therein to the extent that, following the issuance of such refunding ParitySenior Obligations and the defeasance of such refunded ParitySenior Obligations, such moneysmoney and Investment Obligations would be in excess of the requirements of this Trust Agreement and (B) to set aside such moneysmoney and Investment Obligations so withdrawn, together with proceeds of the refunding ParitySenior Obligations and any other moneysmoney provided by the District, to effect the defeasance of such refunded ParitySenior Obligations in accordance with the provisions of the Series Agreement applicable to the refunded ParitySenior Obligations.
- <u>(vi)</u> <u>If any VRA Obligations remain outstanding, the District shall provide an Officer's Certificate to the effect that the District has complied with any applicable restrictions imposed by such VRA Obligations on the issuance or incurrence of Indebtedness such as such Additional Bonds or other Senior Obligations.</u>

- (vii) (vi) The District shall provide an Officer's Certificate as to compliance with the condition set forth in Section 705(a) hereof and to the same effect as that described in Section 208(g).
- (c) VRA <u>Subordinate</u> Obligations and <u>JuniorSubordinate</u> Obligations may be incurred subject to the provisions of Section 704 hereof.

Section 210. <u>Temporary Bonds</u>. Until definitive Bonds are ready for delivery, there may be executed, and upon request of the District, the Bond Registrar shall authenticate and deliver, in lieu of definitive Bonds and subject to the same limitations and conditions, typewritten, printed, engraved or lithographed temporary Bonds, in the form of fully registered Bonds in denominations of \$5,000 or any whole multiple thereof, substantially of the tenor of the Bonds set forth in this Trust Agreement and with such appropriate omissions, insertions and variations as may be required.

Until definitive Bonds are ready for delivery, any temporary Bond may, if so provided by the Commission by resolution, be exchanged at the corporate trust office of the Bond Registrar for the delivery of Bonds, without charge to the Holder thereof, for an equal aggregate principal amount of temporary fully registered Bonds of authorized denominations, of like tenor, of the same maturity and series and bearing interest at the same rate.

If temporary Bonds shall be issued, the District shall cause the definitive Bonds to be prepared and to be executed and delivered to the Bond Registrar, and the Bond Registrar, upon presentation to it at its corporate trust office for the delivery of Bonds, of any temporary Bond, shall cancel the same and authenticate and deliver in exchange therefor at the place designated by the Holder, without charge to the Holder thereof, a definitive Bond or Bonds of an equal aggregate principal amount, of the same maturity and series and bearing interest at the same rate as the temporary Bond surrendered. Until so exchanged, the temporary Bonds shall in all respects be entitled to the same benefit and security of this Trust Agreement as the definitive Bonds to be issued and authenticated hereunder.

Section 211. Mutilated, Destroyed, Stolen or Lost Bonds. In case any Bond secured hereby shall become mutilated or be destroyed, stolen or lost, the District shall cause to be executed, and the Bond Registrar shall authenticate and deliver, a new Bond of like date and tenor in exchange and substitution for and upon the cancellation of such mutilated Bond or in lieu of and in substitution for such Bond destroyed, stolen or lost, and the Holder shall pay the reasonable expenses and charges (including reasonable attorney's fees, costs and expenses) of the District and the Bond Registrar in connection therewith and, in case of a Bond destroyed, stolen or lost, the Holder shall file with the Bond Registrar evidence satisfactory to it and to the District that such Bond was destroyed, stolen or lost, and of his ownership thereof, and shall furnish the District and the Bond Registrar indemnity satisfactory to them.

Every Bond issued pursuant to the provisions of this Section 211 in exchange or substitution for any Bond which is mutilated, destroyed, stolen or lost shall constitute an additional contractual obligation of the District, whether or not the destroyed, stolen or lost Bond shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits hereof equally and proportionately with any and all other Bonds duly issued under this Trust Agreement. All Bonds shall be held and owned upon the express condition that the foregoing provisions are exclusive with respect to the replacement or payment of mutilated, destroyed, stolen or lost Bonds, and shall preclude any and all other rights or remedies, notwithstanding any law or statute existing or hereafter enacted to the contrary with respect to the replacement or payment of negotiable instruments or other securities without their surrender.

(End of Article II)

ARTICLE III.

REDEMPTION OF **PARITY SENIOR** OBLIGATIONS

Section 301. <u>Redemption of ParitySenior Obligations.</u> ParitySenior Obligations may be made subject to optional and mandatory redemption by the District prior to their respective maturities as provided in the related Series Agreement.

(End of Article III)

ARTICLE IV.

ISSUANCE FUND AND CONSTRUCTION FUNDSFUND

- Section 401. 2011 Trust Agreement Issuance Fund. (a) AThe special fund is herebyheretofore established with the Trustee and designated Hampton Roads Sanitation District (Virginia) Subordinate Wastewater Revenue Bonds 2011 Trust Agreement Issuance Fund (the "shall be renamed the "Hampton Roads Sanitation District (Virginia) Issuance Fund.").— The Trustee shall make the depositdeposits to the Issuance Fund required by the provisions of Section 208 of this Trust Agreement and any Series Agreement.
- (b) The money in the Issuance Fund shall be held by the Trustee in trust and, subject to the provisions of Section 405 of this Trust Agreement, shall be applied to the payment of Issuance Costs (defined below) and, pending such application, shall be subject to a lien and charge in favor of the Holders and for the further security of such Holders until paid out or transferred as provided in this Article IV. The District may, in any Series Agreement, create Subfundssubfunds within the Issuance Fund.
- (c) All issuance costs ("Issuance Costs") incurred in connection with the Bonds and to be financed from the proceeds of the sale of the Bonds shall be paid only from the 2011 Trust Agreement Issuance Fund. Examples of such issuance costs include, but are not limited to, the following, if any:
 - (i) counsel fees (including bond counsel, underwriter's counsel, issuer's counsel, trustee's counsel, as well as any other specialized counsel, fees and expenses incurred in connection with the issuance of the Bonds);
 - (ii) financial advisor fees incurred in connection with the issuance of the Bonds:
 - (iii) Rating Agency fees;
 - (iv) <u>depositary depository</u> fees incurred in connection with the issuance of the Bonds;
 - (v) trustee, paying agent, bond registrar and certifying and authenticating agent fees related to the issuance of the Bonds;
 - (vi) accountant fees related to the issuance of the Bonds;
 - (vii) printing costs (for the Bonds and of preliminary and final offering materials);
 - (viii) costs incurred in connection with the required public approval process (e.g., publication costs for public notices generally and costs of the public hearing or voter referendum); and

- (ix) costs of engineering and feasibility studies necessary to the issuance of the Bonds.
- Section 402. 2011 Trust Agreement Construction Fund. (a) AThe special fund is herebyheretofore established with the Trustee and designated Hampton Roads Sanitation District (Virginia) Subordinate Wastewater Revenue Bonds 2011 Trust Agreement Construction Fundshall be renamed the "Hampton Roads Sanitation District (Virginia) Construction Fund." The Trustee shall make the deposit to the 2011 Trust Agreement deposits to the Construction Fund required by the provisions of Section 208 of this Trust Agreement and any Series Agreement.
- (b) The money in the 2011 Trust Agreement Construction Fund shall be held by the Trustee in trust and, subject to the provisions of Section 405 of this Trust Agreement, shall be applied to the payment of Capital Improvement Program Costs and, pending such application, shall be subject to a lien and charge in favor of the Holders and for the further security of such Holders until paid out or transferred as provided in this Article IV. The District may, in any Series Agreement, create Subfunds within the 2011 Trust Agreement Construction Fund.
- (c) All Capital Improvement Program Costs to be financed from the proceeds of the sale of the Bonds shall be paid only from the 2011 Trust Agreement Construction Fund. Examples of such Capital Improvement Program Costs include, but are not limited to, the following, if any:
 - (i) the costs of preparation of surveys, cost estimates, appraisals, plans and specifications for, and fees for architectural, engineering, supervisory and consulting services, planning and development costs of, the costs of obtaining governmental or regulatory permits, licenses, franchises and approvals for, and estimates of Net Revenues and any other fees or expenses necessary or incidental to determining the feasibility or practicability of, any project;
 - (ii) the cost of acquiring by purchase, and the amount of any deposit in court or award or final judgment in, or any settlement or compromise of, any proceeding to acquire by eminent domain, such lands, property, property rights, rights of way, easements, franchises and other interests as may be deemed necessary or convenient for, options and partial payments thereon, the cost of demolishing or removing or relocating any buildings or structures or land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, and the amount of any damages incident to or consequent upon, the construction and operation of the Wastewater System;
 - (iii) all costs incurred in connection with the planning, investigating, licensing, siting, permitting, engineering, financing, equipping, construction and acquisition of a project for the Wastewater System, including the costs of any wastewater treatment plant or necessary transmission or interceptor lines or improvements required to interconnect any of the transmission or interceptor lines with any treatment plant, inventories, working capital, spares and other start up related costs, related environmental compliance costs, legal, engineering, accounting, advisory and other financing costs relating thereto;

- (iv) all costs incurred in connection with the refurbishing, improving, repairing, replacement, retiring, decommissioning or disposing of any facility of the Wastewater System, or otherwise paid or incurred or to be paid or incurred by or on behalf of the District, all costs related to the acquisition and construction of any project, including, without limitation, contractors' fees and charges, the cost of labor, services, materials and supplies used or furnished in site improvement and construction, and the purchase of machinery, equipment, facilities, rolling stock and ancillary items and the cost of utility services;
- (v) all administrative services and overheads necessary or incidental to any project, including salaries, wages and benefits of employees and agents, of the District and a reasonable allowance for working capital related to the acquisition, construction and operation of any project and for a reasonable period after the completion thereof;
 - (vi) Issuance Costs for which funds are not available in the Issuance Fund;
- (vii) interest to accrue on the Bonds to the completion of that portion of the project, improvement or other facility for which <u>Capital Improvement</u> Program Costs are being incurred and, subject to the receipt of an Opinion of Bond Counsel to the effect that the proposed application for such additional period will not adversely affect the exclusion from gross income of the recipients thereof for federal income tax purposes of interest on the Tax-Exempt Bonds or any of them, for a reasonable period thereafter;
- (viii) any amount required to make the amount to the credit of the 2011 Trust Agreement Debt Service Reserve Fund equal to the 2011 Trust Agreement Debt Service Reserve Fund Requirement, if any, and any amount provided in a Series Agreement to fund a debt service or other reserve for the related series of Bonds or other Parity Senior Obligations;
- (ix) any federal, state and local taxes and payments in lieu of taxes legally required, or deemed advisable by Commission, to be paid in respect of any project prior to its completion;
- (x) to the extent they shall not be paid by a contractor, premiums of all insurance policies and surety and performance bonds required to be maintained in connection with the acquisition and construction of any project and all costs and expenses relating to injury, and damage claims arising from the acquisition and construction of any project and casualty and liability insurance premiums in connection with insurance against loss from such claims; and
- (xi) repayment of all temporary borrowings made by and advances to the District in connection with any project.

Section 403. Requisitions from 2011 Trust Agreement Issuance Fund and 2011 Trust Agreement Construction Fund. Payments from the 2011 Trust Agreement Issuance Fund or 2011 Trust Agreement Construction Fund shall be made in accordance with the provisions of this Section. Before any such payment shall be made, there shall be filed with the

Trustee a requisition signed by an appropriate officer or employee of the District in accordance with the procedures established from time to time by resolution of the Commission.

Upon receipt of each requisition the Trustee shall pay the obligations set forth in such requisition out of money in the Fund designated in such requisition, and each such obligation shall be paid by check signed by one or more officers or employees of the Trustee designated for such purpose by the Trustee. If for any reason the District should decide prior to the payment of any item in a requisition not to pay such item, it shall give written notice of such decision to the Trustee and thereupon the Trustee shall not make such payment.

Section 404. Reliance Upon Requisitions. All requisitions received by the Trustee as conditions of payment from the 2011 Trust Agreement Issuance or Fund or the Construction Fund may be relied upon by the Trustee, and the Trustee shall not be required to make any investigation therewith. All requisitions received by the Trustee shall be retained by the Trustee, subject at all reasonable times upon reasonable notice to the Trustee to examination by the Commission and the District.

Section 405. <u>Disposition of Fund Balances</u>. Unexpended fund balances in the 2011 <u>Trust Agreement</u> Issuance Fund and the 2011 <u>Trust Agreement</u> Construction Fund shall be applied as <u>directed by the District</u>, except as otherwise provided in the applicable Series Agreement.

(End of Article IV)

ARTICLE V.

REVENUES AND FUNDS

Section 501. Establishment of Funds. There are hereby established the The following funds, heretofore established with the Trustee shall be renamed as follows:

- (a) Hampton Roads Sanitation District (Virginia) Subordinate Wastewater Revenue Bonds 2011 Trust Agreement Bond Fund shall be renamed the "Hampton Roads Sanitation District (Virginia) Bond Fund"; and
- (b) Hampton Roads Sanitation District (Virginia) Subordinate Wastewater Revenue Bonds 2011 Trust Agreement Debt Service Reserve Fund shall be renamed the "Hampton Roads Sanitation District (Virginia) Debt Service Reserve Fund".

The money and securities in each of such Funds shall be held in trust and applied as hereinafter provided and, pending such application the money and securities in each of such Funds and any accounts therein shall be subject to a lien and charge in favor of the Holders and for the further security of such Holders. The District may, in any Series Agreement, create Subfunds within the Funds created by this Section 501.

- **Section 502.** Payments and Funds Received. The District shall make payments directly to the Trustee for deposit in the 2011 Trust Agreement Bond Fund in amounts sufficient to pay in full, when due (whether by maturity, acceleration or otherwise), all Bonds issued under this Trust Agreement, together with the interest thereon. Such payments shall be due and payable as follows:
- (a) to the credit of the 2011 Trust Agreement Bond Fund, on the Business Day next preceding each Interest Payment Date, an amount equal to the interest payable on the Bonds on such Interest Payment Date;
- (b) to the credit of the 2011 Trust Agreement Bond Fund, on the Business Day next preceding each Principal Payment Date, an amount equal to the principal of the Bonds due on such Principal Payment Date; and
- (c) any amount that may from time to time be required to enable the District to pay the principal of and interest due on Bonds upon acceleration.

Each payment shall be equal to the sum of the amounts specified above in paragraphs (a) to (c), inclusive, *provided*, *however*, that such payments shall be made only in the event and to the extent that, as of the date of such payment, the District shall have paid to the Senior Trustee for the account of the Senior Bond Fund all amounts attributable to the principal of and interest on any outstanding Senior Obligations due and owing thereon, plus any amounts required to be deposited to the credit of the Senior Debt Service Reserve Fund in accordance with the terms of the Senior Trust Agreement, as of such date.

On the Payment Date following a date on which the District shall have failed to pay to the Trustee the sum of the amounts specified in paragraphs (a) to (c) above or on which an

investment loss shall have been charged to the 2011 Trust Agreement Bond Fund in accordance with Section 602 of this Trust Agreement, the District shall pay, in addition to the payment then due, an amount equal to the deficiency in payment or the amount of such loss, unless such deficiency or loss shall have been remedied. To the extent that the investment earnings are transferred or credited to the 2011 Trust Agreement Bond Fund in accordance with this Trust Agreement or amounts are transferred or credited to such Fund as a result of the application of Bond proceeds or a transfer of surplus funds from the 2011 Trust Agreement Issuance Fund or otherwise, future payments shall be proportionately reduced by the amount so credited unless such transfer is made to cure deficiencies in such Fund to which the transfer is made.

Unless a Qualified Reserve Fund Substitute shall then be in effect, there shall be due and payable directly to the Trustee as a required payment from the District, on the twenty-fifth (25th) day of each month, (i) beginning in the month following the month in which money is transferred from the 2011 Trust Agreement Debt Service Reserve Fund to the 2011 Trust Agreement Bond Fund to cure a deficiency therein pursuant to Section 504 of this Trust Agreement, into the 2011 Trust Agreement Debt Service Reserve Fund one-twelfth (1/12) of the amount or amounts so transferred until the amount then on deposit in the Debt Service Reserve Fund is equal to the Debt Service Reserve Fund Requirement and (ii) beginning in the month following a valuation made in accordance with Section 603 of this Trust Agreement in which the amount on deposit in the 2011 Trust Agreement Debt Service Reserve Fund is less than the Debt Service Reserve Fund Requirement and a loss resulting from a decline in the value of Investment Obligations held for the credit of the 2011 Trust Agreement Debt Service Reserve Fund is computed, into the Debt Service Reserve Fund, one-sixth (1/6) of the amount of such loss until the amount of such loss is reimbursed. Such payments shall be increased as may be necessary in any month to make up any previous deficiency in any of such monthly payments.

If, after giving effect to the credits specified below, any installment of payments made by the District should be insufficient to enable the Trustee to make the deposits required above, the Trustee shall give the District telephonic notice thereof, promptly confirmed in writing, and request that each future installment of payments due from the District be increased as may be necessary to make up any previous deficiency in any of the required payments and to make up any deficiency or loss in any of the above-mentioned funds.

To the extent that investment earnings are credited to the 2011 Trust Agreement-Bond Fund in accordance with Section 602 of this Trust Agreement or amounts are credited thereto as a result of the application of Bond proceeds or a transfer of investment earnings on any other fund or account held by the Trustee, or otherwise, future deposits to the 2011 Trust Agreement Bond Fund shall be reduced by the amount so credited, and the payments due from the District in the months following the date upon which such amounts are credited shall be reduced by the amounts so credited.

Section 503. Application of Money in 2011 Trust Agreement Bond Fund. (a) Not later than 1:00 P.M. on the Business Day next preceding each Interest Payment Date or date for the payment of Defaulted Interest, the Trustee shall withdraw from the 2011 Trust Agreement Bond Fund and remit by wire transfer to the Bond Registrar, in Federal Reserve or other immediately available funds, the amounts required for paying interest on the Bonds to each Holder which that is not a Securities Depository Nominee. The Bond Registrar shall, not later

than the Business Day next preceding each Interest Payment Date, remit by mail to each Holder which is not a Securities Depository Nominee the amount required for paying interest on such Bonds when due and payable.

At such time as to enable the Bond Registrar to make payments of interest on the Bonds in accordance with any existing agreement between the Bond Registrar and any Securities Depository, the Trustee shall withdraw from the 2011 Trust Agreement Bond Fund and remit by wire transfer to the Bond Registrar, in Federal Reserve or other immediately available funds, the amounts required to pay to any Holder which is a Securities Depository Nominee interest on the Bonds on the next ensuing Interest Payment Date; provided, however, that in no event shall the Trustee be required to make such wire transfer prior to the Business Day next preceding each Interest Payment Date, and provided further that such wire transfer shall be made not later than 1:00 P.M. on each Interest Payment Date.

In the event the balance in the 2011 Trust Agreement Bond Fund on the Business Day next preceding an Interest Payment Date is insufficient for the payment of interest becoming due on the Bonds on such Interest Payment Date, the Trustee shall immediately notify the District of the amount of the deficiency. Upon notification, the District shall immediately deliver to the Trustee an amount sufficient to cure the same. If the amount so delivered is not sufficient to cure the deficiency in the 2011 Trust Agreement Bond Fund, the Trustee shall transfer to such the Bond Fund such amount as may be necessary to remedy the deficiency therein from the 2011 Trust Agreement Debt Service Reserve Fund.

(b) Not later than 10:00 A.M. on each Principal Payment Date, the Trustee shall withdraw from the 2011 Trust Agreement Bond Fund and remit by wire transfer to the Bond Registrar, in Federal Reserve or other immediately available funds, the amount necessary to pay the principal of all Bonds maturing on such Principal Payment Date.

In the event that the balance in the 2011 Trust Agreement Bond Fund on the Business Day next preceding any Principal Payment Date is insufficient for the payment of principal of all Bonds becoming due on such Principal Payment Date, the Trustee shall immediately notify the District of the amount of the deficiency. Upon notification, the District shall immediately deliver to the Trustee an amount sufficient to cure the same. If the amount so delivered is not sufficient to cure the deficiency in the 2011 Trust Agreement Bond Fund, the Trustee shall transfer to such the Bond Fund such amount as may be necessary to remedy the deficiency therein from the 2011 Trust Agreement Debt Service Reserve Fund.

(c) The Trustee shall also withdraw from the 2011 Trust Agreement Bond Fund and remit by wire or otherwise transfer to the payee, in Federal Reserve or other immediately available funds, the amount necessary to make any other payment in respect of outstanding ParitySenior Obligations when due.

Section 504. Application of Money in 2011 Trust Agreement Debt Service Reserve Fund; Qualified Reserve Fund Substitute. No funds shall be deposited in the 2011 Trust Agreement Debt Service Reserve Fund upon delivery of the 2011 Bondson the Effective Date. If the District shall elect to fund the 2011 Trust Agreement Debt Service Reserve Fund, then an amount equal to the 2011 Trust Agreement Debt Service Reserve Fund Requirement, as the

same shall be specified in a Supplemental Agreement, shall be deposited in the 2011 Trust Agreement Debt Service Reserve Fund.

The Trustee shall use amounts in the 2011 Trust Agreement Debt Service Reserve Fund to make transfers to the 2011 Trust Agreement Bond Fund to the extent necessary to pay interest on and principal of (whether at maturity, upon redemption or by acceleration) the Bonds, whenever and to the extent that the money on deposit in the 2011 Trust Agreement Bond Fund is insufficient for such purposes and the District has failed to cure such deficiency.

If, on any date of valuation, the amounts held in the 2011 Trust Agreement Debt Service Reserve Fund, including the interest earnings on such Fund, exceed for any reason the 2011 Trust Agreement Debt Service Reserve Fund Requirement on the Bonds, whether on account of the expiration of the District's election to terminate a discretionary funding of the 2011 Trust Agreement Debt Service Reserve Fund or otherwise, an amount equal to such excess shall be transferred by the Trustee, (i) to the 2011 Trust Agreement Bond Fund or (ii) if the District shall deliver to the Trustee a written statement setting forth the use which the District proposes to make of such excess amounts, accompanied by an Opinion of Bond Counsel to the District, addressed to the Trustee, to the effect that such proposed use will not cause the interest on Tax-Exempt Bonds to be includable in the gross income of the owners thereof for purposes of federal income taxation, then to the District.

The District may, at any time, deliver to the Trustee a Qualified Reserve Fund Substitute. In such event, if the District shall also deliver to the Trustee a written statement setting forth the use which the District proposes to make of the cash and Investment Obligations then on deposit to the credit of the 2011 Trust Agreement—Debt Service Reserve Fund, accompanied by an Opinion of Bond Counsel to the District, addressed to the Trustee, to the effect that such proposed use will not cause the interest on the Tax-Exempt Bonds to be includable in the gross income of the owners thereof for purposes of federal income taxation, the Trustee shall transfer to the District all amounts on deposit to the credit of the 2011 Trust Agreement—Debt Service Reserve Fund.

If any Qualified Reserve Fund Substitute shall be in effect, the Trustee hereby agrees to give such notices and execute such documents as shall be required to assure that funds (i) are available in such amounts and at such times to assure timely payment of principal of and interest on the Bonds and (ii) are drawn to fund the 2011 Trust Agreement Debt Service Reserve Fund in an amount equal to the 2011 Trust Agreement Debt Service Reserve Fund Requirement at least six (6) months prior to the expiration date of the Qualified Reserve Fund Substitute unless (a) the Trustee shall have received a substitute Qualified Reserve Fund Substitute to replace such expiring Qualified Reserve Fund Substitute or (b) the expiration date of the expiring Qualified Reserve Fund Substitute is no earlier than the final stated maturity date of the Bonds.

Section 505. Money Held in Trust. All money that the Trustee shall have withdrawn from the 2011 Trust Agreement Bond Fund or shall have received from any other source and set aside or transferred to the Bond Registrar for the purpose of paying any of the Bonds hereby secured, either at the maturity thereof or for the purpose of paying any interest on the Bonds hereby secured, shall be held in trust for the respective Holders. Any money that is so set aside or transferred and that remains unclaimed by the Holders for a period of three (3) years after the

date on which such Bonds have become payable shall upon request in writing be paid to the District or to such officer, board or body as may then be entitled by law to receive the same, and thereafter the Holders of such Bonds shall look only to the District or to such officer, board or body, as the case may be, for payment and then only to the extent of the amounts so received, without any interest thereon, and the Trustee and Bond Registrar shall have no responsibility with respect to such money.

Section 506. Cancellation of Bonds. (a) All Bonds paid shall be delivered to the Bond Registrar when such payment is made, and such Bonds shall be cancelled. The Bond Registrar shall certify to the Trustee and the District the details of all Bonds so cancelled. All Bonds cancelled under any of the provisions of this Trust Agreement shall, as directed in writing by the District Representative, be either delivered to the District or destroyed by the Bond Registrar, which shall, in such event, execute a certificate in duplicate, describing the Bonds so destroyed, and one (1) executed certificate shall be filed with the District and one (1) executed certificate shall be filed with and retained by the Trustee.

(b) Bonds owned or held for the account of the District or any affiliate or any subsidiary or controlled affiliate of the District shall not be deemed to be paid unless the District delivers, or causes such Bonds to be delivered, to the Trustee accompanied with the express written instructions of a District Representative directing the Trustee to cancel such Bonds pursuant to Section 506 hereof. Except as set forth in a Series Agreement, for the avoidance of doubt, the purchase of, or for the account of, the District of Indebtedness evidenced by Bonds shall not extinguish such Indebtedness unless the District shall deliver the written instructions to the Trustee directing the Trustee to cancel such Bonds.

Section 507. Disposition of Fund Balances. After provision shall be made for the payment of all Outstanding Indebtedness secured by this Trust Agreement, including the interest thereon, and for the payment of all other obligations, expenses and charges required to be paid under or in connection with this Trust Agreement and, assuming the existence of no other indentures or other agreements imposing a continuing lien on the balances hereinafter mentioned, the Trustee shall pay all amounts in any fund or account then held by it under this Trust Agreement to the District; provided, however, that if a continuing lien has been imposed on any such balance by another bond order, resolution, indenture or agreement as to which the Trustee has received actual notice from the District, the Trustee shall pay such balance to such person as such bond order, resolution, indenture or agreement shall provide.

(End of Article V)

ARTICLE VI.

SECURITY FOR DEPOSITS, INVESTMENT OF FUNDS, AND COVENANT AS TO ARBITRAGE

Section 601. Security for Deposits. Any and all money received by the District under the provisions of this Trust Agreement shall be deposited as received by the District with the Trustee—and, shall be trust funds under the terms hereof and shall not be subject to any lien or attachment by any creditor of the District. Such money shall be held in trust and applied in accordance with the provisions of this Trust Agreement.

All money deposited with the Trustee hereunder in excess of the amount guaranteed by the Federal Deposit Insurance Corporation or other federal agency shall be continuously secured, for the benefit of the District and the Holders, either (a) by lodging with a bank or trust company chosen by the Trustee or custodian or, if then permitted by law, by setting aside under control of the trust department of the bank holding such deposit, as collateral security, Government Obligations or other marketable securities eligible as security for the deposit of trust funds under regulations of the Comptroller of the Currency of the United States or applicable States tate law or regulations, having a market value (exclusive of accrued interest) not less than the amount of such deposit, or (b) if the furnishing of security as provided in clause (a) above is not permitted by applicable law, then in such other manner as may then be required or permitted by applicable State or federal laws and regulations regarding the security for, or granting a preference in the case of, the deposit of trust funds; provided, however, that it shall not be necessary for the Trustee or the Bond Registrar to give security for the deposit of any money with it for the payment of the principal of or the premium, if any, or interest on any Bonds, or for the Trustee to give security for any money that shall be represented by obligations purchased under the provisions of this Article as an investment of such money.

Subject to the provisions of Section 602, all money deposited with the Trustee shall be credited to the particular fund or account to which such money belongs.

Section 602. <u>Investment of Money.</u> Money held for the credit of all funds and accounts created under this Trust Agreement shall be continuously invested and reinvested by the Trustee in Investment Obligations to the extent practicable in accordance with the instructions of the District Representative as provided herein. Any such Investment Obligations shall mature not later than the respective dates when the money held for the credit of such funds or accounts will be required for the purposes intended; provided, however, that Investment Obligations deposited in the <u>2011 Trust Agreement Debt Service Reserve Fund shall mature no later than the final maturity date of the Bonds secured by the <u>2011 Trust Agreement Debt Service Reserve Fund</u>.</u>

Unless a Qualified Reserve Fund Substitute shall be in effect, the District shall reimburse the 2011 Trust Agreement Debt Service Reserve Fund for any loss resulting from a decline in the value of Investment Obligations in which money held for the credit of the 2011 Trust Agreement Debt Service Reserve Fund is invested if on any date of valuation the amount on deposit in the 2011 Trust Agreement Debt Service Reserve Fund is less than the 2011 Trust Agreement Debt Service Reserve Fund Requirement. Such reimbursement shall be made by depositing in the

2011 Trust Agreement Debt Service Reserve Fund on a monthly basis an amount equal to one-sixth (1/6) of such loss commencing in the month following a valuation made in accordance with Section 603 hereof in which such a loss is computed.

The District Representative shall give to the Trustee written directions respecting the investment of any money required to be invested hereunder, subject, however, to the provisions of this Article, and the Trustee shall then invest such money under this Section 602 as so directed by the District Representative. The Trustee may request, in writing, direction or authorization of the District Representative with respect to the proposed investment of money under the provisions of this Trust Agreement. Upon receipt of such request, accompanied by a memorandum setting forth the details of any proposed investment, the District Representative will either approve such proposed investment or will give written directions to the Trustee respecting the investment of such money and, in the case of such directions, the Trustee shall then, subject to the provisions of this Article, invest such money in accordance with such directions.

The Trustee may conclusively rely upon the District's written instructions as to both the suitability and legality of all investments directed under this Trust Agreement. Ratings of investments, to the extent such ratings affect the permissibility of a proposed investment for purposes of this Trust Agreement, shall be determined at the time of purchase of such investments and without regard to ratings subcategories. The Trustee shall have no responsibility to monitor the ratings of investments after the initial purchase of such investments. The Trustee may make any and all such investments through its own investment department or that of its affiliates or subsidiaries, and may charge its ordinary and customary fees for such trades. Notwithstanding anything that may be to the contrary herein, in the absence of written investment instructions from the District, the Trustee shall not be responsible or liable for keeping the moneysmoney held by it hereunder fully invested. Confirmations of investments are not required to be issued by the Trustee for each month in which a monthly statement is rendered. No statement need be rendered for any fund or account if no activity occurred in such fund or account during such month. The Trustee shall not be liable for any losses from any investments directed under this Trust Agreement.

Investment Obligations acquired with money and credited to any fund or account established under this Trust Agreement shall be held by or under the control of the Trustee and while so held shall be deemed at all times to be part of such fund or account in which such money was originally held, and the interest accruing thereon and any profit or loss realized upon the disposition or maturity of such investment shall be credited to or charged against such fund or account. The Trustee shall sell at the best price attainable or reduce to cash a sufficient amount of such Investment Obligations whenever it shall be necessary so to do in order to provide money to make any payment or transfer of money from any such fund or account. The Trustee shall not be liable or responsible for any loss resulting from any such investment.

Whenever a payment or transfer of money between two (2) or more of the funds or accounts established pursuant to Article V of this Trust Agreement is permitted or required, such payment or transfer may be made in whole or in part by transfer of one or more Investment Obligations at a value determined in accordance with this Article VI, provided that the

Investment Obligations transferred are those in which money of the receiving fund or account could be invested at the date of such transfer.

Section 603. <u>Valuation</u>. For the purpose of determining the amount on deposit in any fund or account, Investment Obligations in which money in such fund or account is invested shall be valued (a) if such Investment Obligations mature, or are subject to redemption at the option of the holder thereof, within five years or less from the date of valuation thereof, such Investment Obligations shall be valued at amortized cost, and (b) if such Investment Obligations mature, or are subject to redemption at the option of the holder thereof, more than five years from the date of valuation thereof, such Investment Obligations shall be valued at the market value or the amortized cost thereof, whichever is lower.

The Trustee shall value the Investment Obligations in the funds and accounts established under this Trust Agreement five (5) Business Days prior to each Interest Payment Date. In addition, the Investment Obligations shall be valued by the Trustee at any time requested by the District Representative on reasonable notice to the Trustee (which period of notice may be waived or reduced by the Trustee); provided, however, that the Trustee shall not be required to value the Investment Obligations more than once in any calendar month other than as provided herein.

If upon valuation of the 2011 Trust Agreement Debt Service Reserve Fund, the balance in suchthe Debt Service Reserve Fund, including accrued interest to the date of valuation, is less than the 2011 Trust Agreement Debt Service Reserve Fund Requirement, the Trustee shall compute the amount by which the 2011 Trust Agreement Debt Service Reserve Fund Requirement exceeds such balance and shall immediately give the District notice of such deficiency and the amount necessary to cure the same. The foregoing sentence shall not apply during any period for which a Qualified Reserve Fund Substitute is in effect.

(End of Article VI)

ARTICLE VII.

GENERAL COVENANTS AND REPRESENTATIONS

Section 701. Payment of Principal and Interest.

- (a) The District shall cause to be paid, when due, the principal of (whether at maturity, by acceleration or otherwise) and interest on the Bonds at the places, on the dates and in the manner provided herein and in said Bonds according to the true intent and meaning thereof; provided that it is understood that the Bonds are not general obligations of the District but are special obligations and are payable solely from Net Revenues Available for Debt Service derived by the District from its Wastewater System and the money attributable to proceeds of Bonds and the income from the investment thereof and not from any other fund or source. To secure the prompt payment of the principal and purchase price of, redemption premium,if any, and the interest on the ParitySenior Obligations and the performance by the District of its other obligations hereunder, the District hereby grants to the Trustee a security interest in its Net Revenues Available for Debt Service.
- (b) The Bonds issued under this Trust Agreement shall not be deemed to constitute a debt, or a pledge of the faith and credit, of the StateCommonwealth or of any county, city, town or political subdivision thereof, and the issuance of the BondsCommonwealth under this Trust Agreement shall not directly or indirectly or contingently obligate the StateCommonwealth or any county, city, town, or political subdivision thereof to levy or to pledge any form of taxation whatever therefor.

Section 702. Covenant to Perform and Authority of District. The District shall faithfully perform at all times all of its covenants, undertakings and agreements contained in this Trust Agreement, in any Bond or ParitySenior Obligation executed, authenticated and delivered hereunder, or in any proceedings of the Commission pertaining thereto. The District represents that it is duly authorized under the Constitution and laws of the StateCommonwealth, particularly the Enabling Act, to issue the Bonds and ParitySenior Obligations authorized hereby, to execute this Trust Agreement, to pledge its Net Revenues Available for Debt Service pursuant to this Trust Agreement in the manner and to the extent herein set forth as security for the Bonds or ParitySenior Obligations; that all action on its part for the issuance of the Bonds or ParitySenior Obligations and the adoption of this Trust Agreement has been duly and effectively taken; and that such Bonds or ParitySenior Obligations in the hands of the Holders thereof are and will be valid and enforceable special obligations of the District enforceable according to their terms, subject to bankruptcy, insolvency and other laws affecting creditors' rights generally and usual equitable principles.

Section 703. Compliance with Covenants Conditions and Agreements in Trust Agreement. The District covenants that, so long as any ParitySenior Obligations are Outstanding, it shall comply with each and every covenant, condition and agreement in this Trust Agreement, any Series Agreements and such ParitySenior Obligations. Each such covenant, condition and agreement in the Series Agreements and the ParitySenior Obligations is hereby incorporated by reference and made a part of this Trust Agreement with the same effect intended

as though the text of each such covenant, condition and agreement were set forth in this Trust Agreement as express covenants, conditions and agreements of the District.

Section 704. <u>Limitations on Indebtedness</u>. The District covenants and agrees that it will not <u>after the Effective Date</u>, issue any Additional Bonds or incur any other <u>ParitySenior</u> Obligations, other than the 2011 Bonds if, after giving effect to all other Indebtedness incurred by the District, such Indebtedness could not be incurred pursuant to this Section 704. Any Additional <u>ParitySenior</u> Obligations and <u>JuniorSubordinate</u> Obligations may be incurred only in the manner and pursuant to the terms set forth in this Section 704; provided, however, that VRA <u>Senior Obligations may become VRA Subordinate Obligations without limitation</u>.

- (a) Long-Term Indebtedness may be incurred if prior to incurrence of the Long-Term Indebtedness there is delivered to the Trustee:
 - (i) an Officer's Certificate of a District Representative certifying that the Long-Term Debt Service Coverage Ratio for the most recent period of twelve (12) full consecutive calendar months preceding the date of delivery of the certificate of the District Representative for which there are Financial Statements available, adjusted for revenues and expenses resulting from anticipated new customers and any planned program of rate increases that has been approved by the Commission, taking all Long-Term Indebtedness incurred after such period and the proposed Long-Term Indebtedness into account as if such Long-Term Indebtedness had been incurred at the beginning of such period, is not less than one hundred twenty percent (120%); or
 - (ii) an Officer's Certificate of a District Representative certifying that the District is expected to comply with the Rate Covenant set forth in Section 705 of this Trust Agreement for the five Fiscal Years following the date of issuance of the proposed Long-Term Indebtedness. Such certificate shall be accompanied by a statement of the relevant assumptions upon which such pro forma Financial Statements for the District are based including, but not limited to, adjustments to revenues and expenses resulting from anticipated new customers and any planned program of rate increases that has been approved by the Commission; or
 - (iii) if the Long-Term Indebtedness is authorized for any purpose other than the refunding of the outstanding Senior Obligations or Outstanding Parity Obligations, an Officer's Certificate of a District Representative to the effect, and to the extent applicable, that in his or her opinion (a) the improvements or property to which the proceeds from the issuance of the Long-Term Indebtedness are to be applied will be a part of the Wastewater System, (b) the proceeds of the Long-Term Indebtedness and other specified sources will be sufficient to pay the estimated cost of such improvements or property, (c) the period of time which will be required to complete such improvements or acquire such property, and (d)(1) the proceeds of the Long-Term Indebtedness are necessary to complete the project to be financed thereby, (2) the failure to make such improvements or acquire or construct such property will result in an interruption or reduction of Net Revenues, or (3) during the first two Fiscal Years following the completion of the improvements or the acquisition of the property, the projected Net Revenues will satisfy the Rate Covenant in Section 705 hereof. In providing this

certificate, the District Representative may take into consideration future Wastewater System rate increases, provided that such rate increases have been duly approved by the Commission and any other person and entity required to give approval for the rate increase to become effective. In addition, he or she may take into consideration additional future revenues of the Wastewater System to be derived under then existing contractual agreements entered into by the District and from reasonable estimates of growth in the customer base of the District; or

- (iv) an Officer's Certificate of a District Representative certifying compliance with the Rate Covenant set forth in Section 705 of this Trust Agreement for the most recent period of twelve (12) full consecutive calendar months for which there are Financial Statements available preceding the date of delivery of the certificate.
- (b) Long-Term Indebtedness may be incurred for the purpose of refunding Outstanding Long-Term Indebtedness if either (i) a certificate of an independent financial advisor to the effect that, the Long-Term Indebtedness issued to refund outstandingOutstanding Senior Obligations or Outstanding Parity Obligations will have, in the aggregate, a lower Long-Term Debt Service Requirement than the Long-Term Debt Service Requirement on the Senior Obligations or Outstanding Parity Obligations to be refunded with the proceeds thereof, or (ii) an Officer's Certificate of a District Representative to the effect that during the first two complete Fiscal Years following the issuance of the refunding Long-Term Indebtedness, the projected Net Revenues will satisfy the Rate Covenant in Section 705 hereof. In providing the certificate described in this clause (b), the Officer's Certificate may take into account the factors described in the last two sentences of subsection (a)(iii) of this Section. In addition, the Trustee shall receive an Opinion of Counsel stating that upon the incurrence of such proposed Long-Term Indebtedness and application of the proceeds thereof (on the Cross-over Date, in the case of Cross-over Refunding Indebtedness), the Outstanding Long-Term Indebtedness to be refunded thereby will no longer be Outstanding.
- (c) Short-Term Indebtedness may be incurred as a ParitySenior Obligation subject to the same tests that apply to the incurrence of ParitySenior Obligations generally; provided, however, that notwithstanding such limitation, the District may incur as a ParitySenior Obligation from time to time and have outstanding at any one time Short-Term Indebtedness in an amount up to 10% of its Total Operating Revenues as reflected in the Financial Statements of the District for the most recent period of twelve consecutive months for which Financial Statements are available and provided, further, that the District may incur Short-Term Indebtedness secured by a Credit Facility without limitation. Short-Term Indebtedness may be incurred as JuniorSubordinate Obligations without compliance with the tests that apply to the incurrence of Parity Subordinate Indebtedness Senior Obligations.
- (d) Additional VRA Subordinate Obligations may be incurred by the District subject to the delivery of an Officer's Certificate of a District Representative demonstrating compliance with Sections 704(a) or (b) and 705(a) hereof, provided, however, anything in this Trust Agreement notwithstanding, the District may make such additional covenants in a supplemental resolution, financing agreement or other agreement authorizing and securing a VRA Subordinate

Obligations Obligation as may be required by VRA as a condition of selling purchasing such VRA Subordinate Obligations.

- (e) <u>JuniorSubordinate</u> Obligations may be incurred without limitation.
- (f) For purposes of demonstrating compliance with the incurrence test set forth in subsection (a) of this Section 704, the District may (but is not required to) elect in the applicable Series Agreement to treat all or any ParitySenior Obligations authorized in a Credit Facility (including, for example and without limitation, a self-liquidity arrangement provided by the District, a line of credit or a liquidity facility supporting a commercial paper program), but not immediately issued or incurred under such Credit Facility, as subject to such incurrence test as of a single date, notwithstanding that none, or less than all, of the authorized principal amount of such ParitySenior Obligations shall have been issued or incurred as of such date.
- (g) Notwithstanding the foregoing provisions of this Section 704, nothing herein contained shall preclude the District from incurring any obligation under a Credit Facility.
- Section 705. Rate Covenant. (a) The District 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 Wastewater System, and will from time to time revise such rates, fees and other charges so that in each Fiscal Year the Net Revenues will equal at least 120% of the sum of (a) Principal and Interest Requirements (as defined in the Senior Trust Agreement) on Senior Obligations and (b) the Principal and Interest Requirements. If, for any reason, the Net Revenues are insufficient to satisfy the foregoing covenant, the District shall within one hundred twenty (120) days adjust and increase its rates, fees and other charges (to the extent permitted by the Enabling Act), or reduce its operating and maintenance expenses so as to provide sufficient Net Revenues to satisfy such requirement.
- (b) If at any time the District fails to comply with its Rate Covenant in subsection (a) of this Section 705, the District shall immediately notify the Trustee, such notice also containing an Officer's Certificate of a District Representative as to (i) the amount of the deficiency in Net Revenues which the existed for the applicable period and the rates, fees and other charges which must be established by the District to cure such deficiency, and (ii) during the Fiscal Year in which the certificate is delivered, the projected Net Revenues will satisfy the Rate Covenant made by the District in subsection (a) of this Section, or, if not, the rates, fees and other charges the District must establish to satisfy such rate covenant. In addition, the District shall, to the extent permitted by law, take appropriate action to increase its rates, fees and other charges or reduce its Operating Expenses to cure any deficiency.
- (c) On or before the last day of each Fiscal Year, the District shall review the adequacy of its rates, fees and other charges for the next Fiscal Year, and, if such review indicates the District's rates, fees and other charges are insufficient to satisfy the Rate Covenant in subsection (a) of this Section, the District shall promptly take appropriate action to increase its rates, fees and other charges or reduce its operating and maintenance expenses to cure any deficiency.

Section 706. Designation of Funds. No later than the last Business Day of each month, the District shall specifically earmark cash, cash equivalents or marketable securities or any combination thereof in an amount equal to the amount of (a) the interest on the Bonds that shall accrue in the next month and (b) the principal of the Bonds that shall accrue in the next month. In computing the amount to be earmarked for any particular month, the District shall take into account any scheduled maturities of interest or principal scheduled to become due and payable in such month and the funds theretofore earmarked for such purpose and may assume that both interest and principal accrue daily from the prior payment date or date of issuance but not more than twelve (12) months prior to a payment date.

Section 707. Covenants as to Maintenance of Properties, Etc. The District hereby covenants:

- (a) At all times to cause its Property to be maintained, preserved and kept in good repair, working order and condition and all needed and proper repairs, renewals and replacements thereof to be made; provided, however, that nothing contained in this subsection shall be construed to (i) prevent it from ceasing to operate any portion of its Property, if in its judgment (supported, in the case of such a cessation other than in the ordinary course of business by an opinion or certificate of an Independent Consultant) it is advisable not to operate the same, or if it intends to sell or otherwise dispose of the same and within a reasonable time endeavors to effect such sale or other disposition, or (ii) obligate it to retain, preserve, repair, renew or replace any Property, leases, rights, privileges or licenses no longer used or, in the judgment of its Commission, useful in the conduct of its business;
- (b) To do all things reasonably necessary to conduct its affairs and carry on its business and operations in such manner as to comply with any and all applicable laws of the United States and the StateCommonwealth and duly observe and conform to all valid orders, regulations or requirements of any governmental authority relative to the conduct of its business and the ownership of its Properties; provided, nevertheless, that nothing herein contained shall require it to comply with, observe and conform to any such law, order, regulation or requirement of any governmental authority so long as the validity thereof or the applicability thereof to it shall be contested in good faith;
- (c) To pay promptly all lawful taxes, governmental charges and assessments at any time levied or assessed upon or against it or its Property; provided, however, that it shall have the right to contest in good faith any such taxes, charges or assessments or the collection of any such sums and pending such contest may delay or defer payment thereof;
- (d) To pay promptly or otherwise satisfy and discharge all of its Indebtedness and all demands and claims against it as and when the same become due and payable, other than any thereof (exclusive of the Indebtedness created and Outstanding hereunder) whose validity, amount or collectability is being contested in good faith;
 - (e) At all times to comply with all terms, covenants and provisions of any Liens at such time existing upon its Property or any part thereof or securing any of its Indebtedness; and

(f) To procure and maintain all necessary licenses and permits for the operation of its Wastewater System;

provided, however, that it need not comply with this Section 707 if and to the extent that its Commission shall have determined in good faith, evidenced by a resolution of the Commission, that such compliance is not in its best interests and that lack of such compliance would not materially impair its ability to pay its Indebtedness when due.

- **Section 708.** <u>Insurance.</u> (a) The District agrees that it will maintain, or cause to be maintained, the following types of insurance, subject to the provisions of subsection (b) of this Section, in such amounts as, in its judgment, are adequate to protect it and its Property and operations from material financial loss: (i) comprehensive general liability insurance and (ii) property coverage on an "all risk" basis.
- (b) If the District shall be self-insured (excluding deductibles) for any coverage detailed in paragraph (a) of this Section, the District shall provide the Trustee a report of an Independent Insurance Consultant selected by the District not less than every three (3) years, which report shall state whether the anticipated funding of any self-insurance fund is sufficient, and if not, the required funding to obtain such result, and any such self-insurance coverage shall be reviewed by the Independent Insurance Consultant not less frequently than annually. If the Independent Insurance Consultant determines in any such report that the anticipated funding of any self-insurance fund is not sufficient, the District covenants that it will undertake to fund such self-insurance fund in the manner recommended by the Independent Insurance Consultant.
- **Section 709.** <u>Insurance and Condemnation Proceeds</u>. (a) Amounts that do not exceed twenty percent (20%) of the Net Book Value of the Property, Plant and Equipment of the District received by the District as insurance proceeds with respect to any casualty loss or as condemnation awards may be used in such manner as the District may determine, including, without limitation, applying such <u>moneysmoney</u> to the partial payment or prepayment of any Indebtedness in accordance with the terms thereof and of any pertinent Supplement.
- (b) Amounts that exceed twenty percent (20%) of the Net Book Value of the Property, Plant and Equipment of the District received by the District as insurance proceeds with respect to any casualty loss or as condemnation awards shall be applied in such manner as the District may determine; provided, however, that the District shall notify the Trustee and within twelve (12) months after the casualty loss or taking, deliver to the Trustee a written report of an Independent Consultant stating the Independent Consultant's recommendations, including recommendations as to the use of such proceeds or awards, to cause the Long-Term Debt Service Coverage Ratio for each of the two periods of twelve (12) full consecutive calendar months following the date on which such proceeds or awards are expected to have been fully applied to be not less than one hundred twenty percent (120%), or, if in the opinion of the Independent Consultant the attainment of such level is impracticable, at the highest practicable level.
 - (c) In determining the disposition of such proceeds, the District agrees that it will take into account the recommendations described in subsection (b) of this section Section.

Section 710. Limitations on Creation of Liens.

- (a) The District agrees that it will not create or suffer to be created or permit the existence of any Lien on Property now owned or hereafter acquired by it or upon its Net Revenues other than Permitted Liens.
 - (b) Permitted Liens shall consist of the following:
 - (i) Liens arising by reason of good faith deposits with the District in connection with leases of real estate, bids or contracts (other than contracts for the payment of money), deposits by the District to secure public or statutory obligations, or to secure, or in lieu of, surety, stay or appeal bonds, and deposits as security for the payment of taxes or assessments or other similar charges;
 - (ii) Any Lien arising by reason of deposits with, or the giving of any form of security to, any governmental agency or any body created or approved by law or governmental regulation for any purpose at any time as required by law or governmental regulation as a condition to the transaction of any business or the exercise of any privilege or license, or to enable the District to maintain self-insurance or to participate in any funds established to cover any insurance risks or in connection with workers' compensation, unemployment insurance, pension or profit sharing plans or other social security, or to share in the privileges or benefits required for companies participating in such arrangements;
 - (iii) Any judgment lien against the District so long as such judgment is being contested in good faith and execution thereon is stayed;
 - (iv) (A) Rights reserved to or vested in any municipality or public authority by the terms of any right, power, franchise, grant, license, permit or provision of law, affecting any Property; (B) any liens on any Property for taxes, assessments, levies, fees, water and sewer rents, and other governmental and similar charges and any liens of mechanics, materialmen, laborers, suppliers or vendors for work or services performed or materials furnished in connection with such Property, which are not due and payable or which are not delinquent or which, or the amount or validity of which, are being contested and execution thereon is stayed or, with respect to liens of mechanics, materialmen, laborers, suppliers or vendors, have been due for less than 90 days; (C) easements, rights-of-way, servitudes, restrictions, oil, gas or other mineral reservations and other minor defects, encumbrances, and irregularities in the title to any Property which do not materially impair the use of such Property or materially and adversely affect the value thereof; (D) to the extent that it affects title to any Property, this Indenture Trust Agreement; and (E) landlord's liens;
 - (v) Any Lien which is that was existing on the date of authentication and delivery of the 2011 initial Bonds issued under this the Original Trust Agreement (October 20, 2011); provided that no such Lien may be increased, extended, renewed or modified to apply to any Property of the District not subject to such Lien on such date or to secure Indebtedness not Outstanding on the date of issuance of the 2011 such Bonds, unless such

Lien as so extended, renewed or modified otherwise qualifies as a Permitted Lien hereunder;

- (vi) Any lien on pledges, gifts or grants to be received in the future including any income derived from the investment thereof;
 - (vii) The Lien of the Senior Trust Agreement;
 - (vii) (viii) Any Lien securing all ParitySenior Obligations on a parity basis;
- (viii) (ix) Any Liens on Property received by the District through gifts, grants or bequests, such liens being due to restrictions on such gifts, grants or bequests of Property or the income thereon;
- (ix) Any Lien on moveable equipment securing Indebtedness incurred to purchase such moveable equipment, provided that the total of such Indebtedness does not exceed fifteen percent (15%) of the Net Book Value of the Property, Plant and Equipment of the District as shown on the Financial Statements for the prior Fiscal Year; and
- (xi) Any Lien on Net Revenues securing <u>JuniorSubordinate</u> Obligations; provided that such Lien is expressly subordinate and junior to the Lien on Net Revenues <u>Available for Debt Service</u> created pursuant to Section 701(a) hereof.

Section 711. Filing of Financial Statements, Certificate of No Default, Other Information. The District covenants that it will:

- (a) Within thirty (30) days after receipt of the audit report mentioned below but in no event later than one hundred fifty (150) days after the end of each fiscal reporting period for which the Audited Financial Statements are opined upon by independent public accountants, file with the Trustee a copy of the Audited Financial Statements as of the end of such fiscal reporting period, accompanied by the opinion of independent public accountants. Such Audited Financial Statements shall be prepared in accordance with generally accepted accounting principles.
- (b) Within thirty (30) days after receipt of the Audited Financial Statements mentioned above, but in no event later than one hundred fifty (150) days after the end of each fiscal reporting period, file with the Trustee an Officer's Certificate stating whether, to the best knowledge of the signers, the District is in default in the performance of any covenant contained in this Trust Agreement and, if so, specifying each such default of which the signers may have knowledge and whether each such default has been corrected. If any default has not been remedied then such Officer's Certificate, to the best knowledge of the signers, shall identify what, if any, corrective action will be taken to cure such default.
- (c) If an Event of Default shall have occurred and be continuing, (i) file with the Trustee such other financial statements and information concerning its operations and financial affairs as the Trustee may from time to time reasonably request, excluding specifically personnel records, and (ii) provide access to its facilities for the purpose of inspection by the Trustee during regular business hours or at such other times as the Trustee may reasonably request.

- (d) Within thirty (30) days after its receipt thereof, file with the Trustee a copy of each report required by any provision of this Trust Agreement to be prepared by an Independent Consultant.
- **Section 712.** Annual Budget. The District covenants that on or before the 1st day of the last month preceding the beginning of each Fiscal Year the Commission will adopt a budget of operating and nonoperating revenues and expenses for the ensuing Fiscal Year.
- **Section 713.** Renewal and Replacement Reserve. The District covenants that it will establish a reserve to finance anticipated renewals, replacements, extensions, additions and extraordinary repairs of the Wastewater System and that it will reserve in retained earnings and credit to such reserve Net Revenues to the extent needed to finance such anticipated renewals, replacements, extensions, additions and extraordinary repairs.
- Section 714. Senior Trust Agreement. The District covenants to observe the covenants of the Commission contained in the Senior Trust Agreement, which are hereby expressly incorporated herein by reference until there shall be no outstanding Senior Obligations. To the extent the provisions of this Article and Article VII of the Senior Trust Agreement shall conflict, for so long as there shall be any outstanding Senior Obligations, the provisions of the covenants contained in the Senior Trust Agreement shall control.

Section 714. Section 715. Further Instruments and Actions. At the request of the Trustee, the District or the Commission shall execute and deliver such further instruments or take such further actions as may be required to carry out the purposes of this Trust Agreement.

(End of Article VII)

ARTICLE VIII.

EVENTS OF DEFAULT AND REMEDIES

Section 801. Events of Default. Each of the following events is hereby declared an Event of Default:

- (a) payment of the purchase price of any Bond shall not be made by the District when the same shall become due and payable—; or
- (b) payment of any installment of interest on any Bond shall not be made by the District when the same shall become due and payable; or
- (c) payment of the principal of any Bond shall not be made by the District when the same shall become due and payable, whether at maturity or by acceleration or otherwise; or
- (d) default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in this Trust Agreement or any agreement supplemental hereto, including any covenant, condition, agreement or provision in this Trust Agreement applicable to the District and incorporated by reference in this Trust Agreement pursuant to Section 703 of this Trust Agreement, and such default shall continue for thirty (30) days after receipt by the District of a written notice from the Trustee specifying such default and requiring the same to be remedied; provided, however, if prior to the expiration of such thirty-day period the District institutes action reasonably designed to cure such default, no Event of Default shall be deemed to have occurred upon the expiration of such thirty-day period for so long as the District pursues such curative action with reasonable diligence and provided that such curative action can be completed within a reasonable time.

Section 802. Remedies. Upon the happening and continuance of an Event of Default specified in Section 801 of this Trust Agreement, the Trustee may take the following remedial steps: (i) in the case of an Event of Default described in Section 801(a), (b) or (c) hereof, the Trustee may take whatever action at law or in equity is necessary or desirable to collect the payments then due under this Trust Agreement or the Bonds; and (ii) in the case of an Event of Default described in Section 801(d) of this Trust Agreement, the Trustee may take whatever action at law or in equity is necessary or desirable to enforce performance, observance or compliance by the District with any covenant, condition, agreement or provision under this Trust Agreement—or under this Trust Agreement.

When the Trustee incurs costs or expenses (including legal fees, costs and expenses) or renders services after the occurrence of an Event of Default, such costs and expenses and the compensation for such services are intended to constitute expenses of administration under any federal or state bankruptcy, insolvency, arrangement, moratorium, reorganization or other debtor relief law.

Section 803. Acceleration of Maturities. Upon the happening and continuance of any Event of Default specified in Section 801 of this Trust Agreement, the Trustee may, and upon the written request of the Holders of not less than a majority in aggregate principal amount of Bonds then Outstanding shall, by notice in writing to the District, declare the principal of all Bonds then

Outstanding (if not then due and payable) to be due and payable immediately, and upon such declaration the same shall become and be immediately due and payable, anything contained in the Bonds or in this Trust Agreement to the contrary notwithstanding; provided, however, that if at any time after the principal of Bonds shall have been so declared to be due and payable, and before the entry of final judgment or decree in any suit, action or proceeding instituted on account of such default, or before the completion of the enforcement of any other remedy under this Trust Agreement, money shall have accumulated in or shall have been paid into the 2011 Trust Agreement Bond Fund sufficient to pay the principal of all matured Bonds and all arrears of interest, if any, upon all Bonds then Outstanding (except the principal of any Bond not then due and payable by its terms and the interest accrued on such Bond since the last Interest Payment Date), and the charges, compensations, expenses, disbursements, advances and liabilities of the Trustee and all other amounts then payable by the District hereunder shall have been paid or a sum sufficient to pay the same shall have been deposited with the Trustee, and every other default known to the Trustee in the observance or performance of any covenant, condition or agreement contained in the Bonds or in this Trust Agreement (other than a default in the payment of the principal of such Bonds then due only because of a declaration under this Section) shall have been remedied to the satisfaction of the Trustee, then and in every such case the Trustee may, and upon the written request of the Holders of not less than a majority in aggregate principal amount of Bonds not then due and payable by their terms (Bonds then due and payable only because of a declaration under this Section shall not be deemed to be due and payable by their terms) and then Outstanding shall, by written notice to the District, rescind and annul such declaration and its consequences, but no such rescission or annulment shall extend to or affect any subsequent Event of Default or impair any right consequent thereon.

Section 804. Enforcement of Remedies. Upon the happening and continuance of any Event of Default specified in Section 801 of this Trust Agreement, then and in every such case the Trustee may proceed and upon the written request of the Holders of not less than a majority in aggregate principal amount of Bonds then Outstanding shall proceed, subject to the provisions of Section 902 of this Trust Agreement, to protect and enforce its rights and the rights of the Holders under the laws of the StateCommonwealth or under this Trust Agreement by such suits, actions or special proceedings in equity or at law, or by proceedings in the office of any board or officer having jurisdiction, either for the specific performance of any covenant or agreement contained herein or in aid or execution of any power herein granted or for the enforcement of any proper legal or equitable remedy, as the Trustee, being advised by counsel chosen by the Trustee, shall deem most effectual to protect and enforce such rights.

In the enforcement of any remedy under this Trust Agreement, the Trustee shall be entitled to sue for, enforce payment of and receive any and all amounts then or during any Event of Default becoming and remaining due from the District for principal, interest or otherwise under any of the provisions of this Trust Agreement or of the Bonds, together with interest on overdue payments of principal at the rate or rates of interest payable on any Bonds Outstanding and all costs and expenses of collection and of all proceedings hereunder, without prejudice to any other right or remedy of the Trustee or of the Holders and to recover and enforce any judgment or decree against the District, but solely as provided herein, for any portion of such amounts remaining unpaid and interest, costs and expenses as above provided, and to collect (but

solely from money available for such purposes), in any manner provided by law, the money adjudged or decreed to be payable.

Section 805. Pro-Rata Application of Funds. Anything in this Trust Agreement to the contrary notwithstanding, if at any time the money in the 2011 Trust Agreement Bond Fund shall not be sufficient to pay the interest on or the principal of Bonds as the same shall become due and payable (either by their terms or by acceleration of maturities under the provisions of Section 803 of this Trust Agreement), such money, together with any money then available or thereafter becoming available for such purpose, whether through the exercise of the remedies provided for in this Article or otherwise, shall be applied, subject to the provisions of Section 905 of this Trust Agreement, as follows:

(a) if the principal of all Bonds shall not have become or shall not have been declared due and payable, all such money in the 2011 Trust Agreement Bond Fund shall be applied:

first: to the payment to the persons entitled thereto of all installments of interest on Bonds then due and payable in the order in which such installments became due and payable and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment, ratably according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or preference except as to any difference in the respective rates of interest specified in such Bonds;

second: to the payment to the persons entitled thereto of the unpaid principal of any Bonds that shall have become due and payable (other than Bonds called for redemption for the payment of which money is held pursuant to the provisions of this Trust Agreement), in the order of their due dates, and, if the amount available shall not be sufficient to pay in full the principal of Bonds due and payable on any particular date, then to the payment ratably according to the amount of such principal due on such date, to the persons entitled thereto without any discrimination or preference; and

third: to the payment of the interest on and the principal of Bonds, to the purchase and retirement of Bonds, and to the redemption of Bonds, all in accordance with the provisions of Article III of this Trust Agreement.

- (b) If the principal of all Bonds shall have become or shall have been declared due and payable, all such money shall be applied to the payment of principal and interest then due upon the Bonds without preference to the persons entitled thereto, without preference or priority of principal over interest or interest over principal, or of any installment of interest over any other installment of interest or any Bond over any other Bond ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto, without any discrimination or preference.
- (c) If the principal of all Bonds shall have been declared due and payable and if such declaration shall thereafter have been rescinded and annulled under the provisions of Section 803 of this Trust Agreement, then, subject to the provisions of paragraph (b) of this Section in the event that the principal of all Bonds shall later become due and payable or be declared due and

payable, the money then remaining in and thereafter accruing to the 2011 Trust Agreement Bond Fund shall be applied in accordance with the provisions of paragraph (a) of this Section.

Whenever money is to be applied by the Trustee pursuant to the provisions of this Section, such money shall be applied by the Trustee at such times and from time to time, as the Trustee in its sole discretion shall determine, having due regard for the amount of such money available for such application and the likelihood of additional money becoming available for such application in the future; the setting aside of such money, in trust for the proper purpose, shall constitute proper application by the Trustee, and the Trustee shall incur no liability whatsoever to the District, to any Holder or to any other person for any delay in applying any such money so long as the Trustee acts with reasonable diligence, having due regard for the circumstances, and ultimately applies the same in accordance with such provisions of this Trust Agreement as may be applicable at the time of application by the Trustee. Whenever the Trustee shall exercise such discretion in applying such money, it shall fix the date (which shall be an Interest Payment Date unless the Trustee shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such date shall cease to accrue. The Trustee shall give notice by first class mail, postage prepaid, to all Holders of the fixing of any such date, and shall not be required to make payment to the Holder of any Bonds until such Bonds shall be surrendered to the Bond Registrar for cancellation if fully paid.

Section 806. Effect of Discontinuance of Proceedings. If any proceeding taken by the Trustee or Holders on account of any Event of Default shall have been discontinued or abandoned for any reason, then and in every such case, the District, the Trustee and the Holders shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Trustee shall continue as though no proceeding had been taken.

Section 807. Control of Proceedings by Holders. The Holders of a majority in aggregate principal amount of Bonds then Outstanding shall have the right, subject to the provisions of Section 902 of this Trust Agreement, by an instrument or concurrent instruments in writing executed and delivered to the Trustee, to direct the method and place of conducting all remedial proceedings to be taken by the Trustee hereunder, provided that such direction shall be in accordance with law and the provisions of this Trust Agreement.

Section 808. Restrictions upon Actions by Individual Holders. Except as provided in Section 813 of this Trust Agreement, no Holder shall have any right to institute any suit, action or proceeding in equity or at law on any Bond or for the execution of any trust hereunder or for any other remedy hereunder unless such Holder previously shall have given to the Trustee written notice of the Event of Default on account of which such suit, action or proceeding is to be instituted, and unless also the Holders of not less than a majority in aggregate principal amount of Bonds then Outstanding shall have made a written request of the Trustee after the right to exercise such powers or right of action as the case may be, shall have accrued, and shall have afforded the Trustee a reasonable opportunity either to proceed to exercise the powers hereinabove granted or to institute such action, suit or proceedings in its or their name, and unless, also, there shall have been offered to the Trustee reasonable security and indemnity against the costs, expenses and liabilities (including attorney's fees, costs and expenses) to be

incurred therein or thereby, and the Trustee shall have refused or neglected to comply with such request within a reasonable time. Such notification, request and offer of indemnity are hereby declared in every such case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of this Trust Agreement or to any other remedy hereunder. Notwithstanding the foregoing provisions of this Section and without complying therewith, the Holders of not less than a majority in aggregate principal amount of Bonds then Outstanding may institute any such suit, action or proceeding in their own names for the benefit of all Holders hereunder. It is understood and intended that, except as otherwise above provided, no one (1) or more Holders shall have any right in any manner whatsoever by his or their action to affect, disturb or prejudice the security of this Trust Agreement, or to enforce any right hereunder except in the manner provided, that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the benefit of all Holders and that any individual rights of action or other right given to one or more of such Holders by law are restricted by this Trust Agreement to the rights and remedies herein provided.

Section 809. Enforcement of Rights of Action. All rights of action (including the right to file proof of claim) under this Trust Agreement or under any Bonds may be enforced by the Trustee without the possession of any Bonds or the production thereof in any proceedings relating thereto, and any such suit or proceedings instituted by the Trustee shall be brought in its name as Trustee, without the necessity of joining as plaintiffs or defendants any Holders hereby secured, and any recovery of judgment shall be for the equal benefit of the Holders.

Section 810. No Remedy Exclusive. No remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other remedy or remedies herein provided, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity.

Section 811. Waivers. No delay or omission by the Trustee or of any Holder in the exercise of any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or any acquiescence therein; and every power or remedy given by this Trust Agreement to the Trustee and to the Holders may be exercised from time to time and as often as may be deemed expedient.

The Trustee may, and upon written request of the Holders of not less than a majority in principal amount of the Bonds then Outstanding shall, waive any Event of Default which in its opinion shall have been remedied before the entry of final judgment or decree in any suit, action or proceeding instituted by it under the provisions of this Trust Agreement or before the completion of the enforcement of any rights of the Trustee hereunder, but such waiver shall not waive any subsequent Event of Default or impair any rights or remedies consequent thereon.

Section 812. Notice of Default. The Trustee shall mail to all Holders at their addresses as they appear on the registration books written notice of the occurrence of any Event of Default set forth in Section 801 of this Trust Agreement within thirty (30) days after the Trustee shall have actual notice of the same, pursuant to the provisions of Section 908 of this Trust Agreement; provided that, except upon the happening of an Event of Default specified in clauses (a), (b) or (c) of Section 801 of this Trust Agreement, the Trustee may withhold such notice to the Holders if in its opinion such withholding is in the interest of the Holders; and provided

further that the Trustee shall not be subject to any liability to any Holder by reason of its failure to mail any such notice.

Section 813. Right to Enforce Payment of Bonds Unimpaired. Nothing in this Article shall affect or impair the right of any Holder to enforce the payment of the principal of and interest on such Holder's Bond or the obligation of the District to pay the principal of and interest on each Bond to the Holder thereof at the time and place in said Bond expressed.

Section 814. Enforcement of the Bonds. The Trustee may enforce all obligations of the District under this Trust Agreement for and on behalf of the Holders, whether or not the District is in default hereunder.

Section 815. <u>Subordination</u>. Notwithstanding any other provision of this Trust Agreement to the contrary:

(a) In the event of any insolvency or bankruptcy proceedings, and any receivership, liquidation, reorganization or other similar proceedings in connection therewith, relative to the District, as such, or to its property, and in the event of any proceedings for voluntary liquidation, dissolution or other winding up of the District, whether or not involving insolvency or bankruptcy, the holders of all Senior Obligations then outstanding shall be entitled to receive payment in full of all principal and interest due on all such Senior Obligations in accordance with the provisions of Senior Trust Agreement and the resolutions or other instruments authorizing their issuance before the Trustee and the Holders of the Parity Obligations are entitled to receive any payment from the Net Revenues Available for Debt Service or other money pledged to the Parity Obligations on account of principal (and premium, if any) or interest upon the Parity Obligations.

(b) In the event that the Parity Obligations are declared due and payable before their stated maturity because of the occurrence of an Event of Default (under circumstances when the provisions of paragraph (a) above shall not be applicable), the holders of all Senior Obligations outstanding at the time the Parity Obligations become due and payable because of such occurrence of such an Event of Default shall be entitled to receive payment in full of all principal and interest on all such Senior Obligations before the Holders of the Parity Obligations are entitled to receive any accelerated payment from the Net Revenues Available for Debt Service and other money pledged to the Parity Obligations of principal (and premium, if any) or interest upon the Parity Obligations.

(c) If any event of default with respect to the Senior Obligations shall have occurred and be continuing (under circumstances when the provisions of paragraph (a) above shall not be applicable), the holders of all such Senior Obligations then outstanding shall be entitled to receive payment in full of all principal and interest on all such Senior Obligations as the same become due and payable before the Holders of the Parity Obligations are entitled to receive, subject to the provisions of paragraph (e) below, any payment from the Net Revenues Available for Debt Service and other money pledged to the Parity Obligations under this Trust Agreement of principal (and premium, if any) or interest upon the Parity Obligations.

- (d) No holder of Senior Obligations shall be prejudiced in his right to enforce subordination of the Parity Obligations by any act or failure to act on the part of the District.
- (e) The provisions of paragraphs (a), (b), (c) and (d) above are solely for the purpose of defining the relative rights of the holders of the Senior Obligations on the one hand, and the Holders of Parity Obligations on the other hand, and nothing herein shall impair, as between the District and the Holders of the Parity Obligations, the obligation of the District, which shall be unconditional and absolute, to pay to the Holders of the Parity Obligations the principal thereof and premium, if any, and interest on the Parity Obligations, respectively, in accordance with their terms, nor shall anything herein prevent the Holders of the Parity Obligations from exercising all remedies otherwise permitted by applicable law or thereunder upon default thereunder, subject to the rights under paragraphs (a), (b), (c) and (d) above of the holders of the Senior Obligations to receive cash, property or securities from the Net Revenues and other money pledged to such Senior Obligations otherwise payable or deliverable to the Holders of the Parity Obligations; and insofar as the Bond Registrar, Depository or Trustee is concerned, the foregoing provisions shall not prevent the application of any moneys deposited with the Bond Registrar, Depository or Trustee for the purpose of the payment of or on account of the principal (and premium, if any) and interest on the Parity Obligations if it did not have written notice or actual knowledge at the time of such application that such payment was prohibited by the foregoing provisions.

(End of Article VIII)

ARTICLE IX.

CONCERNING THE TRUSTEE AND THE BOND REGISTRAR

Section 901. Acceptance of Duties. The Trustee by execution hereof accepts and agrees to fulfill the trusts imposed upon it by this Trust Agreement, but only upon the terms and conditions set forth in this Article and subject to the provisions of this Trust Agreement, to all of which the District, and the respective Holders agree. Prior to the occurrence of any Event of Default and after the curing of all such Events of Default that may have occurred, the Trustee shall perform such duties and only such duties of the Trustee as are specifically set forth in this Trust Agreement. During the existence of any such Event of Default that has not been cured the Trustee shall exercise such of the rights and powers vested in it by this Trust Agreement, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs:

No provision of this Trust Agreement or any Bond shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

- (a) prior to any such Event of Default hereunder, and after the curing of any other Events of Default that may have occurred:
 - (i) the duties and obligations of the Trustee shall be determined solely by the express provisions of this Trust Agreement and the Trustee shall not be liable except for the performance of such duties and obligations of the Trustee as are specifically set forth in this Trust Agreement, and no implied covenants or obligations shall be read into this Trust Agreement against the Trustee, and
 - (ii) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the accuracy of the statements and the correctness of the opinions expressed therein, upon any certificate or opinion furnished to it conforming to the requirements of this Trust Agreement, but in the case of any such certificate or opinion by which any provision hereof is specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not it conforms to the requirements of this Trust Agreement; and
 - (b) at all times, regardless of whether or not any such Event of Default shall exist:
 - (i) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer or Officers of the Trustee unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts, and
 - (ii) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of or the Holders of not less than a majority, as this Trust Agreement shall require, in aggregate principal amount of Bonds then Outstanding, relating to the time, method and place of conducting any

proceeding for any remedy available to the Trustee, or exercising any power conferred upon the Trustee under this Trust Agreement.

None of the provisions contained in this Trust Agreement shall require the Trustee to expend or risk its own funds or otherwise incur individual financial liability in the performance of any of its duties or in the exercise of any of its rights or powers.

Section 902. Indemnification of Trustee as Condition for Remedial Action. The Trustee shall be under no obligation to institute any suit or to take any remedial proceeding (including, but not limited to, the acceleration of the maturity date of any or all Bonds) under this Trust Agreement or to enter any appearance or in any way defend in any suit in which it may be made defendant, or to take any steps in the execution of any of the trusts hereby created or in the enforcement of any rights and powers hereunder, until it shall be indemnified to its satisfaction against any and all costs and expenses, outlays and counsel fees and other reasonable disbursements, and against all liability. The Trustee nevertheless may begin suit, or appear in and defend suit, or do anything else in its judgment proper to be done by it as such Trustee, without indemnity, and in such case the District, at the request of the Trustee, shall reimburse the Trustee from the revenues of the District, for all costs, expenses, outlays and counsel fees and other reasonable disbursements properly incurred in connection therewith. If the District shall fail to make such reimbursement, the Trustee may reimburse itself from any money in its possession under the provisions of this Trust Agreement and shall be entitled to a preference therefor over any Bonds Outstanding hereunder.

Section 903. Limitations on Obligations and Responsibilities of Trustee. The Trustee shall be under no obligation to effect or maintain insurance or to renew any policies of insurance or to inquire as to the sufficiency of any policies of insurance carried by the District, or to report, or make or file claims or proof of loss for, any loss or damage insured against or that may occur, or to keep itself informed or advised as to the payment of any taxes or assessments, or to require any such payment to be made. Except as to the acceptance of the trusts by its execution of this Trust Agreement, the Trustee shall have no responsibility in respect of the validity, sufficiency, due execution or acknowledgment of this Trust Agreement, or in respect of the validity of Bonds or the due execution or issuance thereof. The Trustee shall be under no obligation to see that any duties herein imposed upon the District, the Bond Registrar, any Independent Insurance Consultant, any depositary other than the Trustee acting as a depositary, or any party other than itself, or any covenants herein contained on the part of any party other than itself to be performed, shall be done or performed, and the Trustee shall be under no obligation for failure to see that any such duties or covenants are so done or performed.

Section 904. Trustee Not Liable for Failure of District to Act. The Trustee shall not be liable or responsible because of the failure of the District or of any of its employees or agents to make any collections or deposits or to perform any act herein required of the District or because of the loss of any money arising through the insolvency or the act or default or omission of any depositary other than the Trustee acting as a depositary in which such money shall have been deposited under the provisions of this Trust Agreement. The Trustee shall not be responsible for the application of any of the proceeds of Bonds or any other money deposited with it and paid out, withdrawn or transferred hereunder if such application, payment, withdrawal or transfer shall be made in accordance with the provisions of this Trust Agreement.

The immunities and exemptions from liability of the Trustee hereunder shall extend to its directors, officers, employees and agents.

Section 905. Compensation and Indemnification of Trustee and Bond Registrar. Subject to the provisions of any contract between the District and the Trustee or the Bond Registrar relating to the compensation of the Trustee or the Bond Registrar, the District shall pay to pay to the Trustee and the Bond Registrar reasonable compensation for all services performed by them hereunder and also all their reasonable expenses, charges and other disbursements and those of their attorneys, agents and employees incurred in and about the administration and the performance of their powers and duties hereunder and shall indemnify and save the Trustee and the Bond Registrar harmless against any liabilities that they may incur in the proper exercise and performance of their powers and duties hereunder. If the District shall fail to cause any payment required by this Section to be made, the Trustee or the Bond Registrar may make such payment from any money in their possession under the provisions of this Trust Agreement and shall be entitled to a preference therefor over any Bonds Outstanding hereunder. The District covenants that it shall promptly deposit or cause to be deposited to the credit of the respective fund or account the amount withdrawn therefrom by the Trustee or the Bond Registrar to make any such payment, provided sufficient funds are available to pay all costs and expenses, if any, reasonably incurred by the District in connection therewith.

Section 906. Monthly Statements from Trustee. It shall be the duty of the Trustee, on or before the fifteenth (15th) day of each month, to file with the District, a statement setting forth in respect of the preceding calendar month:

- (a) the amount withdrawn or transferred by it and the amount deposited with it on account of each fund or account held by it under the provisions of this Trust Agreement,
- (b) the amount on deposit with it at the end of such month in each such fund or account,
- (c) a brief description of all obligations held by it as an investment of money in each such fund or account, and
 - (d) any other information that the District may reasonably request.

It shall also be the duty of the Trustee to file with the District an annual statement summarizing such monthly statements which statement shall include, as to each investment transaction, the information required under the heading "Record Keeping" in the Tax Certificate.

In addition, on the anniversary date specified in the Tax Certificate for each issue of the Bonds, the Trustee shall file with the District the information required by the District or its bond counsel or arbitrage compliance service to determine the Rebate Requirement as set forth in the Tax Certificate.

All records and files pertaining to the Bonds and the District in the custody of the Trustee shall be open at all reasonable times to the inspection of the District and its agents and representatives.

Section 907. Trustee May Rely on Certificates. If at any time it shall be necessary or desirable for the Trustee to make any investigation respecting any fact preparatory to taking or not taking any action or doing or not doing anything as such Trustee, and in any case in which this Trust Agreement provides for permitting or taking any action, the Trustee may conclusively rely upon any certificate required or permitted to be filed with it under the provisions of this Trust Agreement, and any such certificate shall be evidence of such fact or protect the Trustee in any action that it may or may not take or in respect of anything it may or may not do, in good faith, by reason of the supposed existence of such fact. Except as otherwise provided in this Trust Agreement, any request, notice, certificate or other instrument from the District to the Trustee shall be deemed to have been signed by the proper party or parties if signed by any District Representative, and the Trustee may accept and conclusively rely upon a certificate signed by any District Representative as to any action taken by the District.

Section 908. Notice of Default. Except upon the happening of any Event of Default specified in clauses (a), (b) and (c) of Section 801 of this Trust Agreement, the Trustee shall not be obliged to take notice or be deemed to have notice of any Event of Default under this Trust Agreement, unless a Responsible Officer is specifically notified in writing of such Event of Default by the District or the Holders of not less than a majority in aggregate principal amount of Bonds then Outstanding.

Section 909. Trustee Not Responsible for Recitals. The recitals, statements and representations contained herein and in the Bonds shall be taken and construed as made by and on the part of the District and not by the Trustee, and the Trustee assumes and shall be under no responsibility for the correctness of the same.

Section 910. Trustee Protected in Relying on Certain Documents. The Trustee shall be fully protected and shall incur no liability in acting or proceeding, or in not acting or not proceeding, in good faith, reasonably and in accordance with the terms of this Trust Agreement, upon any resolution, order, notice, request, consent, waiver, certificate, statement, affidavit, requisition, bond or other paper or document that it shall in good faith reasonably believe to be genuine and to have been adopted or signed by the proper board or person or to have been prepared and furnished pursuant to any of the provisions of this Trust Agreement, or upon the written opinion of any attorney, engineer or accountant, and the Trustee shall be under no duty to make any investigation or inquiry as to any statements contained or matters referred to in any such instrument. The Trustee shall not be under any obligation to see to the recording or filing of this Trust Agreement or otherwise to the giving to any person of notice of the provisions hereof.

Section 911. Trustee May Pay Taxes and Assessments. In case the District shall fail to pay or cause to be paid any tax, assessment or governmental or other charge upon any part of the District, to the extent, if any, that the District shall be deemed by the Trustee liable for same, the Trustee may pay such tax, assessment or governmental charge, without prejudice, however, to any rights of the Trustee or the Holders hereunder arising in consequence of such failure; and any amount at any time so paid under this Section shall be repaid upon demand by the Trustee by the District from funds made available by the District, but the Trustee shall be under no

obligation to make any such payment from sources provided in thethis Trust Agreement unless it shall have available or be provided with adequate funds for the purpose of such payment.

Section 912. Resignation and Removal of Trustee Subject to Appointment of Successor. No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article shall become effective until the acceptance of appointment by the successor Trustee under Section 915 of this Trust Agreement.

Section 913. Resignation of Trustee. Subject to the provisions of Section 912 of this Trust Agreement, the Trustee may resign and thereby become discharged from the trusts hereby created, by notice in writing given to the District, and mailed, postage prepaid, at the Trustee's expense, to each Holder, not less than sixty (60) days before such resignation is to take effect, but such resignation shall take effect immediately upon the appointment of a new Trustee hereunder if such new Trustee shall be appointed before the time limited by such notice and shall then accept the trusts hereof.

Section 914. Removal of Trustee. The Trustee may be removed at any time by an instrument or concurrent instruments in writing, (i) executed by the Holders of not less than a majority in aggregate principal amount of Bonds then Outstanding and filed with the District, or (ii) so long as no Event of Default shall have occurred and be continuing, an instrument executed by the District, not less than sixty (60) days before such removal is to take effect as stated in said instrument or instruments. A photographic copy of any instrument or instruments filed with the District under the provisions of this paragraph, duly certified by any District Representative as having been received by the District, shall be delivered promptly by the District to the Trustee.

The Trustee may also be removed at any time for acting or proceeding in violation of, or for failing to act or proceed in accordance with, any provisions of this Trust Agreement with respect to the duties and obligations of the Trustee by any court of competent jurisdiction upon the application of the District or the Holders of not less than a majority in aggregate principal amount of Bonds then Outstanding.

Section 915. Appointment of Successor Trustee. If at any time hereafter the Trustee shall resign, be removed, be dissolved or otherwise become incapable of acting, or the bank or trust company acting as Trustee shall be taken over by any governmental official, agency, department or board, the position of Trustee shall thereupon become vacant. If the position of Trustee shall become vacant for any reason, the District shall appoint a Trustee to fill such A successor Trustee shall not be required if the Trustee shall sell or assign substantially all of its trust business and the vendee or assignee shall continue in the trust business, or if a transfer of the trust department of the Trustee is required by operation of law or effected by merger or consolidation, provided that such vendee, assignee, transferee or surviving entity is (a) (i) is a bank or trust company which is duly authorized to exercise corporate trust powers and subject to examination by federal or state authority, (ii) is in good standing, and (iii) has a combined capital, surplus and undivided profits aggregating not less than Fifty Million Dollars (\$50,000,000) or (b) is a subsidiary trust company under the Trust Subsidiary Act, Title 6.2, Article 3, Code of Virginia, 1950, as amended, whose parent Statestate bank or bank holding company has undertaken to be responsible for the acts of such subsidiary trust company pursuant to the provisions of Section 6.2-1056 of the Trust Subsidiary Act, or any successor provision of

law, and whose combined capital, surplus and undivided profits, together with that of its parent Statestate bank or bank holding company, as the case may be, is not less than \$50,000,000.

The District shall mail notice of any such appointment made by it, postage prepaid, to all Holders. At any time within one (1) year after any such vacancy shall have occurred, the Holders of not less than a majority in principal amount of Bonds then Outstanding, by an instrument or concurrent instruments in writing, executed by such Holders and filed with the District, may nominate a successor Trustee, which the District shall appoint and which shall supersede any Trustee theretofore appointed by the District. Photographic copies, duly certified by any District Representative as having been received by the District, of each such instrument shall be delivered promptly by the District to the predecessor Trustee and to the Trustee so appointed by the Holders.

If no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Section, any Holder hereunder or any retiring Trustee may apply to any court of competent jurisdiction to appoint a successor Trustee. Such court may thereupon, after such notice, if any, as such court may deem proper and prescribe, appoint a successor Trustee.

Any successor Trustee hereafter appointed shall (a) (i) be a bank or trust company which is duly authorized to exercise corporate trust powers and subject to examination by federal or state authority, (ii) be in good standing and (iii) have a combined capital, surplus and undivided profits aggregating not less than Fifty Million Dollars (\$50,000,000) or (b) be a subsidiary trust company under the Trust Subsidiary Act, Title 6.2, Article 3, Code of Virginia, 1950, as amended, whose parent Statestate bank or bank holding company has undertaken to be responsible for the acts of such subsidiary trust company pursuant to the provisions of Section 6.2-1056 of the Trust Subsidiary Act, or any successor provision of law, and whose combined capital, surplus and undivided profits, together with that of its parent Statestate bank or bank holding company, as the case may be, is not less than \$50,000,000.

Section 916. Vesting of Duties in Successor Trustee. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor, and also to the District, an instrument in writing accepting such appointment hereunder, and thereupon such successor Trustee, without any further act, shall become fully vested with all the rights, immunities and powers, and subject to all the duties and obligations, of its predecessor; but such predecessor shall nevertheless, on the written request of its successor or of the District and upon payment of the expenses, charges and other disbursements of such predecessor that are payable pursuant to the provisions of Section 905 of this Trust Agreement, execute and deliver an instrument transferring to such successor Trustee all the rights, immunities and powers of such predecessor hereunder; and every predecessor Trustee shall deliver all property and money held by it hereunder to its successor. Should any instrument in writing from the District be required by any successor Trustee for more fully and certainly vesting in such Trustee the rights, immunities, powers and trusts hereby vested or intended to be vested in the predecessor Trustee, any such instrument in writing shall and will, on request, be executed, acknowledged and delivered by the District.

Section 917. Removal and Resignation of Bond Registrar. The Bond Registrar may be removed at any time, with or without cause, by the District upon forty-five (45) days' written

notice by the District to the Bond Registrar. A copy of such written notice shall be delivered promptly by the District to the Trustee. Upon receipt of such notice the Trustee shall cause notice of such removal to be mailed, postage prepaid, to the Holders not fewer than thirty (30) days before such removal is to take effect.

The Bond Registrar may resign and thereby become discharged from the duties, obligations and responsibilities of Bond Registrar under this Trust Agreement, by written notice delivered to the District and the Trustee not fewer than seventy-five (75) days before such resignation is to take effect. Upon receipt of such notice the Trustee shall cause notice of such resignation to be mailed, postage prepaid, at the Bond Registrar's expense, to the Holders not fewer than sixty (60) days before such resignation is to take effect, but such resignation shall take effect immediately upon the appointment of a new Bond Registrar hereunder if such new Bond Registrar shall be appointed before the time limited by such notice and shall then accept the duties, obligations and responsibilities of Bond Registrar under this Trust Agreement. If at any time thereafter the Bond Registrar shall resign, be removed, be dissolved or otherwise become incapable of acting, or the entity acting as Bond Registrar shall be taken over by any governmental official, agency, department or board, the position of Bond Registrar shall thereupon become vacant. If the position of Bond Registrar shall become vacant for any reason, the District shall, within thirty (30) days after it receives notice of such vacancy, appoint a bank or trust company to fill such vacancy. A successor Bond Registrar shall not be required if the Bond Registrar shall sell or assign substantially all of its business and the vendee or assignee shall be qualified in the sole judgment of the District to carry out the duties, obligations and responsibilities of Bond Registrar under this Trust Agreement. The District shall promptly deliver written notice of any such appointment by it to the Trustee and mail such notice, postage prepaid, to all Holders.

No resignation or removal of the Bond Registrar shall take effect until a successor Bond Registrar shall have been appointed and accepted its duties hereunder.

Section 918. Additional Provisions Concerning the Trustee.

- (a) The Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents or receivers appointed with due care, and shall not be responsible for any willful misconduct or negligence on the part of any agent, attorney, custodian or nominee so appointed with due care.
- (b) The Trustee may consult with counsel, and the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by the Trustee hereunder in good faith and in reliance thereon.
- (c) The Trustee shall not be accountable for the use or application of any of the Bonds or the proceeds thereof or for the use or application of any money paid over by the Trustee in accordance with the provisions of this Trust Agreement.
- (d) The permissive right of the Trustee to do things enumerated in this Trust Agreement shall not be construed as a duty and the Trustee shall not be answerable for other than its gross negligence or willful default.

- (e) Before taking any action under this Trust Agreement relating to an event of default or in connection with its duties under this Trust Agreement other than making payments of the principal, redemption price, if any, and purchase price of and interest on the Bonds as they become due or causing an acceleration of the Bonds whenever required by thethis Trust Agreement, the Trustee may require that a satisfactory indemnity bond be furnished for the reimbursement of all costs and expenses to which it may be put and to protect it against all liability, including, but not limited to, any liability arising directly or indirectly under any federal, state or local statute, rule, law or ordinance related to the protection of the environment or hazardous substances and except liability which is adjudicated to have resulted from its gross negligence or willful misconduct in connection with any action so taken.
- (f) Notwithstanding the effective date of this Trust Agreement or anything to the contrary in this Trust Agreement, the Trustee shall have no liability or responsibility for any act or event relating to this Trust Agreement which occurs prior to the date the Trustee formally executes this Trust Agreement and commences acting as Trustee hereunder.
- (g) The Trustee shall have no responsibility with respect to any information, statement or recital in any official statement, offering memorandum or any other disclosure material prepared or distributed with respect to the Bonds and shall have no responsibility for compliance with any state or federal securities laws in connection with the Bonds.
- (h) The Trustee shall not be responsible or liable for any failure or delay in the performance of its obligation under this Trust Agreement arising out of or caused, directly or indirectly, by circumstances beyond its reasonable control, including, without limitation, acts of God; earthquakes; fire; flood; hurricanes or other storms; wars; terrorism; similar military disturbances; sabotage; epidemic; pandemic; riots; interruptions, loss or malfunctions of utilities, computer (hardware or software) or communications services; accidents; labor disputes; acts of civil or military authority or governmental action; it being understood that the Trustee shall use commercially reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as reasonably practicable under the circumstances.

The Trustee agrees to accept and act upon instructions or directions pursuant to (i) this Trust Agreement or any other document reasonably relating to the Bonds sent by the District by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that the District shall provide to the Trustee an incumbency certificate listing designated persons with the authority to provide such instructions, 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 e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. 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 assumes all risks arising out of the use of such electronic methods to submit instructions and directions 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.

(End of Article IX)

ARTICLE X.

EXECUTION OF INSTRUMENTS BY HOLDERS, PROOF OF OWNERSHIP OF BONDS, AND DETERMINATION OF CONCURRENCE OF HOLDERS

Section 1001. Execution of Instruments by Holders. Any request, direction, consent or other instrument in writing required or permitted by this Trust Agreement to be signed or executed by any Holder may be in any number of concurrent instruments of similar tenor and may be signed or executed by such Holders or their attorneys or legal representatives. Proof of the execution of any such instrument and of the ownership of Bonds shall be sufficient for any purpose of this Trust Agreement and shall be conclusive in favor of the Trustee and the District with regard to any action taken by any of them under such instrument if made in the following manner:

- (a) The fact and date of the execution by any person of any such instrument may be proved by the verification of any officer in any jurisdiction who, by the laws thereof, has power to take affidavits within such jurisdiction, to the effect that such instrument was subscribed and sworn to before him, or by an affidavit of a witness to such execution. Where such execution is on behalf of a person other than an individual, such verification or affidavit shall also constitute sufficient proof of the authority of the signer thereof.
- (b) The ownership of Bonds shall be proved by the registration books kept under the provisions of Section 206 of this Trust Agreement.

Nothing contained in this Article shall be construed as limiting the Trustee to such proof, it being intended that the Trustee may accept any other evidence of the matters herein stated which it may deem sufficient. Any request or consent of any Holder shall bind every future Holder of the same Bond in respect of anything done by the Trustee in pursuance of such request or consent.

Notwithstanding any of the foregoing provisions of this Section, the Trustee shall not be required to recognize any person as a Holder or to take any action at his request unless such Bonds shall be deposited with it.

- **Section 1002.** Preservation of Information; Communications to Holders. (a) The Trustee shall preserve, in as current a form as is reasonably practicable, the names and addresses of Holders received by the Trustee from the Bond Registrar.
- (b) If three (3) or more Holders (hereinafter collectively referred to as "applicants") apply in writing to the Trustee and furnish reasonable proof that each such applicant has owned a Bond for a period of at least six (6) months preceding the date of such application, and such application states that the applicants desire to communicate with other Holders with respect to their rights under this Trust Agreement or under the Bonds and such application is accompanied by a copy of the form of communication which such applicants propose to transmit, then the Trustee shall, within five (5) Business Days after the receipt of such application, at its election, either

- (i) afford such applicants access to the information preserved at the time by the Trustee in accordance with subsection (a) of this Section 1002, or
- (ii) inform such applicants as to the approximate number of Holders whose names and addresses appear in the information preserved at the time by the Trustee in accordance with subsection (a) of this Section 1002, and as to the approximate cost of mailing to such Holders the form of communication, if any, specified in such application.

If the Trustee shall elect not to afford such applicants access to such information, the Trustee shall, upon the written request of such applicants, mail to each Holder whose name and address appears in the information preserved at the time by the Trustee in accordance with subsection (a) of this Section 1002 a copy of the form of communication which is specified in such request, with reasonable promptness after a tender to the Trustee of the material to be mailed and of payment, or provision for the payment, of the reasonable expenses of mailing.

(c) Every Holder, by receiving and holding one (1) or more Bonds, agrees with the District and the Trustee that neither the District nor the Trustee shall be held accountable by reason of the disclosure of any such information as to the names and addresses of the Holders in accordance with subsection (b) of this Section 1002, regardless of the source from which such information was derived, and that the Trustee shall not be held accountable by reason of mailing any material pursuant to a request made under such subsection.

(End of Article X)

ARTICLE XI.

SUPPLEMENTAL TRUST AGREEMENTS

Section 1101. <u>Supplemental Trust Agreements without Consent of Holders</u>. The District and the Trustee may, from time to time and at any time, without the consent of or notice to any of the Holders, enter into such agreements supplemental hereto as shall be substantially consistent with the terms and provisions of this Trust Agreement:

- (a) to cure any ambiguity or formal defect or omission, to correct or supplement any provision herein that may be inconsistent with any other provision herein, to make any other provisions with respect to matters or questions arising under this Trust Agreement, or to modify, alter, amend, add to or rescind, in any particular, any of the terms or provisions contained in this Trust Agreement, or
- (b) to grant to or confer upon the Trustee for the benefit of the Holders any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the Holders or the Trustee, or
- (c) to add to the provisions of this Trust Agreement other conditions, limitations and restrictions thereafter to be observed, or
- (d) to add to the covenants and agreements of the District in this Trust Agreement other covenants and agreements thereafter to be observed by the District or to surrender any right or power herein reserved to or conferred upon the District, or
- (e) to permit the qualification of this Trust Agreement under any federal statute now or hereafter in effect or under any state Blue Sky law, and, in connection therewith, if the District so determines, to add to this Trust Agreement or any supplemental trust agreement such other terms, conditions and provisions as may be permitted or required by such federal statute or Blue Sky law, or
 - (f) to provide for the issuance of Bonds under a book-entry system, or
- (g) to make any other change in this Trust Agreement that, in the judgment of the District, expressed in a resolution of the Commission, and the Trustee, each of which may rely upon a written Opinion of Counsel, shall not materially and adversely affect the Holders of the Bonds of each series that shall be affected by such supplement.

Section 1102. Modification of Trust Agreement with Consent of Holders. Subject to the terms and provisions contained in this Section, and not otherwise, the Holders of not less than a majority of the aggregate principal amount of Bonds then Outstanding shall have the right, from time to time, anything contained in this Trust Agreement to the contrary notwithstanding, to consent to and approve the execution and delivery by the District and the acceptance by the Trustee of such trust agreement or trust agreements supplemental hereto as shall be deemed necessary or desirable by the District for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Trust Agreement; provided, however, that nothing herein contained shall permit, or be construed as permitting (a)

an extension of the maturity of the principal of or the interest on any Bonds issued hereunder without the consent of the Holders of such Bonds, or (b) a reduction in the principal amount of any Bonds or the rate of interest thereon without the consent of the Holders of such Bonds, or (c) the creation of a pledge of receipts and revenues superior to the pledge created by this Trust Agreement without the consent of the Holders of all Bonds Outstanding, or (d) a preference or priority of any Bond over any other Bond without the consent of the Holders of all Bonds Outstanding, or (e) a reduction in the aggregate principal amount of Bonds required for consent to such supplemental trust agreement without the consent of the Holders of all Bonds Outstanding. Nothing contained in this Section 1102, however, shall be construed as making necessary the approval by the Holders of the adoption and acceptance of any supplemental trust agreement as authorized in Section 1101 hereof.

If at any time the District shall request the Trustee to enter into any supplemental trust agreement for any of the purposes of this Section, the Trustee shall, at the expense of the District, cause notice of the proposed execution of such supplemental trust agreement to be mailed, postage prepaid, to all Holders. Such notice shall briefly set forth the nature of the proposed supplemental trust agreement and shall state that copies thereof are on file at the corporate trust office of the Trustee for inspection by all Holders. The Trustee shall not, however, be subject to any liability to any Holder by reason of its failure to mail the notice required by this Section, and any such failure shall not affect the validity of such supplemental trust agreement when approved and consented to as provided in this Section.

Whenever, at any time after the date of the mailing of such notice, the District shall deliver to the Trustee an instrument or instruments in writing purporting to be executed by the Holders of not less than a majority of the aggregate principal amount of Bonds then Outstanding, which instrument or instruments shall refer to the proposed supplemental trust agreement described in such notice and shall specifically consent to and approve the execution thereof in substantially the form of the copy thereof referred to in such notice, thereupon, but not otherwise, the Trustee may execute such supplemental trust agreement in substantially such form, without liability or responsibility to any Holder, whether or not such Holder shall have consented thereto.

If the Holders of not less than a majority in aggregate principal amount of Bonds Outstanding at the time of the execution of such supplemental trust agreement shall have consented to and approved the execution thereof as herein provided, no Holder shall have any right to object to the adoption of such supplemental trust agreement, or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the District and the Trustee from executing the same or from taking any action pursuant to the provisions thereof.

Upon the execution of any supplemental trust agreement pursuant to the provisions of this Section, this Trust Agreement shall be and be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under this Trust Agreement of the District, the Trustee and all Holders shall thereafter be determined, exercised and enforced in all respects pursuant to the provisions of this Trust Agreement as so modified and amended.

Section 1103. Exclusion of Bonds. At the time of any consent or other action taken under this Article, Article VIII, Article IX or Article XII of this Trust Agreement, the District shall furnish the Trustee a certificate signed by a District Representative, upon which the Trustee may rely, describing all Bonds to be excluded, consistent with the definition of "Outstanding" in Section 101 of this Trust Agreement.

Section 1104. Responsibilities of Trustee and the District under this Article. The Trustee and the District shall be entitled to exercise their discretion in determining whether or not any proposed supplemental trust agreement or any term or provision therein contained is desirable, after considering the purposes of such instrument, the needs of the District, the rights and interests of the Holders, and the rights, obligations and interests of the Trustee, and the Trustee shall not be under any responsibility or liability to the District or to any Holder or to anyone whomsoever for its refusal in good faith to execute any such supplemental trust agreement if such trust agreement is deemed by it to be contrary to the provisions of this Article. The Trustee shall be entitled to receive, and shall be fully protected in relying upon, an Opinion of Counsel as conclusive evidence that any such proposed supplemental trust agreement does or does not comply with the provisions of this Trust Agreement, and that it is or is not proper for it, under the provisions of this Article, to accept such supplemental trust agreement.

(End of Article XI)

ARTICLE XII.

DEFEASANCE

Section 1201. Release of Trust Agreement.

(a) When the Bonds secured hereby shall have become due and payable in accordance with their terms or otherwise as provided in this Trust Agreement and the whole amount of the principal and the interest so due and payable upon all Bonds shall be paid, and (b) if the Bonds shall not have become due and payable in accordance with their terms, the Trustee or the Bond Registrar shall hold, sufficient money or Defeasance Obligations, or a combination of money and Defeasance Obligations, the principal of and the interest on which, when due and payable, will provide sufficient money to pay the principal of, and the interest on, all Bonds then Outstanding to the maturity date or dates of such Bonds and (c) 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 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 Trust Agreement have been satisfied, the Trustee shall release this Trust Agreement and shall execute such documents to evidence such release as may reasonably be required by the District and shall turn over to the District any surplus in, and all balances remaining in, all funds and accounts. Otherwise, this Trust Agreement shall be, continue and remain in full force and effect; provided, that, in the event Defeasance Obligations shall be deposited with and held by the Trustee or the Bond Registrar as hereinabove provided, (i) the Trustee shall nevertheless retain such rights, powers and privileges under this Trust Agreement as may be necessary and convenient in respect of the Bonds for the payment of the principal and interest for which such Defeasance Obligations have been deposited, and (ii) the Bond Registrar shall retain such rights, powers and privileges under this Trust Agreement as may be necessary and convenient for the registration, transfer and exchange of Bonds.

All money and Defeasance Obligations held by the Trustee (or the Bond Registrar) pursuant to this Section shall be held in trust and applied to the payment, when due, of the obligations payable therewith.

(End of Article XII)

ARTICLE XIII.

MISCELLANEOUS PROVISIONS

Section 1301. Effect of Dissolution of the District. In the event the District for any reason shall be dissolved or its legal existence shall otherwise be terminated, all of the covenants, stipulations, obligations and agreements contained in this Trust Agreement by or on behalf of or for the benefit of the District shall bind or inure to the benefit of the successor or successors of the District from time to time and any officer, board, commission, authority, agency or instrumentality to whom or to which any power or duty affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law, and the term "District" as used in this Trust Agreement shall include such successor or successors.

Section 1302. 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
P.O. Box 5000
1434 Air Rail Avenue
Virginia Beach, Virginia 23455
Attention: General Manager/Chief Executive Officer

(b) As to the Trustee—

The Bank of New York Mellon Trust Company, N.A. 500 Ross Street, 12th Floor Pittsburgh Pennsylvania, 15262 Attention: Corporate Trust Department

(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: Corporate Trust Department

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.

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 Trust Agreement, or photographic copies thereof, shall be retained in its possession until this Trust Agreement shall be released under the provisions of Section 1201 of this Trust Agreement, subject at all reasonable times to the inspection of the District and any Holder and the agents and representatives thereof.

Section 1303. <u>Substitute Mailing.</u> 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 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, and the giving of notice in such manner shall for all purposes of this Trust Agreement be deemed to be in compliance with the requirement for the mailing thereof.

Section 1304. Parties, Bond Registrar and Holders Alone Have Rights under Trust Agreement. Except as herein otherwise expressly provided, nothing in this 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 Holders, any right, remedy or claim, legal or equitable, under or by reason of this 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 Holders.

Section 1305. Effect of Partial Invalidity. In case any one or more of the provisions of this Trust Agreement or the Bonds shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions of this Trust Agreement or the Bonds, but this Trust Agreement and the Bonds 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 Bonds or this 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 1306. Effect of Covenants. All covenants, stipulations, obligations and agreements of the District contained in this 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 StateCommonwealth. This Trust Agreement is adopted with the intent that the laws of the StateCommonwealth shall govern its construction.

Section 1307. 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 Trust Agreement, or in any 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, 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 any such 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 Bonds hereby secured, is hereby expressly waived and released as an express condition of, and in consideration for, the execution of this Trust Agreement and the issuance of the Bonds.

Section 1308. Expenses Payable under Trust Agreement. All expenses incurred in carrying out this Trust Agreement, except those expenses incurred by the Bond Registrar or Trustee in mailing resignation notices, shall be payable solely from funds derived by the District from the operation of its Wastewater System. Anything in this Trust Agreement to the contrary notwithstanding, the performance by the District of all duties and obligations imposed upon it hereby, the exercise by it of all powers granted to it hereunder, the carrying out of all covenants, agreements and promises made by it hereunder, and the liability of the District for all warranties and other covenants herein shall be limited solely to the money and revenues received from the payments by the District in respect to the Bonds and this Trust Agreement, and from money attributable to the proceeds of Bonds, or the income from the investment thereof; and the District shall not be required to effectuate any of its duties, obligations, powers or covenants except from, and to the extent of, such money, revenues, proceeds, and payments.

Section 1309. <u>Dealing in Bonds</u>. The Trustee and the Bond Registrar and their directors, officers, employees or agents may in good faith, buy, sell, own, hold and deal in any Bonds issued under the provisions of this Trust Agreement and may join in any action which any Holder may be entitled to take with like effects as if such Trustee were not a Trustee and such bank or trust company were not the Bond Registrar under this Trust Agreement.

Section 1310. <u>Multiple Counterparts</u>. This 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 1311. <u>Headings.</u> 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 Trust Agreement, nor shall they affect its meaning, construction or effect.

Section 1312. 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 Trust Agreement and the Agreement for the full, punctual and complete performance of all of the terms, covenants and agreements contained in the Bonds and this Trust Agreement.

(End of Article XIII)

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 date first written above.

By:
By: Chairman Chair Hampton Roads Sanitation District Commission
mission
THE BANK OF NEW YORK MELLON TRUST COMPANY, as Trustee
By:

VRA Subordinate Obligations

[to be updated]

\$6,490,000 Hampton Roads Sanitation District Subordinate Pledge Sewer Revenue Bond, dated July 19, 2000 (Disinfection Projects).

\$2,380,185 Hampton Roads Sanitation District Subordinate Pledge Sewer Revenue Bond, dated September 28, 2000 (Odor Control Projects).

\$1,759,000 Hampton Roads Sanitation District Subordinate Pledge Sewer Revenue Bond, dated January 31, 2002 (Army Base Aeration and James River Thickener Projects), as amended on January 9, 2013

\$2,476,000 Hampton Roads Sanitation District Subordinate Pledge Sewer Revenue Bond, dated April 3, 2002 (York River STP-Wastewater Reuse Project), as amended on January 9, 2013

\$1,070,000 Hampton Roads Sanitation District Subordinate Pledge Sewer Revenue Bond, dated May 31, 2002 (Chesapeake-Elizabeth Incinerator Project).

\$40,330,298 Hampton Roads Sanitation District Subordinate Pledge Sewer Revenue Bond, dated February 26, 2004 (Chesapeake-Elizabeth Treatment Plant Project). as amended on January 9, 2013 and November 19, 2021

\$1,235,000 Hampton Roads Sanitation District Subordinate Pledge Sewer Revenue Bond, dated July 29, 2005 (Army Base Treatment Plant Project)., as amended on January 9, 2013

\$7,339,600 Hampton Roads Sanitation District Subordinate Pledge Sewer Revenue Bond, dated June 22, 2006 (Atlantic Wastewater Treatment Plant Project), as amended on January 9, 2013 and November 19, 2021

\$1,605,200 Hampton Roads Sanitation District Subordinate Pledge Sewer Revenue Bond, dated June 22, 2006 (Colonial Williamsburg Pump Station Project), as amended on January 9, 2013 and November 19, 2021

\$30,000,000 Hampton Roads Sanitation District Subordinate Pledge Sewer Revenue Bond, dated December 17, 2008 (York River Wastewater Treatment Plant Project), as amended on January 15, 2015

Wastewater Revenue Bonds, Series 2009, dated May 28, 2009 (Nansemond Treatment Plant Project), as amended on September 11, 2015, February 17, 2022, and August 31, 2023

Wastewater Revenue Bonds, Series 2009, dated November 20, 2009 (James River Treatment Plant Project), as amended on September 11, 2015, February 17, 2022, and August 31, 2023

Wastewater Revenue Bonds, Series 2009, dated December 18, 2009 (Interceptor System Metering Project), as amended on September 11, 2015, February 17, 2022, and August 31, 2023

Wastewater Revenue Bonds, Series 2010, dated June 29, 2010 (Army Base Wastewater Treatment Plant Project), as amended on August 31, 2016 and January 30, 2020

Wastewater Revenue Bonds, Series 2010, dated June 29, 2010 (Boat Harbor Treatment Project), as amended on August 31, 2016 and January 30, 2020

Wastewater Revenue Bonds, Series 2010, dated June 29, 2010 (Williamsburg Oxidation Towers Project), as amended on August 31, 2016 and August 31, 2023

Wastewater Revenue Bond, Series 2012, dated March 13, 2012 (Atlantic Treatment Plant: Digester Gas to Energy Project), as amended on January 30, 2020 and November 19, 2021

Wastewater Revenue Bond (Atlantic Treatment Plant Project), dated August 10, 2017

Wastewater Revenue Bond (Ferguson Park Interceptor Project), dated August 10, 2017

Wastewater Revenue Bond (Lucas Creek Interceptor Project), dated October 26, 2017

Wastewater Revenue Bond (Rodman Avenue Pump Station Project), dated November 29, 2017

Wastewater Revenue Bond (Boat Harbor Treatment Plant Switchgear and Controls Replacements), dated March 20, 2019

Wastewater Revenue Bond (Orcutt Avenue and Mercury Boulevard Gravity Sewer Improvements), dated March 20, 2019

Wastewater Revenue Bond (Deep Creek Project), dated November 21, 2019

Wastewater Revenue Bond (Huxley – Middle Ground Project), dated November 21, 2019

Wastewater Revenue Bond (Treatment Plant Project), dated November 21, 2019

Wastewater Revenue Bond (2020 CIP Project), dated June 11, 2020

Wastewater Revenue Bond (2022 Eastern Shore Project), dated April 29, 2022

Wastewater Revenue Bond (2022 CIP Project), dated April 29, 2022

Wastewater Revenue Bond (2024 CIP Project), dated May 30, 2024

Exhibit B

Initial Bonds

[to be updated]

Wastewater Revenue Bonds, Refunding Series 2012, dated December 27, 2012

Wastewater Revenue Bonds, Refunding Series 2016A, dated March 17, 2016

Wastewater Revenue Bonds, Refunding Series 2016B, dated April 1, 2016

Wastewater Revenue Bonds Refunding Series 2017A, dated December 19, 2017

Wastewater Revenue Bonds Series 2018A, dated January 23, 2018

Wastewater Revenue Bonds Refunding Series 2019A (Federally Taxable), dated October 2, 2019

Wastewater Revenue Bond, Series 2020 (Federally Taxable), dated September 28, 2020

Wastewater Revenue Bond, Series 2021 (Federally Taxable), dated August 26, 2021

Wastewater Revenue Bonds, Refunding Series 2024A, dated May 23, 2024

Summary report: Litera Compare for Word 11.4.0.111 Document comparison done on 6/14/2024 10:28:26 AM			
Style name: Default Style			
Intelligent Table Comparison: Active			
Original DMS: iw://uswork.ad.adsinternal.com/US2016/20	01678596/1		
Modified DMS: iw://uswork.ad.adsinternal.com/US2016/201678596/3			
Changes:			
Add	428		
Delete	537		
Move From	0		
Move To	0		
Table Insert	0		
Table Delete	0		
Table moves to	0		
Table moves from	0		
Embedded Graphics (Visio, ChemDraw, Images etc.)	0		
Embedded Excel	0		
Format changes	0		
Total Changes:	965		

HRSD Commission Meeting Minutes June 25, 2024 Attachment #4

7. Wastewater Revenue Bonds Resolution



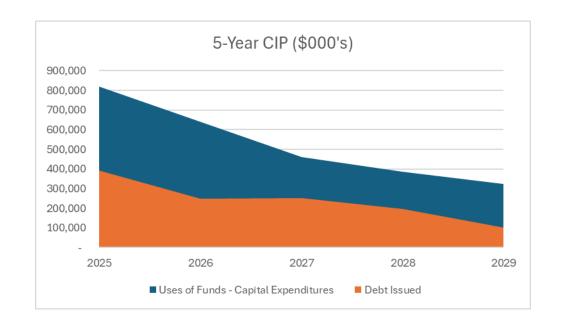
Proposed Plan of Finance

- Issue wastewater revenue bonds to finance cash flow needs for approximately one year
 - Series 2024B approximately \$270M
- Authorize refunding of series of bonds if
 - Savings equals or exceeds 3% of par of refunded bonds



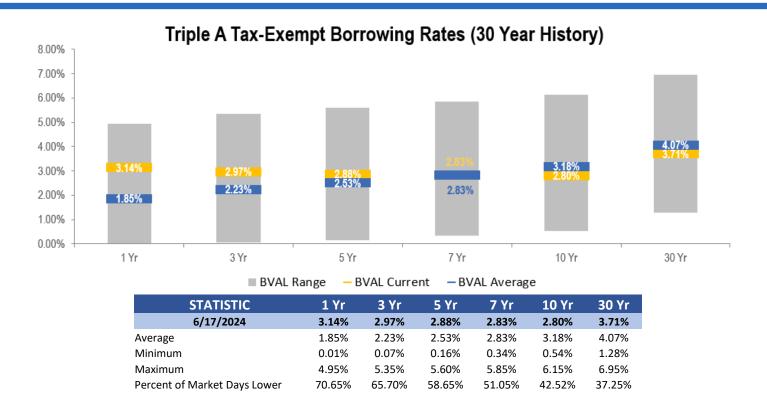
5-Year CIP Summary

- \$2.6 billion
- Leveraged 45%
- Peak Spending
 - -2025/2026
 - Debt \$642 million
- Plan leans heavily on WIFIA to finance capital improvements





Overview of Market Conditions





Source: Bloomberg as of 6/17/2024. BVAL Benchmark begins on 1/1/2011. Rates from 12/18/1985 to 12/31/2010 reference Municipal Market Data (MMD) triple-A yield index. BVAL is a Bloomberg benchmark for Triple-A borrowing rates.

Tax-Exempt to Taxable Ratios

 Savings from the bond issuance compared to WIFIA are driven by the current low ratio of tax-exempt to taxable interest rates



Tax Exempt Municipal Yield / Taxable Treasury Yield			
Statistic	10 Year	30 Year	
As of June 18, 2024	66%	85%	
Average	86%	96%	
Max	362%	246%	
Min	52%	65%	



Recommended Plan of Finance

- Based on current market conditions, a bond issuance in the capital markets results in a lower cost of funds than another WIFIA loan
- Recommendations
 - Fund expected FY2025 capital needs with capital markets bonds;
 - Lock in a WIFIA loan this fall for the remaining costs
- Results in:
 - \$58.3 million in debt service savings (present value \$20.9 million)
 - Average annual debt service savings is ~\$1.5 million

	Re	commended P		Savings from	
Scenario	Capital Markets Financing	WIFIA Financing	Total Capital Markets + WIFIA	Only WIFIA	Recommend- ed Plan
Statistics					
All-In True Interest Cost	4.30%	4.48%	4.40%	4.45%	0.05%
Par Amount	237,210,000	268,390,000	505,600,000	536,480,000	30,880,000
Project Draws	268,087,878	268,087,878	536,175,756	536,175,756	-
Project Fund	261,369,739	268,087,878	529,457,617	536,175,756	6,718,139
Total Debt Service	518,950,254	531,632,111	1,050,582,365	1,108,903,166	58,320,802
Avg. Annual Debt Service	14,870,818	15,636,110	30,207,348	31,682,947	1,475,599
Max. Annual Debt Service	29,110,500	31,622,209	49,662,526	51,590,113	1,927,587
Weighted Average Maturity	23.7 Years	22.9 Years	24.7 Years	24.3 Years	0.4 Years
First Interest Payment	1/1/2025	1/1/2025	1/1/2025	1/1/2025	-
First Principal Payment	7/1/2039	1/1/2039	1/1/2039	1/1/2039	-
Final Maturity	7/1/2059	1/1/2059	7/1/2059	1/1/2059	-
Term	35 Years	34 Years	35 Years	35 Years	-

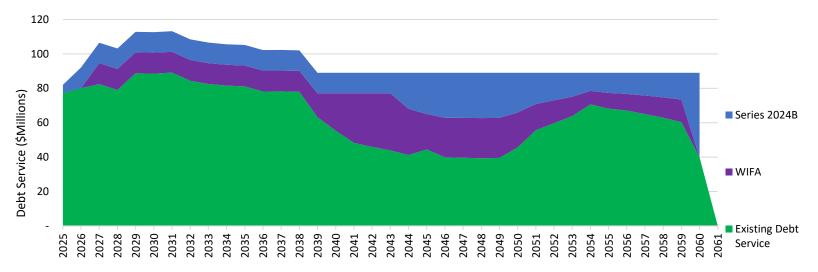
Notes:

- 1) Preliminary, based on market conditions as of June 18, 2024
- 2) Project Funds: net funded, earnings rate of 5.00%



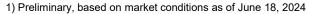
HRSD's Total Annual Debt Service

- The planned borrowing will be structured around existing debt, with the goal of creating overall level debt service beginning in FY 2038
 - Between the 2024B capital market bonds and the 2024 WIFIA loan, planning to structure the principal payments to result in the lowest overall cost to HRSD



Fiscal Year

Notes:





Bond Issue Summary

- Interest on capital markets bonds is payable sooner than on a WIFIA loan, increasing near term debt service
- Results in:
 - \$58.3 million in debt service savings (present value \$20.9 million)
 - Average annual debt service savings is ~\$1.5 million
- Resolution provides
 - New money authorization
 - Refunding authorization
 - If savings of 3% of par can be obtained
 - Authorization is for 12 months

	FY 2025	FY 2026
Increase in DS	\$2.5M	\$4.3M
Reduction in DSC	-0.06X	-0.10
New DSC	2.23X	2.26X



Hampton Roads Sanitation District Resolution of June 25, 2024

HAMPTON ROADS SANITATION DISTRICT COMMISSION

A RESOLUTION
AUTHORIZING THE ISSUANCE AND AWARD OF
ONE OR MORE SERIES OF
HAMPTON ROADS SANITATION DISTRICT
WASTEWATER REVENUE BONDS

Adopted June 25, 2024

Resolution

RESOLUTION AUTHORIZING THE ISSUANCE AND AWARD OF ONE OR MORE SERIES OF HAMPTON ROADS SANITATION DISTRICT WASTEWATER REVENUE BONDS

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;

WHEREAS, by virtue of Chapter 66 of the Acts of Assembly of Virginia of 1960, as amended (the "Act"), the Commission is authorized and empowered, among other things:

- (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 Act and pledged for their payment, for the purpose of 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;

WHEREAS, as provided by the Act, the District is constituted a political subdivision of the Commonwealth of Virginia and established as a governmental instrumentality to provide for the public health and welfare;

WHEREAS, the Commission has previously authorized the execution and delivery of a Trust Agreement, dated as of October 1, 2011 (the "Original Trust Agreement"), as amended and restated as of March 1, 2016, as further amended and supplemented (as so amended, restated and supplemented, the "Trust Agreement"), each by and between the District and The Bank of New York Mellon Trust Company, N.A., as successor trustee (in such capacity, the "Trustee"), to provide for the issuance of Bonds (as defined in the Trust Agreement) and indebtedness secured on a parity with such Bonds, payable from the Net Revenues (as defined in the Trust Agreement) of the District;

WHEREAS, the Commission has adopted the District's 2025-2034 Capital Improvement Program (as it may be amended from time to time, the "Capital Improvement Program"), which anticipates capital spending for projects identified in the Capital Improvement Program ("Projects");

WHEREAS, the District has heretofore issued bonds and other indebtedness in accordance with, and which remain outstanding under, the Trust Agreement, including indebtedness bearing interest at a variable rate that may be tendered to the District for purchase from time to time prior to the maturity thereof (the "Variable Rate Obligations");

WHEREAS, the District currently maintains a line of credit (the "Line of Credit") with Bank of America, N.A., and the Line of Credit has a stated expiration date of June 30, 2025;

WHEREAS, the Commission has determined to provide for the issuance under the Trust Agreement, at one or more times, of one or more series, on a taxable or tax-exempt basis, of bonds (the "Refunding Bonds") for the purpose of providing funds, together with other available funds, to (i) refund any or all bonds or other indebtedness of the District (including, but not limited, to bonds and indebtedness secured under the Trust Agreement and amounts owed under the Line of Credit) (collectively, the "Refunding Candidates") and (ii) pay certain expenses incurred in connection with the issuance of the Refunding Bonds by the District;

WHEREAS, the Commission has determined to provide for the issuance under the Trust Agreement, at one or more times, of one or more series, on a taxable or tax-exempt basis, of Bonds (the "New Money Bonds" and, together with the Refunding Bonds, the "2024 Bonds") for the purpose of providing funds, together with other available funds, to (i) to finance a portion of the costs of its Capital Improvement Program and (ii) pay certain expenses incurred in connection with the issuance of the New Money Bonds by the District;

WHEREAS, the Commission has determined that the 2024 Bonds shall be sold through a negotiated underwriting with one or more of the investment banking firms replying to the District's request for proposals for investment banking services, dated May 30, 2023, to be selected by a Delegate (as defined below) in accordance with the provisions of Section 3 hereof (the investment banking firm or firms so selected, the "Underwriters"); and

WHEREAS, there have been presented at this meeting draft copies of the following documents relating to the issuance and sale of the 2024 Bonds:

- (a) a Supplemental Trust Agreement (the "Supplemental Agreement"), by and between the District and the Trustee, relating to the Bonds;
- (b) a Preliminary Official Statement of the District, a version of which will be delivered in connection with each series of the Bonds, with such changes as may be approved in accordance with Section 10 hereof (the "Preliminary Official Statement");
- (c) a Bond Purchase Agreement (the "Bond Purchase Agreement"), by and between the District and the Underwriters;
- (d) an Escrow Deposit Agreement (the "Escrow Deposit Agreement") by and between the District and an Escrow Agent; and
- (e) a Continuing Disclosure Agreement (the "Continuing Disclosure Agreement"), the form of which appears as Appendix E to the Preliminary Official Statement and a version of which will be delivered in connection with each series of the Bonds; and

Now, Therefore, the HAMPTON ROADS SANITATION DISTRICT COMMISSION DOES HEREBY RESOLVE, as follows:

Section 1. Definitions. Capitalized words and terms used in this Resolution and not defined herein shall have the same meanings in this Resolution as such words and terms are given in the Trust Agreement and the Supplemental Agreement.

Section 2. Authorization of 2024 Bonds. In order to provide funds required to (i) finance a portion of the costs of the Capital Improvement Program, (ii) refund all or any portion of the Refunding Candidates and (iii) pay certain expenses incurred in connection with the 2024 Bonds by the District and pursuant to the authority granted to it by the Act, the District hereby authorizes the issuance at one or more times and in one or more series of Hampton Roads Sanitation District Wastewater Revenue Bonds, [Refunding] Series 202[] [(Federally Taxable)] (the blanks to be completed with a number indicating the year of issuance and a letter indicating the appropriate series), in an aggregate principal amount not to exceed, (i) in the case of the New Money Bonds, Two Hundred Eighty Million Dollars (\$280,000,000), and (ii) in the case of the Refunding Bonds, not in excess of the aggregate principal amount to be used to pay the principal amount of, premium, if any, and interest on the Refunding Candidates, through the earlier to occur of maturity and the redemption date thereof, refunded with such Refunding Bonds (and to pay the costs of issuing such Refunding Bonds), in each case dated as of such date, maturing on such dates in such years not later than forty years from their date of issuance, and in such principal amounts and bearing interest at such rates (not to exceed a true interest cost of 5.5% per annum in the case of federally tax-exempt 2024 Bonds or 7.0% per annum in the case of federally taxable 2024 Bonds), on a federally taxable or tax-exempt basis, all as determined by the Chair of the Commission, the Vice Chair of the Commission, the General Manager/Chief Executive Officer of the District or the Deputy General Manager/Chief Financial Officer of the District (each, a "Delegate"), any of whom may act, prior to the execution of the Bond Purchase Agreement, and evidenced in the Bond Purchase Agreement and the Supplemental Agreement.

The Commission hereby determines that the issuance of each series of the 2024 Bonds will be in the best interests of the District.

The 2024 Bonds shall be issued as fully registered bonds in denominations of \$5,000 or any whole multiple thereof or in any other denominations determined by a Delegate. The 2024 Bonds shall be issuable in book-entry form as provided in the Trust Agreement. Payments of principal of, premium, if any, and interest on the 2024 Bonds shall be forwarded by the Bond Registrar to the registered owners of the 2024 Bonds in such manner as is set forth in the Trust Agreement.

Section 3. Method of Sale. Each series of 2024 Bonds shall be sold by negotiated sale with one or more Underwriters. A Delegate, acting in consultation with PFM Financial Advisors LLC, Financial Advisor to the District (the "Financial Advisor"), is authorized to select such Underwriters, provided that each firm so selected shall have submitted a response to the District's request for proposals for investment banking services, dated May 30, 2023, which has been deemed complete in all material respects. A Delegate is authorized to execute a Bond Purchase Agreement with respect to each such series of the 2024 Bonds in substantially the form presented to this meeting, with such updates, changes, modifications and deletions as such Delegate, with the advice of counsel, may deem necessary or desirable.

- **Section 4.** Redemption. A Delegate is hereby authorized to determine the optional redemption and make-whole redemption provisions, if any, of each series of the 2024 Bonds as such Delegate, in consultation with the Financial Advisor, may deem advisable, and the Delegate may, with the advice of the Financial Advisor and counsel to the District, provide that such series of the 2024 Bonds (or any portion thereof) shall not be subject to optional or make-whole redemption before their respective maturities. A Delegate may further determine that any term 2024 Bonds shall be subject to mandatory sinking fund redemption and with such amortization requirements as determined by such Delegate. All such determinations by a Delegate shall be determined prior to the execution of the Bond Purchase Agreement relating to such series of 2024 Bonds.
- **Section 5. Application of Bond Proceeds**. The proceeds of the 2024 Bonds shall be applied as provided in the related Supplemental Agreement and, in the case of Refunding Bonds, the related Escrow Deposit Agreement.
- Section 6. Authorization of Basic Documents. The forms, terms and provisions of each of the Supplemental Agreement, the Bond Purchase Agreement, the Escrow Deposit Agreement and the Continuing Disclosure Agreement (collectively, the "Basic Documents") are hereby approved in all respects, and the District Representatives (hereinafter defined) are hereby authorized and directed to execute and deliver the Basic Documents with respect to each series of 2024 Bonds in substantially the forms presented to this meeting, or as otherwise provided by this Resolution, together with such updates, changes, modifications and deletions as such District Representatives, with the advice of counsel, may deem necessary or desirable; such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the District.
- Section 7. Refunding Candidates. A Delegate is authorized to determine the Refunding Candidates to be refunded with the proceeds of any series of the 2024 Bonds (such Refunding Candidates, the "Refunded Bonds") based on the following criterion: a determination by the Financial Advisor, in writing, if any of the Refunding Candidates are to be refunded, the aggregate net present value debt service savings achieved as a result of refunding such Refunding Candidates with the proceeds of the Refunding Bonds shall be equal to at least three percent (3%) of the par amount of the Refunded Bonds; provided, however, that the Commission hereby determines that it will be in the best interests of the District to refund any such Refunding Candidates that are Variable Rate Obligations or that are incurred under the Line of Credit, without regard to the net interest cost of the Refunding Bonds or of the Refunding Candidates, because such net interest cost cannot reasonably be calculated in the case of variable rate or balloon indebtedness.
- Section 8. Execution of 2024 Bonds. The form of the 2024 Bonds set forth in the Supplemental Agreement is hereby approved in all respects, and the Chair or Vice Chair and the Secretary or any Assistant Secretary of the Commission are hereby authorized and directed to execute, by manual or facsimile signature, as provided in such form, and to deliver to the Bond Registrar for authentication on behalf of the District, the 2024 Bonds in definitive form for each series of the 2024 Bonds, with such updates, changes, modifications and deletions as they, with the advice of counsel, may deem necessary or desirable and consistent with the Trust Agreement and the related Supplemental Agreement; such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the District.
- Section 9. Authorization and Delivery of the 2024 Bonds. Upon their execution in the form and manner set forth in the Trust Agreement and the related Supplemental Agreement, the 2024 Bonds of each series shall be deposited with the Bond Registrar for authentication, and the Bond

Registrar is hereby authorized and directed to authenticate such series of 2024 Bonds and, upon the due and valid execution of the Basic Documents, the Trustee shall cause the Bond Registrar to deliver such series of 2024 Bonds to or for the account of The Depository Trust Company, for the account of the Underwriters, in accordance with, and subject to, the provisions of Section 209 of the Trust Agreement.

Section 10. Official Statement. The Preliminary Official Statement in the form presented at this meeting is approved, with such updates, changes, modifications and deletions as such Delegate, with the advice of counsel, may deem necessary or desirable is hereby approved, and a Delegate is hereby authorized to approve the terms of and publish a Preliminary Official Statement with respect to each series of the 2024 Bonds, as updated to reflect any subsequent events if any series of 2024 Bonds is to be sold after the first series of 2024 Bonds, describing the 2024 Bonds and substantially in the same form as the Preliminary Official Statement presented to this meeting, and deem "final" such Preliminary Official Statement for purposes of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended; and a Delegate is hereby authorized to execute an official statement (the "Official Statement") with respect to each series of 2024 Bonds in substantially the form of the deemed "final" Preliminary Official Statement relating to such series of the 2024 Bonds, together with such updates, changes, modifications and deletions as such Delegate, with the advice of counsel, may deem necessary or appropriate; and the District hereby approves and authorizes the distribution and use of copies of the Preliminary Official Statement, the Official Statement and the Basic Documents in connection with such sale.

Section 11. District Representatives. The Chair of the Commission, the Vice Chair of the Commission, the General Manager/Chief Executive Officer and the Deputy General Manager/Chief Financial Officer are each hereby appointed a District Representative within the meaning of such term under the Trust Agreement, with full power to carry out the duties set forth therein. Any one or more of the District Representatives may act for and on behalf of the District.

Section 12. Securities Depository. The Depository Trust Company, New York, New York, is hereby appointed as the initial Securities Depository for the 2024 Bonds, with Cede & Co., a nominee thereof, being the initial Securities Depository Nominee and initial registered owner of each series of the 2024 Bonds.

Section 13. Further Actions. The Delegates and the District Representatives are each authorized and directed (without limitation except as may be expressly set forth herein) to take such action and to execute and deliver any such documents, certificates, undertakings, agreements or other instruments as they, with the advice of counsel, may deem necessary or desirable to effectuate the transactions contemplated by the Basic Documents, the Trust Agreement, the Supplemental Agreement, the Escrow Deposit Agreement and the Official Statement.

Section 14. Delegates' Certificate. Each Delegate may execute a certificate or certificates evidencing the determinations made or other actions carried out pursuant to the authority granted in this Resolution, and any such certificate shall be conclusive evidence of the actions or determinations as stated therein.

Section 15. Ratification of Prior Acts. The actions heretofore taken by the Delegates and the District Representatives in connection with the proposed issuance of the 2024 Bonds and the refunding of the Refunding Candidates are hereby ratified.

Section 16. Sunset Provision. No series of 2024 Bonds may be issued pursuant to the authority provided by this Resolution after June 30, 2025.

Section 17. Rate Schedule. Incorporated herein the same as if set forth verbatim herein is the "Rate Schedule, Fiscal Year 2025" for the use of, and for the services and facilities furnished or to be furnished by, the wastewater disposal system or systems and the wastewater improvements, for which the 2024 Bonds are to be issued. Such schedule appears in full on the District's website, www.hrsd.com.

Section 18. Effective Date. This Resolution shall take effect immediately upon its passage.

[END OF RESOLUTION]

Adopted by the Hampton Roads Sanitation District Commission on June 25, 2024.

Stephen C. Rodriguez/Char

NEW ISSUE – BOOK-ENTRY ONLY

S&P: "__"
(See "RATING" herein)

In the opinion of Bond Counsel, under current law and assuming compliance with certain tax covenants and requirements of the Internal Revenue Code of 1986, as amended (the "Code"), as described herein, interest on the Series 2024B Bonds will not be includable in the gross income of the owners thereof for federal income tax purposes. The District's Enabling Act provides that the Series 2024B Bonds, their transfer and the income therefrom, including any profit made on the sale thereof, shall be free and exempt from taxation by the Commonwealth of Virginia and by any political subdivision thereof. See "TAX MATTERS" herein for further information.



Hampton Roads Sanitation District, Virginia Wastewater Revenue Bonds, Series 2024B

Dated: Date of Issue Due: As shown on the inside cover

The above-captioned bonds (the "Series 2024B Bonds") are being issued under an Amended and Restated Trust Agreement, dated as of _____ 1, 2024, as supplemented (the "Trust Agreement"), between the Hampton Roads Sanitation District (the "District") and The Bank of New York Mellon Trust Company, N.A., as trustee (in such capacity, the "Trustee"). The proceeds of the Series 2024B Bonds will be used, together with other available funds of the District, (i) to finance a portion of the cost of the District's Capital Improvement Program (as defined herein), and (ii) to pay certain expenses incurred in connection with the issuance of the Series 2024B Bonds by the District. See "PLAN OF FINANCING" and "SOURCES AND USES OF FUNDS" herein.

The Series 2024B Bonds are issuable as registered bonds without coupons and will be initially registered only in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"), serving as securities depository for the Series 2024B Bonds. The Series 2024B Bonds will be available to purchasers in denominations of \$5,000 principal amount and any whole multiple thereof only under the book-entry system maintained by DTC through brokers and dealers that are, or that act through, DTC Participants. Principal, premium, if any, and interest will be paid by the Trustee, as bond registrar, to DTC or its nominee, which will remit the payments to the DTC Participants for subsequent disbursement. See "THE SERIES 2024B BONDS – Book-Entry Only System" herein. Interest on the Series 2024B Bonds is payable on each [January 1] and [July 1], commencing [January 1, 2025].

The Series 2024B Bonds are subject to optional redemption prior to maturity as described herein.

THE SERIES 2024B BONDS ARE SPECIAL OBLIGATIONS OF THE DISTRICT PAYABLE SOLELY FROM THE NET REVENUES AND OTHER FUNDS PLEDGED TO SECURE THE SERIES 2024B BONDS UNDER THE TRUST AGREEMENT. THE SERIES 2024B BONDS 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 THE SERIES 2024B BONDS 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 cover page contains certain information for quick reference only. It is not a summary of this issue. Investors must read the entire Official Statement to obtain information essential to making an informed investment decision.

The Series 2024B Bonds are offered when, as and if issued, subject to the approving opinion of Norton Rose Fulbright US LLP, Washington, D.C., Bond Counsel, and to certain other conditions. Certain legal matters will be passed upon for the District by its General Counsel, Sands Anderson PC, Richmond, Virginia, and for the Underwriters by [_____]. The Series 2024B Bonds are expected be available for delivery to The Depository Trust Company in New York, New York, on or about August __, 2024.

[____]

July , 2024

^{*} Preliminary, subject to change

\$

Hampton Roads Sanitation District, Virginia Wastewater Revenue Bonds, Series 2024B

MATURITIES, AMOUNTS, INTEREST RATES AND PRICE OR YIELD Base CUSIP Number: 409327[†]

Due [July 1]	Principal <u>Amount</u>	Interest <u>Rate</u>	Price or <u>Yield</u>	CUSIP [†] <u>Suffix</u>	
2025	\$	%	%		
2026					
2027					
2028					
2029					
2030					
2031					
2032					
2033					
2034					
2035					
2036					
2037					
2038					
2039					
2040					
2041					
2042					
2043					
2044					
2045					
2046					
2047					
2048					
2049					
\$ % Ter	rm Bonds due [Jul	y 1], 205- – Pri	iced to Yield%	% – CUSIP Suffix	_

[†] CUSIP® is a registered trademark of the American Bankers Association. The CUSIP numbers listed above are provided solely for the convenience of bondholders only, and the District does not make any representation with respect to such numbers or undertake any responsibility for their accuracy. The CUSIP numbers are subject to change after the issuance of the Series 2024B Bonds as a result of various subsequent actions including, but not limited to, a defeasance as a whole or in part of the Series 2024B Bonds.

i

^{*} Preliminary, subject to change

HAMPTON ROADS SANITATION DISTRICT

COMMISSIONERS

STEPHEN C. RODRIGUEZ, Chair

[FREDERICK N. ELOFSON, CPA,] Vice Chair

MICHAEL E. GLENN WILLIE LEVENSTON, JR. ELIZABETH A. TARASKI, Ph.D. VISHNU K. LAKDAWALA, Ph.D. NANCY J. STERN ANN W. TEMPLEMAN

STAFF

JAY A. BERNAS, P.E. General Manager and Chief Executive Officer

> STEVEN G. de MIK, CPA Deputy General Manager and Chief Financial Officer

EDDIE M. ABISAAB *Chief Operating Officer*

CHARLES B. BOTT, Ph.D., P.E. Chief Technology Officer

DONALD C. CORRADO Chief Information Officer

BRUCE W. HUSSELBEE, Ph.D., P.E. Chief Engineer

LEILA E. RICE, APR
Chief Communications Officer

JAMIE HEISIG-MITCHELL Chief of Water Quality

JENNIFER L. CASCIO Commission Secretary

DORISSA T. PITTS-PAIGE, PHR, IPMA-SCP, SHRM-SCP Chief People Officer

ELIZABETH I. SCOTT Assistant Commission Secretary

COUNSEL, ADVISOR, TRUSTEE

SANDS ANDERSON PC General Counsel

PFM FINANCIAL ADVISORS LLC Financial Advisor

NORTON ROSE FULBRIGHT US LLP Bond Counsel

AQUALAW, PLC Special Counsel

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

Trustee and Bond Registrar

HRSD Service Area

Facilities include the following:

- 1. Atlantic, Virginia Beach
- 2. Army Base, Norfolk
- 3. Virginia Initiative, Norfolk
- 4. Nansemond, Suffolk
- 5. Boat Harbor, Newport News
- 6. James River, Newport News
- 7. Williamsburg, James City County
- 8. York River, York County
- 9. West Point, King William County
- 10. King William, King William County
- 11. Central Middlesex, Middlesex County
- 12. Urbanna, Middlesex County
- 13. Onancock, Accomack County
- 14. Nassawadox, Northampton County

Serving the Cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, Williamsburg and the Counties of Accomack, Gloucester, Isle of Wight, James City, King and Queen, King William, Mathews, Middlesex, Northampton, Surry* and York *Excluding the Town of Claremont



CERTAIN STATEMENTS INCLUDED IN THIS OFFICIAL STATEMENT CONSTITUTE "FORWARD-LOOKING STATEMENTS" WITHIN THE MEANING OF SECTION 27A OF THE SECURITIES ACT OF 1933, AS AMENDED, AND SECTION 21E OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED. SUCH STATEMENTS ARE GENERALLY IDENTIFIABLE BY TERMS SUCH AS "PLAN," "PROJECT," "EXPECT," "ANTICIPATE," "INTEND," "BELIEVE," "ESTIMATE," "BUDGET" OR OTHER SIMILAR WORDS. THE ACHIEVEMENT OF CERTAIN RESULTS OR OTHER EXPECTATIONS CONTAINED IN SUCH FORWARD-LOOKING STATEMENTS INVOLVES KNOWN AND UNKNOWN RISKS, UNCERTAINTIES AND OTHER FACTORS THAT MAY CAUSE ACTUAL RESULTS, PERFORMANCE OR ACHIEVEMENTS DESCRIBED TO BE MATERIALLY DIFFERENT FROM ANY RESULTS, PERFORMANCES OR ACHIEVEMENTS. EXPRESS OR IMPLIED BY SUCH FORWARD-LOOKING STATEMENTS. EXCEPT AS SPECIFICALLY SET FORTH HEREIN, THE DISTRICT DOES NOT PLAN TO ISSUE ANY UPDATES OR REVISIONS TO THOSE FORWARD-LOOKING STATEMENTS DUE TO CHANGES IN ITS EXPECTATIONS OR SUBSEQUENT EVENTS, CONDITIONS OR CIRCUMSTANCES ON WHICH SUCH STATEMENTS ARE BASED.

This Official Statement speaks as of its date except where specifically noted otherwise and is subject to change without notice. Neither the delivery of this Official Statement, nor any sale made hereunder, nor any filing of this Official Statement shall under any circumstances create an implication that there has been no change in the affairs of the District since the date of this Official Statement or imply that any information herein is accurate or complete as of any later date.

The Series 2024B Bonds are exempt from registration under the Securities Act of 1933, as amended. As obligations of a political subdivision of the Commonwealth of Virginia, the Series 2024B Bonds are also exempt from registration under the securities laws of Virginia.

No dealer, salesman or any other person has been authorized to give any information or to make any representation, other than the information and representations contained herein, in connection with the offering of the Series 2024B Bonds, and, if given or made, such information or representations must not be relied upon. This Official Statement does not constitute an offer to sell or solicitation of an offer to buy any of the Series 2024B Bonds in any jurisdiction to any person to whom it is unlawful to make such offer or solicitation in such jurisdiction.

The Underwriters have provided the following sentence for inclusion in this Official Statement. The Underwriters have reviewed the information in this Official Statement in accordance with, and as part of, their responsibility to investors under the federal securities laws as applied to the facts and circumstances of the transactions contemplated by this Official Statement, but the Underwriters do not guarantee the accuracy or completeness of such information.

References to website addresses presented herein are for informational purposes only and may be in the form of a hyperlink solely for the reader's convenience. Unless specified otherwise, such websites and the information and links contained therein are not incorporated into, and are not part of, this Official Statement for purposes of, and as that term is defined in, Securities and Exchange Commission Rule 15c2-12.

IN CONNECTION WITH THIS OFFERING, THE UNDERWRITERS MAY OVERALLOT OR EFFECT TRANSACTIONS THAT STABILIZE OR MAINTAIN THE MARKET PRICE OF THE SERIES 2024B BONDS AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

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Official Statement

Hampton Roads Sanitation District, Virginia

Relating to its

\$____*
Wastewater Revenue Bonds,
Series 2024B

INTRODUCTION

This Official Statement, which includes the cover and inside cover pages hereof, the map and the appendices hereto, sets forth information concerning the Hampton Roads Sanitation District (the "District" or "HRSD") and the District's \$_____* aggregate principal amount of Wastewater Revenue Bonds, Series 2024B (the "Series 2024B Bonds").

The Series 2024B Bonds are being issued in accordance with the provisions of Chapter 66 of the Acts of Assembly of Virginia of 1960, as amended (the "Enabling Act"). On March 26, 2024, the Hampton Roads Sanitation District Commission (the "Commission"), the governing body of the District, authorized by resolution the issuance of the Series 2024B Bonds. The Commission is issuing the Series 2024B Bonds for the purpose of providing funds, together with other available funds, (i) to provide funds to finance a portion of the costs of the District's Capital Improvement Program (as amended from time to time, the "Capital Improvement Program" or "CIP") and (ii) to pay certain expenses incurred in connection with the issuance of the Series 2024B Bonds by the District. See "PLAN OF FINANCING" and "SOURCES AND USES OF FUNDS" herein.

The Series 2024B Bonds are special obligations of the District payable solely from the Net Revenues (hereinafter defined) derived by the District from the operation of its Wastewater System (hereinafter defined) and other funds pledged to secure the Series 2024B Bonds under the Trust Agreement (hereinafter defined). See "SECURITY AND SOURCES OF PAYMENT" and "THE SYSTEM" herein. The Commission has determined to provide for the issuance of the Series 2024B Bonds under the trust agreement entered into by and between Hampton Roads Sanitation District and The Bank of New York Mellon Trust Company, N.A., as Trustee, dated as of October 1, 2011, as amended and restated as of March 1, 2016, as amended, as further amended and restated as of _______ 1, 2024 (the "Amended and Restated Trust Agreement"), as supplemented by the Eleventh Supplemental Trust Agreement, dated as of ______ 1, 2024 (the "Eleventh Supplemental Trust Agreement" and together with the Amended and Restated Trust Agreement, as so supplemented and as the same may be amended and further supplemented, the "Trust Agreement"), each by and between the District and The Bank of New York Mellon Trust Company, N.A., as trustee (in such capacity, the "Trustee").

This Official Statement contains a brief description of the Series 2024B Bonds and the District, including its service area, governance and information regarding its operations and finances.

The financial and operating data contained herein and in Appendix A are as of the dates and for the periods indicated, portions of which were prior to the COVID-19 pandemic. Such financial and operating

^{*} Preliminary, subject to change

data have not been updated to reflect any potential impacts of the COVID-19 pandemic on District's general economic and financial condition. See "THE SYSTEM – COVID-19 Matters."

Appendix A contains the District's Annual Comprehensive Financial Report for the Fiscal Year ended June 30, 2023, and includes additional information regarding the District's operations and financial condition. Appendix B contains the definitions of certain terms used in this Official Statement. Capitalized terms used but not defined herein shall have the meanings given to such terms in the Trust Agreement. Brief descriptions and summaries of certain provisions of the Series 2024B Bonds, the Trust Agreement and the Eleventh Supplemental Trust Agreement are included in Appendix C.

PLAN OF FINANCING

Series 2024B Bonds

A portion of the proceeds of the Series 2024B Bonds will be applied to finance or refinance a portion of the costs of the Capital Improvement Program. See "THE SYSTEM – Capital Improvement Program."

As described under "THE SYSTEM – System Improvements and Innovation," the District has developed an innovative managed aquifer recharge program called the Sustainable Water Initiative for Tomorrow ("SWIFT"). The District anticipates that proceeds of the Series 2024B Bonds will be used to fund a portion of the SWIFT construction at the District's James River Treatment Plant. The District believes that SWIFT has multiple environmental benefits, including addressing the challenges of declining aquifer levels, land subsidence and saltwater intrusion, and providing regional nutrient credits for urban stormwater and other needs.

Future Financings

The District anticipates that it will finance a portion of its Capital Improvement Program through the issuance of Additional Bonds, WIFIA Bonds, VRA Obligations (each as hereinafter defined), and other Indebtedness subordinate to all Indebtedness secured by the Trust Agreement ("Subordinate Obligations"). See "SECURITY AND SOURCES OF PAYMENT – Senior Obligations" and " – Additional Senior Obligations." Any acceleration of the Capital Improvement Program could result in an acceleration of the date and, potentially, an increase in the size of any issuance of Indebtedness by the District.

The District has entered into a Second Amended and Restated Credit Agreement, dated as of June 30, 2022, with Bank of America, N.A., as further amended and supplemented (as so amended and supplemented, the "Credit Agreement"), pursuant to which the bank provided a revolving line of credit in the aggregate principal amount of up to \$300,000,000 (the "Line of Credit"). The Line of Credit constitutes a Subordinate Obligation under the Trust Agreement and is secured on a junior and subordinate basis from the lien on Net Revenues securing Senior Obligations. As of July _, 2024, the aggregate outstanding principal amount on the Line of Credit is \$

The District anticipates that it will issue, in the fall of 2024, an additional WIFIA Bond in the approximate principal amount of \$268 million. For additional information relating to WIFIA Bonds, see "SECURITY AND SOURCES OF PAYMENT – Senior Obligations – *WIFIA Bonds*."

[Remainder of page intentionally left blank.]

SOURCES AND USES OF FUNDS

The estimated sources and uses of funds in connection with the issuance of the Series 2024B Bonds are set out in the table below.

Sources

Principal Amount of Series 2024B BondsPlus Original Issue Premium	\$_
Total Sources of Funds	<u>\$</u>
<u>Uses</u>	
Deposit to Construction Fund	\$
Underwriters' Discount	
Costs of Issuance	
Total Uses of Funds	<u>\$</u>

THE SERIES 2024B BONDS

Description

The Series 2024B Bonds will be dated, bear interest and mature as set forth on the cover and inside cover page of this Official Statement. Interest on the Series 2024B Bonds will be calculated on the basis of a 360-day year of twelve 30-day months. The Series 2024B Bonds are issuable as registered bonds without coupons in the denomination of \$5,000 or any whole multiple thereof, as provided in the Trust Agreement. Interest will be payable on each [January 1] and [July 1], commencing [January 1, 2025], to the person in whose name such bond is registered as of the applicable Regular Record Date, which is [December 15 for interest due on January 1 and June 15 for interest due on July 1.]

Book-Entry Only System

The Depository Trust Company ("DTC"), New York, New York, will act as securities depository for the Series 2024B Bonds. The Series 2024B Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered bond certificate will be issued for each maturity of the Series 2024B Bonds and will be deposited with DTC. Additional information respecting DTC and its book entry system is contained in Appendix F.

The information in this section and in Appendix F concerning DTC and DTC's book-entry system has been obtained from sources that the District believes to be reliable, but the District takes no responsibility for the accuracy thereof.

DTC may discontinue providing its services as depository with respect to the Series 2024B Bonds at any time by giving reasonable notice to the District. Under such circumstances, if a successor depository is not obtained, certificates for the Series 2024B Bonds are required to be printed and delivered to the beneficial owners of the Series 2024B Bonds.

The District may decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). In that event, certificates for the Series 2024B Bonds will be printed and delivered to the beneficial owners of the Series 2024B Bonds.

Redemption Provisions

Optional Redemption.

The District may, at its option, redeem the Series 2024B Bonds stated to mature after [July 1, 2034*], prior to their respective maturities, as a whole or in part, on any date, beginning [July 1, 2034*], at a redemption price equal to the principal amount thereof, together with interest accrued to the date fixed for redemption.

Selection of Series 2024B Bonds for Redemption.

Series 2024B Bonds may be redeemed only in increments of \$5,000 or whole multiples thereof. If less than all the Series 2024B Bonds are called for redemption, the Series 2024B Bonds or portions thereof will be redeemed from the maturities selected by the District. If less than all of the Series 2024B Bonds of a maturity are to be redeemed, the particular Series 2024B Bonds are to be selected for redemption as the Trustee in its sole discretion shall determine. If a portion of a Series 2024B Bond is called for redemption, a new Series 2024B Bond in a principal amount equal to the unredeemed portion thereof will be issued to the bondholder upon the surrender thereof.

Mandatory Redemption.

The Series 2024B Bonds due on [July 1, 20__*], are subject to mandatory sinking fund redemption on July 1 in the following years in the following principal amounts ("Sinking Fund Requirements") at a redemption price equal to the principal amount thereof, together with interest accrued to the date of redemption.

Term <u>Year</u>	Bonds due July 1, 20* Sinking Fund Requirement \$
	†
† Unamortized balance	e at maturity.

In the event of a partial optional redemption or purchase of such term bonds, the District will credit the principal amount of such term bonds so purchased or redeemed against the Sinking Fund Requirements for the remaining term bonds outstanding in such amounts and in such years as it in its sole discretion shall determine.

Notice of Redemption

Notice of redemption is to be given not more than 60 nor less than 30 days before the redemption date by first class mail to the registered owner or owners of the Series 2024B Bonds or portions thereof to be redeemed; provided, however, that any defect in such notice or the failure so to mail any such notice to any owners of any Series 2024B Bonds will not affect the validity of the proceedings for the redemption of any other Series 2024B Bonds. During the period that DTC or its nominee is the registered holder of the Series 2024B Bonds, the Bond Registrar will not be responsible for mailing notices of redemption to the beneficial owners of the Series 2024B Bonds. See " – Book-Entry Only System" above and

^{*} Preliminary, subject to change

Appendix F. Each such notice will set forth the Series 2024B Bonds or portions thereof to be redeemed, the date fixed for redemption, the redemption price to be paid, and if less than all the Series 2024B Bonds will be called for redemption, the maturities of the Series 2024B Bonds to be redeemed and shall otherwise comply with Securities Exchange Act of 1934 Release No. 34-23856, dated December 3, 1986, including the requirement that notice be given to all organizations registered with the Securities and Exchange Commission as securities depositories, and to one or more information services of national recognition that disseminate redemption information with respect to tax-exempt securities. If any Series 2024B Bond is to be redeemed in part only, the notice of redemption will state also that on or after the redemption date, upon surrender of such Series 2024B Bond, a new Series 2024B Bond in an authorized denomination and in principal amount equal to the unredeemed portion of such Series 2024B Bond will be issued.

Any notice of optional redemption of the Series 2024B Bonds may state that it is conditioned upon there being available an amount of money sufficient to pay the redemption price, consisting of par plus interest accrued and unpaid to the redemption date, and any conditional notice so given may be rescinded at any time before the payment of the redemption price if any such condition so specified is not satisfied. If a redemption does not occur after a conditional notice is given due to an insufficient amount of funds on deposit with the Trustee, the corresponding notice of redemption will be deemed to be revoked.

If the District gives an unconditional notice of redemption, then on the redemption date the Series 2024B Bonds called for redemption will become due and payable. If the District gives a conditional notice of redemption and money to pay the redemption price of the affected Series 2024B Bonds has been set aside in escrow with the Trustee for the purpose of paying such Series 2024B Bonds, then on the redemption date such Series 2024B Bonds will become due and payable. In either case, if on the redemption date the Trustee holds money to pay the Series 2024B Bonds called for redemption, thereafter no interest will accrue on those Series 2024B Bonds, and a Bondholder's right will be to receive payment of the redemption price upon surrender of those Series 2024B Bonds.

SECURITY AND SOURCES OF PAYMENT

THE SERIES 2024B BONDS ARE SPECIAL OBLIGATIONS OF THE DISTRICT PAYABLE SOLELY FROM THE NET REVENUES AND OTHER FUNDS PLEDGED TO SECURE THE SERIES 2024B BONDS UNDER THE TRUST AGREEMENT. THE SERIES 2024B BONDS 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 THE SERIES 2024B BONDS 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.

General

Principal of and interest on the Series 2024B Bonds will be payable from "Net Revenues" of the District pledged to the payment thereof and money held in certain funds and accounts under the Trust Agreement.

"Net Revenues" means all revenues received by the District from its Wastewater System less Operating Expenses, provided, that Net Revenues does not include any Transition Charge (as defined in the Trust Agreement).

The realization of amounts to be derived upon the enforcement of the Series 2024B Bonds will depend upon the exercise of various remedies specified in the Trust Agreement. These and other remedies

may, in many respects, require judicial action of a nature that is often subject to discretion and delay. Under existing laws, the remedies specified in the Trust Agreement may not be readily available or may be limited. A court may decide not to order the specific performance of the covenants contained in the Trust Agreement. The various legal opinions to be delivered concurrently with the delivery of the Series 2024B Bonds will be qualified as to the enforceability of the various legal instruments by limitations imposed by state and federal laws, rulings and decisions affecting remedies and by bankruptcy, fraudulent conveyance, reorganization and other laws affecting the enforcement of creditors' rights generally.

Under the Trust Agreement, the District is subject to covenants relating to the existence of liens on Property and maintenance of a specified Long-Term Debt Service Coverage Ratio relating to, among other things, incurrence of Indebtedness. See " – Limitation on Creation of Liens" and " – Limitations on Indebtedness" in Appendix C hereto.

Rate Covenant

In the Trust Agreement, the District covenants to set and revise its rates and charges for facilities, services and products such that the Net Revenues, calculated at the end of each Fiscal Year, will equal at least 120% of the sum of the Principal and Interest Requirements (as defined in the Trust Agreement) on Senior Obligations (the "Rate Covenant"). If, for any reason, the Net Revenues are insufficient to satisfy the foregoing covenant, the District shall within one hundred and twenty (120) days adjust and increase its rates, fees and other charges (to the extent permitted by the Enabling Act) or reduce its current expenses so as to provide sufficient Net Revenues to satisfy the Rate Covenant.

On or before the last day of each Fiscal Year, the District will review the adequacy of its rates, fees and other charges for the next Fiscal Year, and, if such review indicates the District's rates, fees and other charges are insufficient to satisfy the Rate Covenant, the District will promptly take appropriate action to increase its rates, fees and other charges or reduce its current expenses to cure any deficiency. See "– Rate Covenant" in Appendix C hereto.

Senior Obligations

<u>Publicly Held Bonds</u>. As of July _, 2024, [note-outstanding principal amounts to be updated] the District has outstanding six series of publicly held Bonds constituting Senior Obligations under the Trust Agreement, including its Wastewater Revenue Bonds, Series 2016A (the "Series 2016A Bonds"), of which \$80,445,000 principal amount is outstanding, its variable rate Wastewater Revenue Bonds, Series 2016B (the "Series 2016B Bonds," and together with the 2016A Bonds, the "Series 2016 Bonds"), of which \$50,000,000 principal amount is outstanding, its Wastewater Revenue Bonds, Refunding Series 2017A (the "Series 2017B Bonds"), of which \$72,055,000 principal amount is outstanding, its Wastewater Revenue Bonds, Series 2018A (the "Series 2018 Bonds"), of which \$16,010,000 principal amount is outstanding, its Wastewater Revenue Bonds, Refunding Series 2019A (Federally Taxable) (the "Series 2019 Bonds"), of which \$192,855,000 principal amount is outstanding, and its Wastewater Revenue Bonds, Refunding Series 2024A (the "Series 2024A Bonds"), of which \$115,585,000 principal amount is outstanding.

<u>WIFIA Bonds</u>. The District issued its Wastewater Revenue Bond, Series 2020 (Federally Taxable) (the "2020 WIFIA Bond"), and its Wastewater Revenue Bond, Series 2021 (Federally Taxable) (the "2021 WIFIA Bond"), to the United States Environmental Protection Agency (the "WIFIA Lender") pursuant to the terms of the WIFIA Master Agreement, dated as of September 28, 2020 (the "WIFIA Master Agreement"), and the separate WIFIA Loan Agreements with respect to each such Bond (the "WIFIA Loan Agreements"), each by and between the WIFIA Lender and the District. Proceeds of the 2020 WIFIA Bond will be used to finance the District's Sustainable Water Initiative for Tomorrow (SWIFT) – Tranche 1

Project, and proceeds of the 2021 WIFIA Bond will be used to finance the District's SWIFT – Tranche 2 Project.

The 2020 WIFIA Bond and the 2021 WIFIA Bond are secured as Senior Obligations under the Trust Agreement and are referred to herein, collectively with any other Senior Obligations issued to the WIFIA Lender under the WIFIA Master Agreement, as "WIFIA Bonds."

The 2020 WIFIA Bond is in the principal amount of up to \$225,865,648, bearing interest on the amount drawn under the related WIFIA Loan Agreement. The final maturity date of the 2020 WIFIA Bond is the earlier of (a) April 1, 2060, and (b) the principal payment date thereon immediately preceding the date that is 35 years following the Substantial Completion Date, as defined in the WIFIA Master Agreement. The 2021 WIFIA Bond is in the principal amount of up to \$476,581,587, plus interest that may be capitalized in accordance with the related WIFIA Loan Agreement and added to the principal amount of the 2021 WIFIA Bond, subject to a maximum accreted amount of \$528,581,587. The final maturity date of the 2021 WIFIA Bond is the earlier of (a) June 1, 2060, and (b) the principal payment date thereon immediately preceding the date that is 35 years following the Substantial Completion Date, as defined in the WIFIA Master Agreement. [note-outstanding principal amounts to be updated] As of July _, 2024, (i) the outstanding principal amount of the 2020 WIFIA Bond was \$187,976,770, with an undrawn principal amount of \$37,888,878, and (ii) the outstanding principal amount of the 2021 WIFIA Bond was \$168,228,680, with an undrawn principal amount of \$360,352,907, including potentially capitalizable interest.

<u>VRA Revolving Loan Fund Indebtedness</u>. Since 1993 the District has borrowed over [\$527] million from the Virginia Resources Authority Revolving Loan Fund and issued, in evidence of its obligations to repay such loans, 25 issues of bonds that are outstanding Senior Indebtedness and recognized as such under the Trust Agreement (the "VRA Obligations" and collectively, with the Series 2016 Bonds, the Series 2017 Bonds, the Series 2018 Bonds, the Series 2019 Bonds, the Series 2024A Bonds, the Series 2024B Bonds, when, as and if issued, the WIFIA Bonds, and other Bonds or additional VRA Obligations issued from time to time under the provisions of the Trust Agreement, the "Senior Obligations"). [note-outstanding principal amounts to be updated] As of July _, 2024, the outstanding drawn amount of the VRA Obligations was \$ million, with an undrawn authorized amount of \$ million.

Generally, after an initial period where no interest accrues on such VRA Obligations, interest accrues on the disbursed principal of the outstanding VRA Obligations at interest rates ranging from 1.0% to 2.85% per annum, and principal and interest are payable in installments over the terms of the VRA Obligations. The VRA Obligations have been issued for various improvements and upgrades at several of the District's treatment plants. See the table "DEBT SERVICE REQUIREMENTS FOR SENIOR OBLIGATIONS" and " – Limitation on Creation of Liens" in Appendix C. The Series 2024B Bonds are on parity under the Trust Agreement with the Outstanding VRA Obligations as to their lien on the Net Revenues of the District.

Additional Senior Obligations

Under the Trust Agreement, the District may issue Additional Senior Obligations, including Additional Bonds and VRA Obligations, for the District's Capital Improvement Program or to refund outstanding Senior Obligations subject to the District's demonstrating its compliance with the conditions for the incurrence thereof under the Trust Agreement or qualifying for an exception thereto. The District anticipates that it will finance a portion of its Capital Improvement Program with future issues of Additional Senior Obligations and Subordinate Obligations, which are subordinate to Senior Obligations. See " – Limitations on Indebtedness" in Appendix C.

DEBT SERVICE REQUIREMENTS FOR SENIOR OBLIGATIONS

Total Series Principal Interest Debt Service Debt Service Debt Service S		Se	eries 2024B Bond	S		
June 30 Principal Interest Debt Service Debt Service(1,2) Service(3) 2025 \$ \$ \$77,320,982 \$ 2026 80,108,903 \$ 2027 82,452,220 79,098,936 2029 88,768,796 \$ 2030 88,587,779 \$ 2031 89,127,079 \$ 2032 84,350,636 \$ 2033 82,509,368 \$ 2034 81,549,870 \$ 2035 81,108,894 \$ 2036 78,191,510 \$ 2037 78,239,372 \$ 2038 77,989,966 \$ 2039 63,196,189 \$ 2040 55,391,948						
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2026 80,108,903 2027 82,452,220 2028 79,098,936 2029 88,768,796 2030 88,587,779 2031 89,127,079 2032 84,350,636 2033 82,509,368 2034 81,549,870 2035 81,108,894 2036 78,191,510 2037 78,239,372 2038 77,989,966 2039 63,196,189 2040 55,391,948	<u>June 30</u>	<u>Principal</u>	<u>Interest</u>	<u>Debt Service</u>	Debt Service ^(1,2)	Service ⁽³⁾
2026 80,108,903 2027 82,452,220 2028 79,098,936 2029 88,768,796 2030 88,587,779 2031 89,127,079 2032 84,350,636 2033 82,509,368 2034 81,549,870 2035 81,108,894 2036 78,191,510 2037 78,239,372 2038 77,989,966 2039 63,196,189 2040 55,391,948	2025	\$	\$	\$	\$77.320.982	\$
2027 82,452,220 2028 79,098,936 2029 88,768,796 2030 88,587,779 2031 89,127,079 2032 84,350,636 2033 82,509,368 2034 81,549,870 2035 81,108,894 2036 78,191,510 2037 78,239,372 2038 77,989,966 2039 63,196,189 2040 55,391,948		4	Ψ	4		*
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2040 55,391,948						
2041 48 339 473	2041				48,339,473	
2042 45,983,255						
2043 43,939,448						
2044 41,241,252						
2045 44,464,485						
2046 39,934,801						
2047 39,659,159						
2048 39,394,882						
2049 39,566,568						
2050 45,698,340						
2051 55,634,839						
2052 59,711,745						
2053 63,850,128						
2054 70,670,155						
2055 68,176,900						
2056 67,069,639						
2057 65,064,844						
2058 62,902,299						
2059 60,345,207						
2060 39,800,925 -		_	_	_		_
TOTAL ⁽³⁾ $\frac{\$}{\$}$ $\frac{\$}{\$}$ $\frac{\$2,309,440,791}{\$}$ $\frac{\$}{\$}$		\$	 \$	<u> </u>		<u> </u>

⁽¹⁾ Total Principal and Interest payments on the District's Senior Obligations as of July _, 2024. Does not include debt service on the Series 2024B Bonds. Assumes the District makes the maximum allowable draws on the WIFIA Bonds and the VRA Obligations, including the portions of such loans that are undrawn as of the date of this Official Statement. See " – Senior Obligations – WIFIA Bonds" and " – VRA Revolving Loan Fund Indebtedness" above.

⁽²⁾ The Series 2016B Bonds, which constitute Variable Rate Indebtedness, are assumed to bear interest at the rate of 3.84% per annum, which is 120% of the average rate on the Series 2016B Bonds during the first quarter of 2024. No assurance can be given, however, that the rates on the Series 2016B Bonds will not be higher than assumed above.

⁽³⁾ Numbers may not add to totals due to rounding. Debt service is shown in the fiscal year in which the same comes due.

HAMPTON ROADS SANITATION DISTRICT

Authorization and Purpose

Creation of the District was approved in a 1940 public referendum authorized by the Virginia General Assembly. A political subdivision of the Commonwealth of Virginia (the "Commonwealth"), the District was established as a governmental instrumentality to provide for the public health and welfare. Chapter 66, Acts of the Assembly of 1960, validated and confirmed prior legislation creating the District and repealed earlier acts of the Virginia General Assembly enacted with respect to the District.

The District was created for the specific purpose of abating pollution in the Hampton Roads area of Virginia through the interception of existing wastewater outfalls, the construction of wastewater treatment facilities and the installation of interceptors throughout the service area. The District does not provide water, solid waste disposal or storm water mitigation. The cities, counties and military establishments the District serves provide those services. With the exception of the Counties of Accomack, King William, King and Queen, Middlesex, Mathews, Northampton, and Surry, excluding the Town of Claremont, the collection system, consisting of lateral sewers and sub trunk facilities that carry wastewater from industries, homes, apartments and businesses to the District's interceptor system, are the responsibility of the various cities, counties and military establishments within the District.

The District is a separate legal entity from the various cities, towns, counties and military establishments within the District. See " – The Commission" below.

History

The District traces its origins to 1925, when the Virginia Department of Health condemned a large oyster producing area in Hampton Roads. The closure resulted in the Virginia General Assembly creating in 1927 a "Commission to Investigate and Survey the Seafood Industry of Virginia." Subsequent studies recommended a public body to construct and operate a sewage system in the area.

In 1934, the Virginia General Assembly created the Hampton Roads Sanitation Disposal Commission with instructions to plan the elimination of pollution in Hampton Roads. Recommendations were made to the General Assembly which resulted in the Sanitary Districts Law of 1938, along with "An Act to provide for and create the Hampton Roads Sanitation District." In a referendum held on November 5, 1940, a majority of the voters approved the creation of the District.

The District's first construction project, the Warwick County Trunk Sewer, began on June 26, 1946. The District commenced operations on July 1, 1946, using facilities acquired from the United States Government. The District's first treatment plant, the Army Base Plant, commenced operations on October 14, 1947. Since that time, the facilities of the District have been expanded to provide wastewater treatment service to all major population centers within its boundaries.

The Commission

The District operates under the direction of its governing body, the Hampton Roads Sanitation District Commission (the "Commission"), comprised of eight members appointed by the Governor for staggered terms of four years. Members of the Commission may be reappointed without limitation and may be suspended or removed by the Governor at his pleasure. The Commission annually elects one of its members as Chair and another as Vice Chair. Under the Enabling Act, the eight members of the Commission must be residents of the cities and counties of the District as follows: one member from the City of Norfolk; one from the City of Virginia Beach; one from the City of Newport News, the City of

Williamsburg or James City County; one from the City of Hampton or the City of Poquoson or York County; one from the City of Chesapeake; one from the City of Suffolk, Isle of Wight County or Surry County; one from Accomack County, Northampton County, Gloucester County, King William County, Mathews County, Middlesex County, or King and Queen County; and one from the City of Portsmouth.

The Commission is empowered, among other things, to (1) construct and improve, extend, enlarge, reconstruct, maintain, equip, repair and operate a wastewater system or systems, either within or without or partly within and partly without the corporate limits of the District, and to construct wastewater improvements within the corporate limits of the District, (2) issue the District's bonds, payable solely from revenues, to pay all or part of the cost of a wastewater system, (3) fix, revise, charge and collect rates, fees and charges for the use of and for the services of any system operated by the District, (4) enter into contracts with any unit, including counties, cities and other authorities, relating to the furnishing of services of the District, and (5) acquire real or personal property necessary in connection with wastewater systems or wastewater improvements.

The current members of the Commission and their biographies are set forth below.

<u>Commissioners</u>	<u>Residence</u>	Occupation	Term Expires June 7,
Stephen C. Rodriguez, Chair	Chesapeake	Inspector, VDOT Construction Division	2028
Frederick N. Elofson, CPA, [Vice Chair]	Newport News	Retired Certified Public Accountant and Personal Financial Specialist, Dixon Hughes Goodman LLP	2026
Michael E. Glenn	Norfolk	President, Luna Development Services, LLC	2027
Vishnu K. Lakdawala, Ph.D.	Virginia Beach	Associate Professor, Electrical and Computer Engineering, Old Dominion University	2026
Willie Levenston, Jr.	Portsmouth	Retired Supervisor Electronics Engineer, Norfolk Naval Shipyard	2027
Nancy J. Stern	Belle Haven	Retired Chief Executive Officer, Eastern Shore Rural Health System	2025
Elizabeth A. Taraski, Ph.D.	Suffolk	Retired President/CEO, Nansemond River Preservation Alliance	2025
Ann W. Templeman	Hampton	Senior Business Support Analyst, Virginia Natural Gas	2028

Stephen C. Rodriguez, Chair. Mr. Rodriguez, a member of the Commission since October 5, 2012, is the retired owner and president of Cruco Inc., which provided construction services in Hampton Roads. He currently works in the Construction Division for the Virginia Department of Transportation (VDOT). Mr. Rodriguez previously served as chair of the Foundation for Virginia Natural Resources, chair of the OBX Hospital Board, and past president of the Deep Creek Ruritan Club. He has also served on the Chesapeake School Board, the Chesapeake Hospital Authority, the Chesapeake Economic Development Authority, and the board of directors of Opportunity, Inc. He is an alumnus of Old Dominion University and holds a bachelor's degree in civil engineering technology and a certificate in civic leadership. Mr. Rodriguez resides in the City of Chesapeake.

<u>Frederick N. Elofson, CPA, [Vice Chair]</u>. Mr. Elofson, a member of the Commission since July 1, 2006, is a Certified Public Accountant and retired senior partner in Dixon Hughes Goodman LLP, in Newport News. He earned a bachelor's degree in accounting from West Virginia University and has nearly 40 years of accounting experience. A former chair of the board and treasurer of the Peninsula Chamber of

Commerce, Mr. Elofson remains active in numerous professional and civic organizations. He is a past treasurer and board member of the Schooner Virginia Project, a past president of the Peninsula Estate Planning Council, treasurer and Sunday School teacher at First Baptist Church Newport News, member of the Committee on Investments for the City of Newport News Retirement Fund and has been honored as a Chamber of Commerce Volunteer of the Year. Mr. Elofson resides in the City of Newport News.

Michael E. Glenn, Commissioner. Mr. Glenn, a member of the Commission since May 13, 2008, is president of Luna Development Services, LLC. The firm, which offers full-service general contracting and real estate development services, is a Certified Virginia Minority Business Enterprise. Before founding his firm in 2004, Mr. Glenn was Director of Operations, Real Estate Services and Contracts for Troutman Sanders, LLP. He also has served as a development executive for Armada Hoffler Development and as a Wachovia Bank vice president. Mr. Glenn received a bachelor's degree in psychology, with a minor in biology, from Old Dominion University. Mr. Glenn resides in the City of Norfolk.

Vishnu K. Lakdawala, Ph.D., Commissioner. Dr. Lakdawala, a member of the Commission since June 8, 2002, obtained his undergraduate degree in electrical engineering from Bangalore University in India in 1972 and his Master of Engineering in High Voltage Engineering from Indian Institute of Science in 1974. He worked as Research and Development Engineer in Jyoti Limited for three years in the high voltage instrument transformers division. He received his Ph.D. in electrical engineering from the University of Liverpool in 1980. After serving as senior research associate in the Department of Electrical Engineering and Electronics in the University of Liverpool for a year, he joined Oak Ridge National Laboratory, Oak Ridge, Tennessee, where he conducted research for a year. He joined the faculty of Old Dominion University in 1983 as Assistant Professor in the Department of Electrical and Computer Engineering. He is currently the Chief Departmental Advisor and Associate Professor of Electrical and Computer Engineering. Dr. Lakdawala has served as the president and chairman of the Board of Trustees of the Hindu Temple of Hampton Roads. Dr. Lakdawala received the National Association of Clean Water Agencies (NACWA) 2019 National Environmental Achievement Award for Local Public Service, honoring his transformative leadership, technical understanding, focus on community engagement, and deep commitment to the environment as an HRSD Commissioner. Dr. Lakdawala resides in the City of Virginia Beach.

<u>Willie Levenston, Jr., Commissioner</u>. Mr. Levenston, a member of the Commission since September 9, 2014, earned his Bachelor of Science in Engineering from Southern University in Baton Rouge, Louisiana. He retired from the Norfolk Naval Shipyard in 2008 after more than 40 years of service. In his capacity as Supervisor Electronics Engineer, Mr. Levenston was responsible for Surface Ship Exterior Radio Communications, Secure/Communication Information Processing, Naval Tactical Data Systems, Search Radar, Electronics Countermeasure/Navigational Aids, and the Submarine Communication sections. Mr. Levenston resides in the City of Portsmouth.

Nancy J. Stern, Commissioner. Ms. Stern, a member of the Commission since August 6, 2021, served the Eastern Shore Rural Health System, Inc. for over 30 years in various positions, recently retiring as Chief Executive Officer. Her prior roles there include Chief Operating Officer, Director of Human Resources and Director of Health Education. She served on Governor Bob McDonnell's Task Force and ConnectVA Governing Board, and on Governor Tim Kaine's Health Reform Commission. Ms. Stern also served on the board of the Virginia Primary Care/Virginia Community Healthcare Association for 18 years with three of those years as Board President. She earned a Bachelor of Science from West Chester University and earned Certification in Health Care Management/Administration from Old Dominion University. Ms. Stern resides in Belle Haven, Virginia.

<u>Elizabeth A. Taraski, Ph.D., Commissioner</u>. Dr. Taraski, a member of the Commission since June 8, 2017, Dr. Taraski retired in 2023 after serving 12 years as President/CEO of the Nansemond River

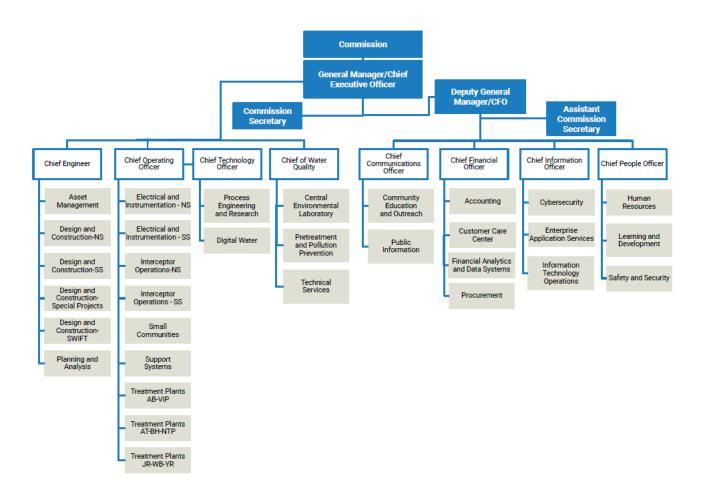
Preservation Alliance in Suffolk, Virginia. Previously she served in senior fundraising management positions at Old Dominion University and the University of Richmond. Before moving to Virginia in 1998, Dr. Taraski was Director, Administration and Industrial Relations, Multi-lifecycle Engineering Research Center, New Jersey Institute of Technology. Dr. Taraski, currently serves as the Community Chair, Former Nansemond Ordnance Depot (FNOD), Restoration Advisory Board. Dr. Taraski has been a member of the Suffolk Rotary since 2016 and served as the Club's President in 2023. Other community activities include the Southeastern Virginia Community Foundation Scholarship Committee and Suffolk Business Women's Club. Dr. Taraski holds a Ph.D. from Seton Hall University; a Master of Science degree from New York University and a Master of Education degree from Rutgers University and completed her doctoral internship at the Alfred P. Sloan Foundation, NYC. Dr. Taraski resides in the City of Suffolk.

Ann W. Templeman, *Commissioner*. Ms. Templeman, a member of the Commission since December 3, 2021, is a Senior Business Support Analyst for Virginia Natural Gas with more than 30 years of experience in a variety of areas critical to effective utility management. She earned a Masters of Business Administration from Old Dominion University and a Bachelor of Science in Business Management from Virginia Tech. Ms. Templeman previously served on the HRSD Commission from January 27, 2017, until May 1, 2019. Ms. Templeman resides in the City of Hampton.

Management and Staff

The District is managed through eight divisions, which are organized into functional departments with their principal responsibilities summarized after the District's organizational chart set out on the following page.

HRSD Organizational Chart



Communication

• Community Relations: Develops and provides community outreach and

engagement around HRSD construction, infrastructure

development and new initiatives.

• Community Education: Develops and provides educational materials,

presentations, facility tours and outreach related to

HRSD's services, mission and vision.

Engineering

• Design & Construction: Delivers capital projects in a manner consistent

with HRSD's quality standards.

Planning & Analysis: Manages numerous diverse functions including

Hydraulic Modeling, Geographic Information System (GIS), Data Analysis and Records Management System and plans the capital infrastructure required to meet the region's future

wastewater needs.

• Asset Management: Responsible for the Computerized Maintenance

Management System (CMMS), Condition Assessment, and Emergency Management

procedures to extend the life of assets at the lowest

life cycle cost.

Finance

Accounting: Handles fiscal affairs such as preparing financial

statements, budgets, management reports and

payroll.

• Procurement: Responsible for purchasing, renting, leasing or

otherwise acquiring goods, professional and nonprofessional services, and certain construction services, managing supplier relationships and

disposing of surplus property.

• Customer Care Center: Handles billing, payments, collections,

maintenance of customer accounts and liaison with

HRSD's customers.

• Capital Finance Responsible for planning and financing the Capital

Improvement Program (CIP), debt management and grants compliance and is the functional lead for the Enterprise Resource Process system.

Information Technology

• Enterprise Data Services: Responsible for application integration and support,

data management and systems analysis and support.

Cybersecurity: Responsible for ensuring the confidentiality,

integrity and availability of all HRSD

infrastructure, information systems and business

data from malicious threats.

• Information Technology Operations: Supports departments in achieving their goals and

objectives, providing the requisite hardware,

software, storage and network connectivity to meet

business and operational requirements.

Operations

• Electrical and Energy Management: Researches innovative, cost-effective ways of

managing HRSD's energy consumption more

effectively.

• Interceptor Operations North Shore: Operates and maintains miles of interceptor

pipelines and pump stations ensuring wastewater is conveyed to each treatment plant in the Cities of

Hampton, Newport News, Poquoson and

Williamsburg, the Counties of Gloucester, James

City and York.

• Interceptor Operations South Shore: Operates and maintains miles of interceptor

pipelines and pump stations ensuring wastewater is conveyed to each treatment plant in the Cities of Chesapeake, Norfolk, Portsmouth, Suffolk and Virginia Beach and the County of Isle of Wight.

• Small Communities: Operates and maintains the treatment plants and

associated sewer collection systems in the Counties of the Middle Peninsula and the Town of West Point, the County of Surry, and Towns of

Nassawadox and Onancock on the Eastern Shore.

• Support Systems: Responsible for the maintenance of the HRSD fleet,

all buildings, operation of two carpentry shops, a full-service machine shop and managing an

infrastructure assessment team.

• Treatment: Operates and maintains the Army Base, Atlantic,

Virginia Initiative, Boat Harbor, James River, Nansemond, Williamsburg and York River

treatment plants.

• Technology Researches new technologies with a focus on rapid

deployment of innovative solutions and water

quality.

Talent Management

• Human Resources (HR): Responsible for recruitment and outreach, new

employee onboarding, benefits administration, compensation and classification, employee relations, HRSD's wellness program, workers' compensation, employee records, retirement, and

HR policies.

Organizational Development and

Training:

Oversees HRSD's Apprenticeship Program and is dedicated to developing and supporting HRSD's strategic plan and key initiatives to promote

training, and education.

• Safety and Security: Responsible for Occupational Safety & Health

Compliance, safety programs, employee safety training, safety records, industrial hygiene monitoring, occupational health screening, safety audits, accident investigations, compliance reporting, and risk management support.

Water Quality

• Central Environmental Laboratory: Uses the Environmental Data Management System

(EDMS) and other tools to provide analytical support for numerous monitoring, research and

regulatory purposes.

• Pretreatment & Pollution Prevention: Monitors wastewater conveyed to treatment plants

using the Pretreatment Information Management System (PIMS) and other tools, and implements its Industrial Wastewater Discharge Regulations to protect treatment plant staff, facilities and

processes.

• Technical Services: Responsible for activities including environmental

monitoring, specialized sampling, treatment process and research studies, the Municipal Assistance Program (MAP) to assist localities, as well as all

reporting required by HRSD permits.

The District's administration is overseen by a General Manager/Chief Executive Officer, supported by eight chiefs and their staffs. For Fiscal Year 2025, the District has budgeted for 948 full-time employees. Current staffing is sufficient to operate all existing facilities. None of its employees is currently represented by a union.

The following individuals are responsible for the daily management and affairs of the District (with titles changed, where appropriate, to conform to the District's current organizational chart, which became effective on July 1, 2024):

Jay A. Bernas, P.E., MBA, General Manager and Chief Executive Officer

Jay Bernas was promoted to General Manager and Chief Executive Officer in February 2022. Before his promotion to General Manager and Chief Executive Officer, Mr. Bernas served as Chief Financial Officer for six years, Director of Planning and Analysis for 10 years, and was responsible for

planning HRSD's Capital Improvement Program, performing business case analyses, system capacity analyses to support regional growth and managing four technical sections: Geographic Information Systems, Data Analysis, Hydraulic Modeling and Capital Planning. Prior to joining HRSD, he was a project manager with the City of Virginia Beach. Mr. Bernas graduated from Old Dominion University in 1995 with a bachelor's degree in Civil Engineering and earned his MBA from the College of William and Mary in 2013. He also has completed the Kenan-Flagler Water and Wastewater Leadership Program and was part of the 2008 class for LEAD Hampton Roads. He received the George Robert House, Jr. Award for the young public administrator of the year from the American Society for the Public Administration in 2006 and was recognized by Inside Business as a "Top Forty under 40" in 2011. Appointed by the Virginia Beach City Council to serve on the Planning Commission from 2006-2013, Mr. Bernas was its chair for the last two years of his tenure. He was elected to the Board of Trustees for the \$1.4 billion Virginia Investment Pool in 2018 and serves on the audit subcommittee. He was elected in 2020 to the National Association of Clean Water Agencies (NACWA), a national leader in clean water advocacy, and serves on NACWA's audit committee.

Steven G. de Mik, CPA, MBA, Deputy General Manager and Chief Financial Officer

Steve de Mik, who joined HRSD in 2008, was promoted to Deputy General Manager and Chief Financial Officer in July, 2022. Mr. de Mik provides broad oversight and strategic direction to various divisions, specifically Finance, Information Technology, Talent Management and Communications. He previously served as Chief Operating Officer from 2015 to 2022. In that role, he led a staff of over 500 responsible for the complex operation and maintenance of HRSD's treatment plants, interceptor systems, and electrical and instrumentation infrastructure as well as various support services. His initial role at HRSD was Chief Financial Officer, where he was responsible for HRSD's general financial and business functions, including financial reporting, investment portfolio, debt and risk management, and customer billing. Before joining HRSD, Mr. de Mik served for seven years as the Director of Finance and Business Services for the City of Norfolk. A certified public accountant, he holds an MBA from the College of William and Mary and has completed the Kenan-Flagler Water and Wastewater Leadership Program, the Virginia Natural Resources Leadership Program and CIVIC Leadership Institute. He received a bachelor's degree in accounting and business administration from Southwest Baptist University in Bolivar, Missouri. Mr. de Mik also serves as a board chair and treasurer for Heart for Orphans, a nonprofit organization based in the City of Williamsburg, Virginia.

Eddie M. Abisaab, PE, PMP, ENV SP, Chief Operating Officer

Eddie Abisaab joined HRSD in 2008 and was named Chief Operating Officer in July 2022. In that role, he leads a staff of over 530 who are responsible for the complex operation and maintenance of HRSD's 18 treatment plants, interceptor collection systems, water technology and research, and electrical and instrumentation infrastructure as well as various support services such as fleet management, infrastructure assessment, carpentry, and a machine shop. In his previous position as the Director of Design and Construction on North Shore, Mr. Abisaab was responsible for the execution of HRSD's Capital Improvement and Operational Infrastructure projects. Prior to joining HRSD, he worked as an engineer and project manager for both the private and public sectors. Mr. Abisaab holds a Bachelor of Science in Civil Engineering from West Virginia University, and a Master of Science in Engineering Management from Marshall University. He is a licensed Professional Engineer (PE), Project Management Professional (PMP), and certified by the Institute for Sustainable Infrastructure (ISI) as an Envision Sustainability Professional (ENV SP). Mr. Abisaab is actively involved with the Water Environment Federation (WEF) and served for four years on the Board of Directors of the Virginia Water Environment Association (VWEA) and as President in 2016-2017. He is also currently serving as VWEA's Treasurer.

Charles B. Bott, Ph.D., P.E., Chief Technology Officer

Dr. Charles B. Bott joined HRSD in 2009 and is the Chief Technology Officer. He manages technology innovation and research and development for HRSD's wastewater treatment plants and interceptor system. Dr. Bott is also an Adjunct Professor in the Departments of Civil and Environmental Engineering at Virginia Polytechnic Institute and State University ("Virginia Tech") and Old Dominion University. He was formerly an Associate Professor in the Department of Civil and Environmental Engineering at the Virginia Military Institute and a consulting engineer with Parsons Engineering Science. Dr. Bott has a bachelor's degree in Civil Engineering from the Virginia Military Institute, a master's degree in Environmental Engineering from the Johns Hopkins University, and a Ph.D. in Civil and Environmental Engineering from Virginia Tech. He is a fellow of the Water Environment Federation (WEF) and a member of the Science and Technology Advisory Committee to the Chesapeake Bay Program Executive Council, and a member of the National Science Foundation Engineering Directorate Advisory Committee. Dr. Bott is a professional engineer in Virginia, a board certified Environmental Engineer, and a licensed Wastewater Treatment Plant Operator – Virginia Class I. He is a two-time winner of the WEF Harrison Prescott Eddy Medal for outstanding contribution to wastewater principles/processes research, he was a previous member of the WEF Board of Trustees. Dr. Bott's technical interests include municipal and industrial wastewater treatment, process engineering as well as renewable energy generation and resource efficiency. He has specific expertise in the areas of advanced water treatment technologies, chemical and biological phosphorus removal, nitrification/denitrification, nutrient recovery, deammonification/anammox, biological treatment process modeling and design, and biogas conditioning. Important areas of focus are mainstream shortcut nitrogen removal, processes for biological treatment intensification, and technologies for potable reuse.

Donald C. Corrado, Chief Information Officer

Prior to his appointment as Chief Information Officer in 2008, Don Corrado served as HRSD's Director of Information Technology for nine years. In that capacity, he was responsible for the creation of HRSD's first information technology division and the design and implementation of a scalable, standards-based wide area network supporting the various enterprise-class applications required to meet HRSD's business and operational technology needs. Mr. Corrado's career includes public and private sector experience as an IT manager, enterprise solutions architect, project manager, information systems security officer, senior systems engineer and contract specialist. He earned a bachelor's degree from Old Dominion University and is a Master Certified NetWare Engineer, Microsoft Certified Systems Engineer and is ITIL and GIAC Certified. He is a member of the Gartner Executive Panel, American Water Works Association (AWWA) and WEF and has completed the Kenan-Flagler Water and Wastewater Leadership Program.

Jamie Heisig-Mitchell, Chief of Water Quality

Jamie Heisig-Mitchell became Director of Water Quality in November of 2022, overseeing the Central Environmental Laboratory (CEL), Pretreatment and Pollution Prevention (P3), and the Technical Service Division (TSD). In her previous position as Director of TSD, she managed staff involvement in environmental and wastewater monitoring and research as well as assuming responsibility for HRSD's permit negotiations and oversight of regulatory compliance with Clean Water Act, Clean Air Act, and Safe Drinking Water Act programs. Ms. Heisig-Mitchell serves on the board of the Virginia Association of Municipal Wastewater Agencies (VAMWA) and the University of Colorado Boulder's Water Reuse Advisory Board, is Chair of VAMWA's Water Quality Committee, Co-Chair of the National Association of Clean Water Agencies (NACWA) Biosolids Committee, Past-President of the Virginia Biosolids Council, member of the Eastern Virginia Medical School's Institutional Biosafety Committee, and has served on numerous Virginia Department of Environmental Quality Advisory Panels and Subcommittees. Ms. Heisig-Mitchell received her Master of Science from Old Dominion University in Norfolk, Virginia.

Bruce W. Husselbee, Ph.D., P.E., BCEF, DBIA, Chief Engineer

Bruce Husselbee became Chief Engineer in July 2005. Before his promotion to this senior leadership position, he was a Project Manager in the HRSD Design and Construction Department for nine years. Mr. Husselbee previously worked in the consulting engineering field for 12 years prior to joining HRSD. He holds a bachelor's degree in Civil Engineering, a master's degree in Environmental Engineering from George Washington University and a Ph.D. in Coastal Engineering form Old Dominion University. He also has completed the Kenan-Flagler Water and Wastewater Leadership Program. He is active in a number of professional organizations including the Old Dominion University Civil and Environmental Engineering Visiting Council, the Design-Build Institute of America and the WEF Utility Management Committee. He is a member of the Board of Directors of the Design Build Institute of America.

Dorissa T. Pitts-Paige, Chief People Officer

Dorissa Pitts-Paige joined HRSD in November of 2006 as a Human Resources Business Partner. She was promoted to Chief People Officer in December 2021. Ms. Pitts-Paige has worked in public sector human resources for over 20 years as a strategic business partner in the areas of organizational development and training, employee relations, recruitment, benefits, and as a champion for diversity, equity, and inclusion. Ms. Pitts-Paige holds a Bachelor's Degree in Broadcast Journalism from Hampton University, a Master's Degree in Human Resources Management from Troy University and a Master of Law degree from Regent University. She is a certified Professional in Human Resources (PHR) by the Human Resources Certification Institute (HRCI), Senior Certified Professional (SCP) by the International Public Management Association for Human Resources (IPMA-HR), and a Senior Certified Professional (SHRM-SCP) by the Society for Human Resources Management (SHRM). She served as the Director of Workforce Development for the Hampton Roads Society for Human Resources Management (HRSHRM) from 2019-2021. She currently serves as the Vice Co-Chair of the Virginia Water Environment Association (VWEA) Diversity, Equity, and Inclusion Council. She is a member of Alpha Kappa Alpha Sorority Incorporated.

Leila E. Rice, APR, Chief Communications Officer

Leila Rice, who joined HRSD in March 2017, directs and guides overall strategic communication initiatives, internal and external communications, media relations, crisis communications, branding, social media, and community relations and community education programs. She previously served as Public Affairs Manager for Elizabeth River Crossings, where she managed internal and external communications, media relations and community outreach for the Elizabeth River Tunnels Project. Her experience also includes serving as Community and Media Relations Manager for Norfolk-based non-profit agency ForKids, Inc., and more than 20 years of radio and television media experience. Ms. Rice holds a Bachelor of Arts in Communication Arts from James Madison University and received her Accreditation in Public Relations in 2017. She is a member and former officer of the Public Relations Society of America, Hampton Roads Chapter, and also a member of the Water Environment Foundation (WEF). She serves on the NACWA Communications and Public Affairs Committee and on the Board of Directors for the Foodbank of Southeastern Virginia and the Eastern Shore.

Awards

HRSD has received numerous awards for excellence in plant operations and maintenance, environmental engineering and design, public education, and financial reporting. To date, its treatment plants have earned 399 awards for outstanding compliance with National Pollutant Discharge Elimination System ("NPDES") permits since 1986, when the recognition program was established.

Awards and honors received include the 2023 Governor's Environmental Excellence Gold Award for collaboration with DC Water on development of Next Generation Mainstream Nitrogen Removal Technology through Partial Denitrification-Anammox (PdNA); the 2022 Water Environment Federation (WEF) Project Excellence Award for the Providence Road Offline Storage Facility Woodstock Park Improvements Project, as well as the Design-Build Institute of America (DBIA) Design-Build Merit Award and Design-Build Award of Excellence in the Water/Wastewater sector for the same project. HRSD also earned the National Association of Clean Water Agencies (NACWA) National Environmental Achievement Awards in the categories of Research and Technology, Public Information and Education and Workforce Development in 2022, and Public Information and Education again in 2023, and the 2023 Grand and Pinnacle awards from the American Council of Engineering Companies (ACEC) of Virginia for the Chesapeake-Elizabeth Interceptor Diversion Improvements Project. The HRSD Finance Department also earned the George F. Ames PISCES award in the Innovative Finance category from the Environmental Protection Agency (EPA).

HRSD employees and leaders honored and recognized for their work and service include Dr. Charles Bott, awarded the Frederick George Pohland Medal; Commissioner Vishnu Lakdawala, receiving the NACWA 2019 Public Service Award, and Dr. Jim Pletl, receiving the NACWA Distinguished Service Award before his retirement from HRSD.

THE SERVICE AREA

The District provides service to approximately 5,000 square miles of land area within the boundaries of its service area. The geographical limits are shown on the map behind the inside front cover and include the following localities:

City of Chesapeake Gloucester County City of Hampton Isle of Wight County City of Newport News James City County City of Norfolk King and Queen County City of Poquoson King William County City of Portsmouth **Mathews County** City of Suffolk Middlesex County City of Virginia Beach Northampton County

City of Williamsburg Surry County (excluding Town of Claremont)

Accomack County York County

The District and the Commission are independent of the localities served by the District. See "HAMPTON ROADS SANITATION DISTRICT – Authorization and Purpose" and "– The Commission."

The District's Enabling Act includes provisions for adding territory to the District. From time to time, adjacent Counties have requested to have their jurisdictional area added to the territory within the District. In 2020, for example, the Counties of Northampton and Accomack on Virginia's Eastern Shore were added to the District.

Population Growth

The area within the District has experienced substantial urban and suburban development and consequent population growth. The historical population within the District is presented below. Presently, the District contains more than 20% of the population of the Commonwealth of Virginia.

Historical Population Growth in the District

		Population
Year	Population(1)	Increase (%)(2)
1960	660,338	
1970	973,247	47
1980	1,085,332	12
1990	1,431,000	32
2000	1,551,000	8
2010	1,674,917	8
2020	1,813,000	8
2023	1,817,000	0

Sources: 1960-2020, United States Bureau of the Census; 2023, Weldon Cooper Center.

Increase in population includes both increases in population within the District's original service area, as well as the expansion of the District's service area.

The District's top ten ratepayers represented 7.6% of the District's total rate base, as measured by wastewater treatment charges, in Fiscal Year 2023. The following table compares the top ten ratepayers in Fiscal Year 2023 with the top ten ratepayers in Fiscal Year 2014.

Wastewater Treatment Charges <u>Ten Largest Customers</u>

		Fiscal Y	ear 2023	Fiscal Y	ear 2014
Customer	<u>Type</u>	Amount ⁽¹⁾	% of Total	Amount ⁽¹⁾	% of Total
U.S. Navy - Norfolk Naval Base	Military Facility	\$6,711	1.80%	\$4,026	1.90%
Anheuser - Busch, Inc.	Brewery	4,015	1.00	4,457	2.10
Huntington Ingalls Industries ⁽²⁾	Shipbuilding	2,891	0.80	1,661	0.80
U.S. Air Force-Langley Air Force Base	Military Facility	2,492	0.70	-	-
Norfolk Naval Shipyard	Military Ship	2,449	0.60	1,249	0.60
	Repair				
Norfolk Redevelopment & Housing	Housing Authority	2,361	0.60	1,479	0.70
Authority					
City of Norfolk	Municipality	2,183	0.60	1,686	0.80
Joint Expeditionary Base Little Creek -	Military Facility	2,031	0.50	1,384	0.70
Fort Story ⁽³⁾					
Oceana Naval Air Station / Dam Neck	Military Facility	1,812	0.50	_	-
City of Virginia Beach	Municipality	1,777	0.50	=	-
Smithfield Foods	Meat Processor	-	-	3,327	1.60
U.S. Army - Fort Eustis	Military Facility	-	-	1,076	0.50
Sentara Healthcare	Healthcare	-	-	1,019	0.50
Totals ⁽⁴⁾		<u>\$28,722</u>	<u>7.60%</u>	<u>\$21,364</u>	<u>10.20%</u>

⁽¹⁾ Dollar amounts in thousands.

⁽²⁾ Formerly Northrop Grumman Newport News/Newport News Shipbuilding and Dry Dock Co.

⁽³⁾ Formerly U.S. Navy – Little Creek Amphibious Base.

⁽⁴⁾ Totals may not add due to rounding.

Wastewater Flow

During the past five years, the number of service connections has grown by 2.1%. Billed water consumption has declined by approximately 1.0% during such period because of conservation efforts on the part of utility customers fostered by increasing water and sewer rates, improved construction materials and the installation of low flow plumbing fixtures.

Wastewater Flows and Service Connections

Fiscal Year Ended June 30	Average Daily <u>Wastewater Flow</u> ⁽¹⁾	Total Billed Wastewater Flow ^(1,2)	Service Connections
2019	152.6	110	476,000
2020	140.9	110	478,000
2021	154.4	111	481,000
2022	132.3	111	484,000
2023	135.1	109	486,000

⁽¹⁾ Millions of Gallons per Day (MGD).

Expansion of Service Area

In most instances, the routine expansion of the service area results from the extension of the interceptor system performed at the request of a local government when growth or flow warrants. However, these interceptor lines will generally not be constructed based on speculation that future service areas will develop as planned unless the local jurisdiction(s) provides financial assistance.

Environmental Risks

The Hampton Roads region, in which the District operates, is vulnerable to the impacts of flooding, which are projected to increase in severity. The combination of land subsidence and rising ocean levels increase the risk of higher tides and higher storm surges. Additionally, heavy rainfall events are projected to increase in intensity and frequency, which may result in localized flooding as streams overtop their banks and stress existing stormwater systems. See "THE SYSTEM – Environmental Priorities and Efforts" herein.

THE SYSTEM

The Wastewater System consists of eight major treatment plants (225 million gallons per day (MGD) capacity), six smaller plants (aggregating 1.61 MGD capacity) and its combined interceptor systems consisting of 136 pump and pressure reducing stations and approximately 561 miles of interceptors and collection sewer ranging in diameter from 6 to 66 inches. The interceptors, which are gravity and force mains, convey wastewater from the point of delivery by municipalities, industry and other users of the Wastewater System to the District's treatment plants.

⁽²⁾ Water meters are read for billing purposes by the participating jurisdictions.

The following table identifies the location of the District's major treatment plants, their design capacities and, for the Fiscal Year ended June 30, 2023, their average daily flows.

Treatment System Capacity & Flows (Millions of Gallons per Day)

Major <u>Treatment Facilities</u>	Average Design <u>Capacity</u>	FY 2023 Annual Average Daily Flow
Army Base [Norfolk]	18.0	8.4
Atlantic [Virginia Beach]	54.0	42.8
Boat Harbor [Newport News]	25.0	10.7
James River [Newport News]	20.0	12.1
Nansemond [Suffolk]	30.0	15.3
Virginia Initiative [Norfolk]	40.0	24.7
Williamsburg [James City County]	22.5	8.7
York River [York County]	<u>15.0</u>	<u>11.6</u>
TOTALS	<u>224.5</u>	<u>134.3</u>

In addition to the major facilities described above, the District operates six additional small wastewater treatment plants: two in Middlesex County with a combined capacity of 0.125 MGD, one in the Town of West Point (King William County) with a capacity of 0.60 MGD, one in King William County with a capacity of 0.10 MGD, one in the Town of Onancock (Accomack County) with a capacity of 0.75 MGD, and one in the Town of Chincoteague (Accomack County) with a capacity of 0.038 MGD. The interceptor system for these localities includes 46 pumping stations. HRSD is responsible for the collection, conveyance and treatment of wastewater, in the Counties of King William, King and Queen, Middlesex, Mathews, and portions of Northampton and Accomack Counties.

System Improvements and Innovations

HRSD completed significant renewals and improvements to its treatment plants, pump stations, interceptor sewers, operational and administrative facilities in recent years. Electrical equipment upgrades throughout all HRSD facilities were made to replace aging system components as well as meet new arc flash safety requirements. The on-going infrastructure renewal program has replaced a number of major interceptor pipelines and pump stations in the southern portion of the District's service area. Improvements included several projects associated with taking the Chesapeake-Elizabeth Treatment Plant (CETP) offline, the Virginia Beach Boulevard Force Main Phase VI project, the Elbow Road Pressure Reducing Station project, and upgrades to six existing power reducing stations throughout the South Shore system. Also instrumental to the closure of CETP was the construction of a five-million-gallon wet weather storage facility and pump station attached to a City of Virginia Beach skate park facility. In Norfolk, HRSD acquired the Robin Hood Road pump station to improve system functionality associated with the existing Chesapeake Boulevard pump station. In the Peninsula portion of the service area, major interceptor pipelines and pump station improvements were executed, including the completion of the West Avenue and 35th Street force main in Newport News, the Bloxom's Corner force main in Hampton, the Smithfield Interim Pressure reducing station in Isle of Wight County, the Hampton Trunk 'A' force main in Hampton, the Patrick Henry pump station interconnect force main in Newport News, the Morrison pump station discharge force main replacement in Newport News, and the Kingsmill pump station piping replacement and wet well rehabilitation in James City County.

HRSD owns approximately 136 pump stations and pressure reducing stations that use various control scenarios using programmable controls to maintain various set points throughout the interceptor system. To provide a more reliable control and monitoring system, new control panels have been placed at nearly every station and system control points within the last three years. The Supervisory Control and Data Acquisition (SCADA) system, currently nearing the end of the deployment phase, allows for future capacity optimization control regimes, including real time control and predictive measures to get the most out of the interceptor system.

A comprehensive metering network installed throughout the Wastewater System aids in optimizing system operations and provides flow data to HRSD's dynamic hydraulic model for calibration and validation purposes. The hydraulic model is one of the most sophisticated sewer modeling efforts in the country and is used to guide placement and sizing of future system improvements to cost effectively address wet weather peak flows. In addition, HRSD uses a hydraulic model to evaluate new connections to the system to ensure capacity, size new pipelines and pump stations, develop contingency scenarios and improve system operational efficiency. The hydraulic model was instrumental in HRSD's decision to take the CETP offline and divert the flow to use available capacity at the Atlantic Treatment Plant (ATP). HRSD estimates that the 30-year net present value of savings realized from this decision is approximately \$200 million.

In 2017, both the Town of Surry and Surry County transferred their treatment plants and collections systems to HRSD. The Town of Surry Wastewater Treatment Plant was in immediate need of major repairs and had a consent order deadline to take the plant offline before December 31, 2022. Due to the high capital, operations and maintenance costs associated with new treatment plants, HRSD constructed a 132,000 linear foot pipeline project, and eight pump stations to convey flow from these communities to the Nansemond Treatment Plant at an estimated cost of \$50 million. This project also included the closure of the Town of Surry and Surry County Wastewater Treatment Plants.

Certain Eastern Shore communities have identified collection system and wastewater treatment as priorities. HRSD has worked with them to construct a 110,000 linear foot pipeline and five pump stations to serve the Towns of Nassawadox, Exmore, Wachapreague, Onley, and Accomac. This project was at an approximate cost of \$48 million and permitted the shutdown of wastewater treatment plants in the Towns of Exmore and Nassawadox, which were in need of replacement. In 2022, HRSD took ownership of the Onancock Wastewater Treatment Plant from the Town of Onancock and set up a new operations work center on the Eastern Shore.

HRSD directed significant effort to meet mass discharge limits on nitrogen and phosphorus as a result of the six-state efforts to restore the Chesapeake Bay. As a result of the capital projects at the York River, Nansemond, Army Base James River, and the Virginia Initiative Plant (VIP) Treatment Plants, HRSD continues to meet stringent nutrient limits. Through the use of creative design and phased construction, HRSD deploys cost-effective adaptive technologies to take advantage of the existing facilities and the diversity of treatment processes at each plant. In June 2019, the Virginia State Water Control Board adopted new protective criteria for chlorophyll in the James River. The new criteria were the result of a seven-year study designed to identify the causes and consequences of algal blooms and develop models to estimate their occurrence by linking chlorophyll to nutrients and other environmental factors. HRSD's wasteload allocations defined by the current nutrient general permit are in compliance with the new criteria. Due to the high cost of nutrient upgrades, the CETP was shut down and its flow diverted to the Atlantic Treatment Plant, which is an ocean discharge plant that does not require nutrient removal.

Even more stringent nutrient discharge limits will come into effect in 2026 for nitrogen, along with a series of incremental reductions in phosphorus in 2028, 2030, and 2032. To meet the 2026 nitrogen requirements, two large capital projects are now in construction. These include upgrades at James River

Treatment Plant (JRTP) and the closure of Boat Harbor Treatment Plant (BHTP) with the transfer of flow to Nansemond Treatment Plant (NTP) and the expansion of that facility to accommodate the increased flow. The BHTP closure project will include the construction of a large pump station on the BHTP property, installation of a 54-inch force main under the James River, and installation of a network of force mains to NTP.

The District has developed an innovative managed aquifer recharge program called the Sustainable Water Initiative for Tomorrow (SWIFT) to address the challenges of declining aquifer levels, land subsidence and saltwater intrusion, and provide additional benefits to the region, including nutrient credits for urban stormwater and other needs. SWIFT will add advanced water treatment (AWT) to up to three of the District's existing treatment plants to produce approximately 50 MGD of water that meets drinking water standards and is compatible with the receiving aquifer. Water meeting drinking water standards (SWIFT Water) will be recharged into the Potomac Aquifer System to counter the aquifer challenges described above. In support of SWIFT, the District constructed and is operating a 1 MGD demonstration facility, known as the SWIFT Research Center at the Nansemond Treatment Plant. The center demonstrates, on a meaningful scale, that AWT produces SWIFT Water that meets primary drinking water standards and is compatible with the receiving aquifer. The first full-scale SWIFT facility is in construction at the James River Treatment Plant with a rated capacity of 16 MGD including AWT and recharge wells. This facility is expected to come online in 2026, and these upgrades are an important part of meeting 2026 nitrogen and future phosphorus limits.

In addition, the District has initiated a substantial capital project to add SWIFT to the expanded Nansemond Treatment Plant (50 MGD) with an AWT capacity of 33 MGD. The design-build team has been selected to deliver this project, and detailed design is anticipated to extend into 2025, with startup expected in 2028. This facility is key to meeting future phosphorus limits.

The last measure needed to meet the final 2032 phosphorus limits is a tertiary treatment upgrade at the VIP Treatment Plant. This project is in the early feasibility design stages, and the project will be constructed in a manner that allows the potential future conversion to SWIFT AWT and recharge.

At the Atlantic Treatment Plant, HRSD started up a thermal hydrolysis process (THP) for biosolids handling in 2020. The process hydrolyzes and disintegrates sludge using pressure and temperature. As a result, biosolids are now designated as Class "A," which means they are pathogen free and have far fewer land application restrictions, additional biogas is produced for the Combined Heat and Power system, and the process allows significant additional capacity to be gained from the existing anaerobic digesters. In addition to the Class "A" designation, the thermal hydrolysis process will significantly reduce the volume of biosolids produced at the plant, and windrow drying and curing is currently being tested as a means of producing a commercially viable product. HRSD has performed a market assessment of commercial products derived from Class "A" biosolids within coastal Virginia and North Carolina in order to provide secure channels for safe, environmentally beneficial, and cost-effective biosolids end use. As part of a new series of projects and as partly resulting from the flow transferred from the Chesapeake-Elizabeth Plant, HRSD will make additional improvements at the Atlantic Treatment Plant to minimize offsite odor issues, to improve THP process reliability, and to address problems with primary clarification by adding gravity thickening of primary solids.

The District continues to pursue renewable energy projects, such as the Atlantic Treatment Plant Digester Gas Combined Heat and Power (CHP) project completed in 2013. This project feeds internal combustion engines with treated digester gas to meet up to 40% of the 2.5 megawatt demand of the treatment plant and provides heating to the administration buildings and digesters. The digester gas treatment system uses a biological hydrogen sulfide gas scrubber, which was the first municipal installation in North America. In 2020, the District also implemented at the Atlantic Treatment Plant a system that

increases biogas generation by receiving and processing restaurant-derived fats, oils, and grease (brown grease) containing water and converting it to additional digester gas.

In 2008, HRSD worked with the Navy to use the Atlantic Treatment Plant's effluent to act as a heat sink for a large Navy facility located adjacent to the plant. This system, similar in function to a geothermal system, saves the Navy \$3 million per year and won a Federal Facility Presidential Award in 2009. The District has installed its first photovoltaic array at the SWIFT Research Center, a 60 kW system that supplies approximately one-quarter of the SWIFT Research Center's operating power demand.

The District is currently starting up a new process (Greasezilla) at Nansemond Treatment Plant to recover brown grease in the form of ship bunker fuel, and is currently evaluating proposals for a new public-private partnership for the production of renewable natural gas at the Atlantic Treatment Plant that will further reduce its operations carbon footprint and potentially generate revenue associated with the sale of commodity energy products.

HRSD owns and operates the second Ostara nutrient recovery facility in the United States. The patented Ostara process recovers phosphorus and nitrogen from the wastewater treatment process, rather than releasing it into the Chesapeake Bay, and converts it to a slow-release, high-phosphorus content, commercial fertilizer. As part of the Nansemond Treatment Plant expansion, and in response to more stringent future phosphorus limits, the Ostara nutrient recovery facility is currently under construction to increase the capacity of the facility, to add an additional phosphorus stripping step, and to switch to a more cost effective source of magnesium, the combined impact of which will be roughly quadruple the current struvite production rate.

The District is a leading agency in wastewater research and development. In collaboration with an international group of researchers and other third parties, the District played a major role in patenting a process using mainstream external selectors to improve biomass settleability and stabilize biological phosphorus removal. This technology was installed at the James River Treatment Plant in 2015 and in one train at the Urbanna Treatment Plant in 2016. In addition, the District is collaborating with an international group of agencies and academic institutions to study a revolutionary wastewater process using a relatively new bacterium called anammox. The District started operating the first two full-scale sidestream treatment processes using anammox in the Western Hemisphere at York River Treatment Plant and James River Treatment Plant. HRSD developed and patented (pending) a new control system for one of those processes, known as the AnitaMox process.

HRSD operates the first documented full-scale mainstream nutrient removal process using anammox at the York River Treatment Plant in an emerging application known as partial denitrification-anammox (PdNA). The implementation of PdNA was completed internally by HRSD staff for minimal capital investment, resulting in the savings of approximately \$1 million per year in chemicals and energy and avoiding a substantial conventional nutrient removal capital project. This was based on about eight years of pilot testing and research. HRSD, in collaboration with others, patented a suite of technologies associated with the treatment of nitrogen using low energy, low carbon, and intensified (smaller tanks) processes and based on mainstream nitrite shunt and deammonification (anammox). In the current applications, this technology suite is known as AvN-PdNA. HRSD has also implemented mainstream PdNA at James River Plant as part of the nutrient upgrades that are currently in construction, and the Nansemond Treatment Plant will include mainstream PdNA as part of the expansion project.

Capital Improvement Program

The District's Capital Improvement Program is designed to meet regulatory requirements, including both nutrient reduction and sanitary sewer overflow reduction, aging infrastructure renewals and

replacements, biosolids management and increased capacity. The District uses a ten-year planning horizon for the CIP. The CIP is updated each year and modified as circumstances dictate. The Commission approves the overall program and the first year of the plan and appropriates funds on an individual project basis. The District also employs a CIP project prioritization program using a decision-analysis based process. This process allows each proposed project to be considered objectively against the merits of other proposed projects. Individual projects are scored using performance measures based on risk reduction and ranked. After the CIP review team considers each project score for consistency, the CIP leadership team makes final decisions on project acceptability and develops a prioritized project schedule based on projected capital funding availability.

The District has undertaken an Integrated Plan that will use innovative approaches to removing nutrients from the Chesapeake Bay and assist with other regional issues such as aquifer recharge and land subsidence. The centerpiece of the Integrated Plan is the SWIFT program, which will further treat plant effluent to drinking water standards and use it to recharge the Potomac aquifer. The 2025-2034 CIP includes \$1.8 billion for the SWIFT program. The Integrated Plan also addresses sanitary sewer overflows (SSO) and has allocated \$200 million for projects that will have the largest impact towards reducing SSO's during wet weather events.

The 2025-2034 CIP includes approximately \$3.3 billion in interceptor system, treatment plant, water reuse, and other facility improvements. Of that total, \$716 million is identified for the rehabilitation and upgrade of wastewater treatment plants. A number of interceptor sewer projects, totaling approximately \$692 million are in the planning, design or construction phase. These planned projects are proposed to address aging infrastructure issues within the District's extensive interceptor sewer piping system. Upgrades to aging sewer pump stations and new pump stations to serve Hampton Roads are an important part of the CIP, with over \$262 million of such improvements planned in the next ten years. The CIP includes \$293 million in anticipated biosolids management improvements.

The following table sets forth the District's anticipated sources of funds for the Capital Improvement Plan in Fiscal Years 2025 through 2029.

CIP, Fiscal Years 2025 to 2029 (Dollar amounts in thousands) (As of Fiscal Years ending June 30)

	<u>2025</u>	<u>2026</u>	<u>2027</u>	<u>2028</u>	2029	Total (2025-29)
Va. Clean Water Revolving Fund Loan	\$40,000	\$40,000	\$40,000	\$40,000	\$40,000	\$200,000
WIFIA Bonds	385,693	211,144	277,872	80,000	80,000	1,034,709
Water Quality Improvement Fund (WQIF) Grants ⁽¹⁾	246,457	234,000	58,393	45,500	68,022	652,372
HRSD Cash	155,635	152,820	143,308	140,462	145,234	742,459
Reimbursements	24,831	3,348	1,500	1,500	9,306	40,485
Line of Credit (Negative = Pay Off)	(32,616)	(2,311)	(65,073)	<u>77,538</u>	(17,562)	(40,024)
Total Sources for Capital Expenditures ⁽²⁾	<u>\$820,000</u>	<u>\$639,000</u>	<u>\$461,000</u>	<u>\$385,000</u>	<u>\$325,000</u>	\$2,630,000

⁽¹⁾ The timing and amount of the Water Quality Improvement Fund (WQIF) grants is dependent on funding provided by the Commonwealth and is subject to change. HRSD plans to adjust its funding sources, if needed, based on the receipt of WQIF grants.

The District plans to fund the Capital Improvement Program through a combination of cash and debt financing as shown in the above table. The CIP also includes \$1.25 billion in funding in Fiscal Years 2030 through 2035, of which \$494 million is planned to be funded with debt proceeds and \$756 million with operating cash.

In addition to its ten-year planning horizon, the District undertakes preliminary planning for its CIP through 2044. While subject to change, the District estimates additional capital expenditures of \$2.59 billion for years 2035-2044, with approximately 31% to be financed with new debt. Capital expenditures include estimated costs associated with the RWWMP discussed under " – State Consent Agreement and EPA Consent Decree" below.

The proposed new debt conservatively assumes a combination of interim financing, federal and state subsidized funding, and new money revenue bonds issued in fiscal year 2035 with a rate of 5%. HRSD continues to seek the lowest cost of capital by using the Virginia Clean Water Revolving Loan Fund (VCWRLF) and Water Infrastructure Finance and Innovation Act (WIFIA) loans. For example, based on current market conditions and the lower interest rates available through the capital markets, the District anticipates using proceeds of the Series 2024B Bonds to fund a portion of projects previously planned to be funded with proceeds of WIFIA Bonds. HRSD is currently drawing down two closed loans in the WIFIA program totaling \$702 million, and two VCWRLF loans totaling \$126 million. See "SECURITY AND SOURCES OF PAYMENT – Senior Obligations." The District will continue to monitor market conditions to obtain the most advantageous method of future CIP financing.

Regulation and Permits

The Virginia State Water Control Law (Chapter 3.1, Title 62.1, Code of Virginia, 1950, as amended) provides that the plans and specifications for wastewater facilities to be constructed be approved by the Virginia Department of Health and the Virginia Department of Environmental Quality. The District

⁽²⁾ Totals may not add due to rounding.

operates all of its plants and interceptor systems under permits issued by the Virginia Department of Environmental Quality.

In addition to the regulatory issues described under "– State Consent Agreement and EPA Consent Decree," the Commonwealth's Phase 3 Watershed Implementation Plan for the Chesapeake Bay Total Maximum Daily Load (TMDL) requires additional nutrient reductions phased in from 2026-2032. Compliance with the required reductions relies on additional capital investment at multiple HRSD facilities. Beyond this, the District is not aware of any pending federal or Commonwealth regulatory requirements proposed in the Federal Register or the Virginia Register that, in themselves, would require significant expenditures for additional capital improvements; however, the District cannot predict the scope or effect of future federal or Commonwealth regulatory actions that could require significant expenditures for capital improvements.

State Consent Agreement and EPA Consent Decree

On December 19, 2014, the Commonwealth of Virginia entered into a long-term State Consent Agreement (the "2014 Consent Agreement") with 14 of the localities that HRSD serves. The 2014 Consent Agreement requires the localities to perform long-term management, operations and maintenance of their sewer systems in support of HRSD's efforts to provide long-term regional wet weather wastewater capacity. HRSD is not a party to the 2014 Consent Agreement. Instead, HRSD's obligation to provide regional wet weather sewer capacity is now solely imposed through its federal consent decree (the "Consent Decree"). HRSD entered into the Consent Decree with the Commonwealth and the United States Environmental Protection Agency ("EPA").

The Consent Decree was entered by the Federal District Court for the Eastern District of Virginia (the "District Court") on February 23, 2010. The Consent Decree has been amended six times, most recently on January 19, 2024 (the "Amended Consent Decree").

The Amended Consent Decree has two major operative requirements. First, it requires HRSD to implement its approved Regional Wet Weather Management Plan ("RWWMP") to control 69 percent of the capacity-related sewer overflow volume predicted to occur in a five-year storm event. Because HRSD has assumed responsibility for planning (in consultation with the 14 affected localities), designing, funding, and implementing the controls (high priority projects) in both the localities' systems and the HRSD system contained in the approved RWWMP, HRSD estimates the regional ratepayers will achieve significantly reduced program costs than if each locality sought to address peak wet weather wastewater flows on its own. To further facilitate this approach, the 14 affected localities entered into a Memorandum of Agreement with HRSD in 2014 in which they agreed to (1) cooperate with HRSD, (2) facilitate the construction of and accept ownership of any improvements which HRSD may need to construct in the localities' systems, and (3) maintain the integrity of their systems to industry standards.

The Amended Consent Decree also required HRSD to implement a total of 45 projects from its tenyear CIP. These 45 projects totaled approximately \$306 million. HRSD has timely and fully satisfied the requirement of the Amended Consent Decree to implement these 45 early action projects.

The Amended Consent Decree authorizes HRSD to submit the RWWMP as part of an Integrated Management Plan ("IMP"). HRSD intends to use the IMP approach to facilitate the timing and financing of both its RWWMP and its SWIFT Program. The SWIFT Program will assist the Commonwealth to meet its Chesapeake Bay nutrient reduction commitments and save HRSD's 14 localities approximately \$1 to \$2 billion in avoided Chesapeake Bay-related storm water control costs.

The Amended Consent Decree includes a schedule for wastewater system improvements that expressly accommodates HRSD's SWIFT program. That schedule requires that HRSD implement \$200 million worth of High Priority Project sewer overflow control projects between 2020 and 2030 and then another \$200 million in sewer overflow control projects between 2030 and 2040. These two sets of projects reflect further priority system improvements that HRSD is to implement along with the SWIFT project. The Amended Consent Decree gives HRSD until 2032 to invest \$1.1 billion in the SWIFT program. Finally, the Amended Consent Decree provides that if HRSD does not make the full \$1.1 billion investment in the SWIFT Project by 2032 then EPA can require HRSD to accelerate some or all of the second group (\$200 million worth) of High Priority sewer overflow control projects to offset the avoided investment in the SWIFT program.

Environmental Priorities and Efforts

Since its inception in 1940, the District has served the Hampton Roads region with its mission of protecting public health and the waters of Hampton Roads. The District's vision is that the District's communities will have clean waterways and reliable water resources for generations to come. Sustainable Water Initiative For Tomorrow (SWIFT) is the District's newest water treatment innovation, as described in detail above under "– System Improvements and Innovations."

To better understand the effects of rising sea levels, the District commissioned a comprehensive sea-level rise impact study that concluded in May 2023. The study provided a foundation to address the next 80 years of flooding-related impacts and prioritized flood mitigation projects across all of the District's facilities. As of Fiscal Year 2025, flood mitigation projects were incorporated into the long-term capital planning process, with an average of \$5 million in projects being completed per year over the next fifty years.

In recent years, the District also updated its standards to increase the freeboard three feet above the Federal Emergency Management Agency (FEMA)'s 100-year flood elevation and adopted design standards for assets that require using the U.S. Army Corps of Engineers' sea-level rise tool.

Cybersecurity

The District, like many other public entities, relies on a technology environment to conduct its operations. As such, it may face multiple cybersecurity threats including but not limited to, hacking, viruses, malware, and other such attacks on computer or other sensitive digital systems and networks. There can be no assurance that any security and operational control measures implemented by the District will be completely successful to guard against and prevent cyber threats and attacks. The result of any such attack could affect operations and digital networks, and the costs of remedying any such damage could be significant.

In 2019, the District developed an Information Technology governance plan and technology roadmap, that included risk management, business continuity, and new technology integration. The District is implementing this plan over time, at a total estimated cost of approximately \$15.5 million between FY 2019 and 2027.

Since April of 2020, the District's Cybersecurity Department has included a dedicated Chief Information Security Officer. The Chief Information Security Office maintains an Information Technology Security Policy in accordance with applicable standards and laws. The policy defines minimum security requirements for the District's assets including the managerial, operational, and technical protection requirement and controls to ensure the confidentiality, integrity, and availability of the District's IT assets;

and compliance with requirements of applicable federal, and state law and the District's policies and regulations.

The District maintains a comprehensive cyber insurance coverage policy that covers breach related expenses, liability and extortion. In addition, the District maintains crime insurance, which includes computer related fraud.

On November 17, 2020, the District was the subject of a ransomware attack. The District and its cybersecurity consultants worked to restore all of the business systems to normal operations without paying any ransom. The District did not experience any negative material impact on its operations as a result of the attack. Because of the District's robust safeguards, the District did not lose any data as a result of the attack.

COVID-19 Matters

In FY 2021, the District paused its planned rate increase and held rates flat to assist ratepayers that were otherwise negatively affected by the COVID-19 pandemic. The District also participated in the Low Income Household Water Assistance Program, which provided eligible ratepayers assistance with their wastewater bills. In FY 2021, the first full fiscal year affected by the COVID-19 pandemic, the District's flows increased 3.2%. This was a reversal of a trend of moderating declining consumption, which may be attributable to the increased use of low-flow appliances among the District's ratepayers. In FY 2023, flows returned to the pre-pandemic level from FY 2020.

FINANCIAL MANAGEMENT

General

Through its annual budget process, management seeks to ensure that operating revenues are sufficient to meet operating expenses and sufficient reserves are available in the event actual billings do not meet budgetary expectations. The upgrades and expansion of new treatment plants and extensions and improvements of the interceptor system are financed by a combination of operating revenues and debt financing. The following table sets out the District's operating results and debt service coverage for the Fiscal Years ended June 30, 2019, through June 30, 2023.

Summary of Operating Expenses and Debt Service Coverage (Dollar Amounts in Thousands) (As of Fiscal Years ended June 30)⁽¹⁾

	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>
Operating Revenues	¢200.222	\$210 5 0 5	¢225 017	¢252 414	¢202 115
Wastewater Treatment Charges Miscellaneous	\$299,323 3,798	\$318,585 3,447	\$325,817 3,952	\$352,414 5,532	\$383,115 4,820
Total Operating Revenues	\$303,121	\$322,032	\$329,769	\$357,946	\$387,935
Operating Expenses					
Wastewater Treatment	\$117,189	\$122,393	\$132,820	\$134,135	\$149,532
General and Administrative	<u>41,121</u>	<u>46,949</u>	<u>48,691</u>	45,673	<u>53,995</u>
Total Operating Expenses, excluding Depreciation	<u>\$158,310</u>	\$169,342	<u>\$181,511</u>	<u>\$179,808</u>	<u>\$203,527</u>
Non-Operating Revenues (Expenses)					
Wastewater Facility Charges	\$6,662	\$6,444	\$7,379	\$7,072	\$7,293
Investment Income	8,719	5,876	471	(1,651)	6,068
Bond Interest Subsidy ⁽²⁾	2,308	2,205	2,167	2,052	2,015
Capital Distributions to Localities ⁽³⁾	-	-	(376)	(13)	(2,422)
Bond Issuance Costs	<u>(53)</u>	<u>(1,290)</u>	<u>(682)</u>	<u>(311)</u>	<u>(98)</u>
Net Non-Operating Revenues (Expenses)	<u>\$17,636</u>	<u>\$13,235</u>	<u>\$8,959</u>	<u>\$7,149</u>	<u>\$12,856</u>
Net Revenues (GAAP) Add Back: Operating Expenses on	<u>\$162,447</u>	<u>\$165,925</u>	<u>\$157,217</u>	<u>\$185,287</u>	<u>\$197,264</u>
Improvements not Owned by HRSD Net Revenues (Adjusted)	± \$162,447	± <u>\$165,925</u>	376 \$157,593	13 \$185,300	2,422 \$199,686
Debt Service ⁽⁴⁾	\$61,905	\$59,011	\$59,213	\$61,017	\$66,391
Debt Service Coverage (GAAP) Debt Service Coverage ⁽⁴⁾ (Adjusted	2.62	2.81	2.66	3.04	2.97
Cash Basis)	2.62	2.81	2.66	3.04	3.01

⁽¹⁾ Revenues and Operating Expenses presented in accordance with generally accepted accounting principles; Debt service presented on a cash basis (i.e. debt service actually due during the related Fiscal Year).

<u>Pension Fund and Other Post-Retirement Benefits</u>. For a description of the District's participation in the Virginia Retirement System, a defined benefit plan offered by the Commonwealth of Virginia, and

⁽²⁾ Actual Federal Subsidy received from the federal government relating to interest on the District's Wastewater Revenue Bonds, Series 2009B (Federally Taxable-Issuer Subsidy-Build America Bonds), which were redeemed as a whole on May 9, 2024, and are no longer outstanding.

⁽³⁾ Operating Expenses on improvements not owned by HRSD are funded through HRSD's Capital Improvement Plan from sources that may include cash, debt, grants, and other sources. Such expenses are excluded from the definition of Operating Expenses under the Trust Agreement.

⁽⁴⁾ Calculated based on actual debt service payable on a current year basis. Includes debt service on the District's obligations (none of which remain outstanding) that were senior in right of payment to the Bonds and other Senior Obligations, and excludes debt service on Subordinate Obligations.

of the post-retirement health benefits for qualifying employees of the District, see the District's Annual Comprehensive Financial Report attached as Appendix A hereto.

<u>Debt Management</u>. The Commission has adopted a comprehensive financial policy designed to promote sound financial management. The policy addresses, but is not limited to, the following areas: reserves, budgetary principles, internal controls, debt affordability, debt management, risk management, derivatives and investments. The Commission has the right to change the financial policy from time to time.

The policy requires minimum debt service coverage requirements in excess of its obligations under the Trust Agreement. It also requires cash contributions to its capital program of not less than 15% of each year's capital improvement program. Additionally, the policy establishes parameters for the investment of idle funds.

<u>Projected Operating Results</u>. The following table shows projected Revenues and Current Expenses for the Fiscal Years ending June 30, 2024, through June 30, 2028, inclusive.

Summary of Projected Revenues and Current Expenses (Dollar Amounts in Thousands) (As of Fiscal Years ending June 30)(1)

Operating Revenues ⁽²⁾ Non-Operating Revenues	2025 \$452,127 15,065	2026 \$490,832 13,783	2027 \$532,554 14,416	2028 \$559,489 15,120	2029 \$586,991 15,518
Less Operating Expenses Excluding Depreciation	(275,722)	(316,231)	(355,551)	(370,918)	(348,485)
Net Revenues	<u>\$191,470</u>	\$188,383	<u>\$191,420</u>	<u>\$203,691</u>	<u>\$254,024</u>
Add Back: Operating Expenses on Improvements not Owned by HRSD	\$9,630	\$36,706	\$39,608	\$34,244	\$17,724
Net Revenues (Adjusted)	<u>\$201,100</u>	<u>\$225,089</u>	<u>\$231,028</u>	<u>\$237,935</u>	<u>\$271,748</u>
Debt Service ⁽²⁾⁽³⁾⁽⁴⁾	\$82,256	\$92,273	\$104,590	\$111,615	\$128,083
Debt Service Coverage (Adjusted) ⁽²⁾⁽³⁾⁽⁴⁾	2.44	2.44	2.21	2.13	2.12
Key Assumptions ⁽⁵⁾					
Rate Increases	9.0%	9.0%	9.0%	9.0%	6.5%
Change in Consumption	0.0%	-0.1%	-0.15%	-0.25%	-0.4%
Key Inflation Trends					
Average Inflation	4.6%	4.7%	5.3%	4.6%	4.3%
Personal Expenses	6.0%	10.0%	10.0%	9.0%	5.0%
Healthcare Rates	5.2%	5.2%	5.2%	5.2%	5.2%
Contractual Services	5.0%	5.0%	8.0%	5.0%	5.0%
Costs of Issuance	\$300	-	-	-	-

⁽¹⁾ Totals may not add due to rounding.

⁽²⁾ Revenues and Operating Expenses presented in accordance with generally accepted accounting principles; Debt service presented on a cash basis (i.e. debt service actually due during the related Fiscal Year).

Debt service does not include principal and interest on the Line of Credit. See "PLAN OF FINANCING – Future Financings" herein.

Assumes debt service on variable rate Series 2016B Bonds of 3.5 to 5.0% per annum. No assurance can be given, however, that the rate on the Series 2016B Bonds will not be higher than assumed above.

⁽⁵⁾ While the District believes the assumptions set forth above are reasonable, actual results may vary.

Budgeting and Accounting

<u>Budgetary Controls</u>. The District adopts an annual operating budget and a 10-year Capital Improvement Plan. The budget is approved on or before June 30 of each year. The District maintains budgetary controls on a departmental basis, and the General Manager/Chief Executive Officer is authorized to transfer funds among departments without Commission approval. With the exception of capital projects, unencumbered funds lapse at year end. As part of the budget process, the District adopts a long-range financial forecast.

<u>Financial Statements</u>. In accordance with accounting principles generally accepted in the United States, the District's audited general purpose financial statements are prepared on an accrual basis of accounting. The District's audited basic financial statements and the report thereon by Cherry Bekaert LLP, for the Fiscal Year ended June 30, 2023, are included in Appendix A. The District's independent auditor, Cherry Bekaert LLP, has not been engaged to perform and has not performed, since the date of its report included in Appendix A, any procedures on the financial statements addressed in that report. Cherry Bekaert LLP also has not performed any procedures relating to this Official Statement.

The Government Finance Officers Association of the United States and Canada has awarded a Certificate of Achievement for excellence in Financial Reporting to the District for its annual comprehensive financial reports for 40 consecutive Fiscal Years. In order to be awarded a Certificate of Excellence, a governmental unit must publish an easily readable and efficiently organized annual comprehensive financial report, whose contents conform to program standards. Such reports must satisfy both generally accepted accounting principles and applicable legal requirements.

<u>FY 2024 Budget</u>; <u>Interim financial reports</u>. [Note: to be updated] The District's FY 2024 Budget represents total revenue and expense increases of \$40.64 million, or 10.5% over the adopted FY 2023 Budget. This increase was supported with a 9.0% rate increase plus increases in other revenue sources such as investment income. Through the third quarter of FY 2024, revenues were slightly over budget (78% of the full year budget) and expenses were slightly under budget (71% of the full year budget).

The District publishes unaudited financial reports at www.hrsd.com/investor-relations. Such reports are not incorporated into this Official Statement by reference, and the District reserves the right to modify the content and timing of such reports in the future or to eliminate them altogether.

Rates

The District periodically reviews its rate structure and revises its charges as necessary to generate the revenues required to meet its current financial obligations. The most recent general increase in rates became effective July 1, 2024. The District's full rate schedule appears on the District's website, www.hrsd.com.

Currently, the District's typical residential customer pays less than \$46 per month for sewage interception and treatment services provided by the District. The District's sewage interception and treatment charge generally is one of the smallest public service utility bills its customers receive. Generally, the District bills and collects directly from its customers on a monthly, bimonthly, or quarterly basis depending upon the community. The jurisdictions provide the meter readings, which are the basis of the District's billing operation.

The District charges surcharge rates to recover costs in direct proportion to volume and pollutant concentrations in excess of typical residential wastewater. Industrial users are typically permitted facilities requiring periodic effluent sampling.

The District provides billing services to several of the jurisdictions it serves, including Chesapeake, Norfolk, Smithfield, Suffolk, King William, Urbanna and Surry County, excluding the Town of Claremont. The combined bill can include jurisdictional charges for water, solid waste disposal, sewage collection, storm water mitigation and District charges for sewage interception and treatment. To date, these services have been provided at no cost to assist the jurisdictions and customers the District serves to minimize the number of bills the customers receive and number of payments they need to make.

Rate-Making Process

The Enabling Act provides that the Commission is to fix and revise rates, fees and charges to provide funds that, with other funds available for such purposes, will be sufficient at all times (a) to pay the cost of maintaining, repairing and operating the Wastewater System and all improvements thereto, including reserves for such purpose and for renewals and replacements and necessary extensions and additions to the Wastewater System, (b) to pay the principal of and the interest on such revenue bonds as the same shall become due and to provide reserves therefor, (c) to pay costs associated with a customer assistance program, and (d) to provide a margin of safety for making such payments.

The Enabling Act provides that before any revision of rates, fees and charges shall become effective the Commission shall publish a copy thereof for four consecutive weeks in a newspaper of general circulation within the District. If, on or before the last publication, the governing body of any city or county constituting a part of the District or five hundred or more qualified voters residing within the District file a petition with the Virginia State Corporation Commission complaining of the proposed revision, the State Corporation Commission may by order suspend the placing in effect of such revision for a period not exceeding sixty days from the filing of any such petition during which time it shall investigate whether such revision is just and equitable and in accordance with the provisions of the Enabling Act. If the State Corporation Commission does not enter an order suspending, approving or disapproving such revision within sixty days from the filing of any such petition, such revision will be deemed to be in effect. The District or the party or parties filing a petition may appeal to the Supreme Court of Virginia from any such order as may be entered by the State Corporation Commission.

Collection of Unpaid Wastewater Treatment Charges

The Enabling Act provides that if any bill for wastewater treatment charges is not paid in full when the same becomes due, the owner, tenant or occupant of such lot or parcel of land shall, until wastewater treatment charges are paid, cease to dispose of wastewater or industrial wastes originating from or on such property by discharge thereof directly or indirectly into the Wastewater System, and if such owner, tenant or occupant does not cease such discharge within 60 days after the delinquent fees and charges are due, it shall be the duty of each public or private agency supplying water to such property, within 10 days after receipt of notice of such facts from the District, to cease supplying water to such property. If the water supply is not stopped, the District has the power to enter into any public or private property to shut off the property's water supply.

The District participates in the Virginia Set-Off Debt Collection Program administered by the Virginia Department of Taxation. This program provides a means for government units and courts to collect delinquent debts by attaching individual income tax refunds and certain state lottery winnings. Jurisdictions participating in the Hampton Roads Utility Billing Service (which is managed by the District) may have the District submit their balances along with the District's. This benefits the jurisdictions since, under the Debt Set-Off Collection Program, the District has a higher payoff priority than counties and cities.

The following table shows the District's treatment charge collection rate for the last ten Fiscal Years.

Collection Rate

Fiscal Year Ended June 30	Percentage of Wastewater Treatment Charges Collected
2014	99.3%
2015	99.1
2016	99.1
2017	99.1
2018	99.3
2019	99.2
2020	99.3
2021	99.3
2022	99.6
2023	99.3

Insurance

The District is exposed to various risks of loss related to torts; theft of, damage to and destruction of assets; employee dishonesty; injuries to employees; and natural disasters. HRSD purchases commercial insurance for specific types of coverage including property, liability, auto, crime, public officials and workers' compensation. Claim settlements and judgments not covered by commercial insurance are covered by operating resources. The amount of settlements did not exceed insurance coverage for each of the past three Fiscal Years. The District also has a self-insured health, dental and vision care benefits program for all employees. See "— Insurance" and "— Insurance and Condemnation Proceeds" in Appendix C.

LITIGATION

There is no litigation pending in any court (either state or federal) or, to the knowledge of the District, threatened against the District that in any way questions or affects the validity of or the security for the Series 2024B Bonds or that would have a material adverse effect on the District's condition, financial or otherwise.

APPROVAL OF LEGAL PROCEEDINGS

The Series 2024B Bonds are offered subject to the approving opinion of Norton Rose Fulbright US LLP, Washington, D.C., Bond Counsel. Certain legal matters will be passed upon for the District by its General Counsel, Sands Anderson PC, Richmond, Virginia, and for the Underwriters by ______.

TAX MATTERS

Opinion of Bond Counsel

The District will covenant in a tax certificate to comply with certain provisions of the Internal Revenue Code of 1986 (the "Code") relating to the exclusion from gross income of the interest on the Series

2024B Bonds for federal income tax purposes. In the opinion of Norton Rose Fulbright US LLP, Bond Counsel, under current law, and assuming continuing compliance by the District with such covenants and subject to the provisions of this section, interest on the Series 2024B Bonds will not be includable in gross income of the owners of the Series 2024B Bonds for federal income tax purposes. Interest on the Series 2024B Bonds will be includable in the gross income of the owners thereof retroactive to the date of issue of the Series 2024B Bonds in the event of a failure by the District to comply with applicable requirements of the Code and its covenants regarding use, expenditure, and investment of the proceeds of the Series 2024B Bonds and timely payment of certain investment earnings to the United States Treasury. No opinion is rendered by Bond Counsel as to the effect on the exclusion from gross income of the interest on the Series 2024B Bonds for federal income tax purposes of any action taken or not taken without the approval of Bond Counsel or upon the advice or approval of counsel other than Bond Counsel.

Interest on the Series 2024B Bonds will not be an item of tax preference for purposes of the federal alternative minimum tax under the Code on individuals.

For taxable years beginning after 2022, the Code imposes a minimum tax of 15 percent of the adjusted financial statement income of certain large corporations, generally consisting of corporations (other than S corporations, regulated investment companies and real estate investment trusts) with more than one billion dollars in average annual adjusted financial statement income, determined over a three-year period. For this purpose, adjusted financial statement income generally consists of the net income or loss of the taxpayer set forth on the taxpayer's applicable financial statement for such taxable year, subject to various adjustments, but is not reduced for interest earned on tax-exempt obligations, such as the Series 2024B Bonds. Prospective purchasers that could be subject to this minimum tax should consult with their own tax advisors regarding the potential impact of owning the Series 2024B Bonds.

Original Issue Discount

The excess, if any, of the amount payable at maturity of any maturity of the Series 2024B Bonds purchased as part of the initial public offering over the issue price thereof constitutes original issue discount. The amount of original issue discount that has accrued and is properly allocable to an owner of any maturity of the Series 2024B Bonds with original issue discount (a "Discount Bond") will be excluded from gross income for federal income tax purposes to the same extent as interest on the Series 2024B Bonds. In general, the issue price of a maturity of the Series 2024B Bonds is the first price at which a substantial amount of Series 2024B Bonds of that maturity was sold (excluding sales to bond houses, brokers, or similar persons or organizations acting in the capacity of underwriters, placement agents, or wholesalers), which may differ from the price for such maturity shown on the inside cover page of this Official Statement, and the amount of original issue discount accrues in accordance with a constant yield method based on the compounding of interest. A purchaser's adjusted basis in a Discount Bond is to be increased by the amount of such accruing discount for purposes of determining taxable gain or loss on the sale or other disposition of such Discount Bonds for federal income tax purposes.

Original issue discount that accrues in each year to an owner of a Discount Bond is included in the calculation of the distribution requirements of certain regulated investment companies and may result in some of the collateral federal income tax consequences discussed herein. Consequently, an owner of a Discount Bond should be aware that the accrual of original issue discount in each year may result in additional distribution requirements or other collateral federal income tax consequences although the owner of such Discount Bond has not received cash attributable to such original issue discount in such year.

The accrual of original issue discount and its effect on the redemption, sale, or other disposition of a Discount Bond that is not purchased in the initial offering at the first price at which a substantial amount of such Series 2024B Bonds is sold to the public may be determined according to rules that differ from

those described above. A purchaser of a Discount Bond should consult his or her tax advisors with respect to the determination for federal income tax purposes of the amount of original issue discount with respect to such Discount Bond and with respect to state and local tax consequences of owning and disposing of such Discount Bond.

Bond Premium

The excess, if any, of the tax basis of a maturity of Series 2024B Bonds purchased as part of the initial public offering to a purchaser (other than a purchaser who holds such Series 2024B Bonds as inventory, stock in trade, or for sale to customers in the ordinary course of business) over the amount payable at maturity is "Bond Premium." Bond Premium is amortized over the term of such maturity for federal income tax purposes (or, in the case of a bond with bond premium callable prior to its stated maturity, the amortization period and yield may be required to be determined on the basis of an earlier call date that results in the lowest yield on such bond). No deduction is allowed for such amortization of Bond Premium; however, Bond Premium is treated as an offset to qualified stated interest received on the Series 2024B Bonds. An owner of such Series 2024B Bonds is required to decrease his adjusted basis in such Series 2024B Bonds by the amount of amortizable Bond Premium attributable to each taxable year such Series 2024B Bonds are held. Purchasers of such Series 2024B Bonds should consult their tax advisors with respect to the precise determination for federal income tax purposes of the treatment of Bond Premium upon sale, redemption or other disposition of such Series 2024B Bonds and with respect to state and local income tax consequences of owning and disposing of such Series 2024B Bonds.

Backup Withholding

Interest paid on the Series 2024B Bonds is subject to information reporting in a manner similar to interest paid on taxable obligations. While this reporting requirement does not by itself, affect the excludability of interest on the Series 2024B Bonds from gross income for federal income tax purposes, the reporting requirement causes the payment of interest on the Series 2024B Bonds to be subject to backup withholding if such interest is paid to beneficial owners who (i) are not "exempt recipients," and (ii) either fail to provide certain identifying information (such as the beneficial owner's taxpayer identification number) in the required manner or have been identified by the Internal Revenue Service as having failed to report all interest and dividends required to be shown on their income tax returns. Generally, individuals are not exempt recipients, whereas corporations and certain other entities generally are exempt recipients. Amounts withheld from a payment to a beneficial owner under the backup withholding rules would be allowed as a refund or a credit against such beneficial owner's federal income tax liability provided the required information is furnished to the Internal Revenue Service.

Other Tax Consequences

The Code contains other provisions (some of which are noted below) that could result in tax consequences, upon which Bond Counsel expresses no opinion, as a result of ownership of the Series 2024B Bonds or the inclusion in certain computations of interest on the Series 2024B Bonds that is excluded from gross income for purposes of federal income taxation.

Ownership of tax-exempt obligations may result in collateral federal income tax consequences to certain taxpayers, including, without limitation, financial institutions, life insurance companies, property and casualty insurance companies, certain foreign corporations doing business in the United States, certain S Corporations with excess passive income, individual recipients of Social Security or Railroad Retirement benefits, owners of an interest in a financial asset securitization investment trust (FASIT), corporations subject to the alternative minimum tax on adjusted financial statement earnings, taxpayers who may be

deemed to have incurred or continued indebtedness to purchase or carry tax-exempt obligations and taxpayers who may be eligible for the earned income tax credit.

PROSPECTIVE PURCHASERS OF THE SERIES 2024B BONDS SHOULD CONSULT THEIR TAX ADVISORS AS TO THE APPLICABILITY AND IMPACT OF ANY SUCH COLLATERAL TAX CONSEQUENCES.

Future Tax Developments

Future or pending legislative proposals, if enacted, regulations, rulings or court decisions may cause interest on the Series 2024B Bonds to be subject, directly or indirectly, to federal income taxation or to state or local income taxation, or may otherwise prevent beneficial owners from realizing the full current benefit of the tax status of such interest. Legislation or regulatory actions and future or pending proposals may also affect the economic value of the federal or state tax exemption or the market value of the Series 2024B Bonds. Prospective purchasers of the Series 2024B Bonds should consult their tax advisors regarding any future, pending or proposed federal or state tax legislation, regulations, rulings or litigation as to which Bond Counsel expresses no opinion.

Virginia Taxes

The Enabling Act provides that the Series 2024B Bonds, their transfer and the income therefrom, including any profit made on the sale thereof, shall be free and exempt from taxation by the Commonwealth of Virginia and by any political subdivision thereof.

UNDERWRITING

Pursuant and subject to the terms and conditions set forth in a Bond Purchase Agreement (the "Purchase Agreement"), dated ____, 2024, between the District and [_____] (the "Underwriters"), for whom [_____], is acting as representative, the Underwriters will agree to purchase from the District, and the District will agree to sell to the Underwriters, all, but not less than all, of the Series 2024B Bonds at a purchase price that results in an Underwriters' discount of \$____. The Underwriters have supplied the information as to the prices shown on the inside cover page.

The Underwriters and their respective affiliates are full service financial institutions engaged in various activities, which may include sales and trading, commercial and investment banking, advisory, investment management, investment research, principal investment, hedging, market making, brokerage and other financial and non-financial activities and services. Under certain circumstances, the Underwriters and their affiliates may have certain creditor or other rights against the District and its affiliates in connection with such activities. In the course of their various business activities, the Underwriters and their respective affiliates, officers, directors and employees may purchase, sell or hold a broad array of investments and actively trade securities, derivatives, loans, commodities, currencies, credit default swaps and other financial instruments for their own account and for the accounts of their customers, and such investment and trading activities may involve or relate to assets, securities or instruments of the District (directly, as collateral securing other obligations or otherwise) or persons and entities with relationships with the District. The Underwriters and their respective affiliates may also communicate independent investment recommendations, market color or trading ideas or publish or express independent research views in respect of such assets, securities or instruments and may at any time hold, or recommend to clients that they should acquire, long or short positions in such assets, securities and instruments.

FINANCIAL ADVISOR

The District has retained PFM Financial Advisors LLC, Arlington, Virginia, as financial advisor (the "Financial Advisor") in connection with the issuance of the Series 2024B Bonds. Although the Financial Advisor assisted in the review of this Official Statement, the Financial Advisor is not obligated to undertake, and has not undertaken to make, an independent verification or to assume responsibility for the accuracy, completeness, or fairness of the information contained in this Official Statement. The Financial Advisor is a financial advisory, investment management and consulting organization and is not engaged in the business of underwriting municipal securities.

RATING

The Series 2024B Bonds have been assigned a rating of "____" by S&P Global Ratings, a division of S&P Global Inc. ("S&P"). Such rating reflects only the view of such organization and a fuller explanation of the significance of such rating may be obtained from the rating agency. A rating is not a recommendation to buy, sell or hold the Series 2024B Bonds. The District furnished S&P with certain information regarding its policies, practices and finances, including information that is not included in this Official Statement. There is no assurance that such policies, practices and finances or such ratings will continue for any given period of time or that such rating will not be revised downward or withdrawn entirely by S&P. Any such downward revision or withdrawal could have an adverse effect on the market price of the Series 2024B Bonds.

CONTINUING DISCLOSURE

The Securities and Exchange Commission has adopted Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (the "Rule"). In general, the Rule prohibits an underwriter from purchasing or selling municipal securities, such as the Series 2024B Bonds, unless it has determined that the issuer of such securities and other persons deemed to be material "obligated persons" have committed to provide to The Electronic Municipal Market Access ("EMMA") system administered by the Municipal Securities Rulemaking Board (i) on an annual basis, certain financial information and operating data ("Annual Reports"), and audited financial statements, if available, or such unaudited financial statements as may be required by the Rule, and (ii) notice of various events described in the Rule ("Event Notices").

The District will covenant in the Continuing Disclosure Agreement (the form of which appears in Appendix E) for the benefit of the holders of the Series 2024B Bonds to provide to EMMA annually, not later than December 31 of each year, commencing December 31, 2024, Annual Reports with respect to itself, as issuer. Similarly, the District will promptly provide Event Notices with respect to the Series 2024B Bonds to EMMA. In the five years preceding the date of this Official Statement, the District has materially complied with its other undertakings under the Rule.

The Continuing Disclosure Agreement requires the District to provide only that information that is subject to the terms of the Continuing Disclosure Agreement and only at specific times. The District may, from time to time, provide certain information and data in addition to that required by the Continuing Disclosure Agreement. If the District chooses to provide such information and data, it has no obligation to update such information or data or to include it in a future disclosure.

The sole remedy for a default under the Continuing Disclosure Agreement is to bring an action for specific performance of the District's covenants hereunder, and no assurance can be provided as to the outcome of any such proceeding.

MISCELLANEOUS

All summaries or descriptions in this Official Statement of the provisions of the Enabling Act, the Series 2024B Bonds, and the Trust Agreement are made subject to all of the detailed provisions thereof to which reference is made for further information. Such summaries do not purport to be complete statements of any or all of the provisions thereof. Copies of the Trust Agreement are available upon request to the District at the following address: 1434 Air Rail Avenue, Virginia Beach, Virginia 23455, Phone (757) 460-2261.

Any statement in this Official Statement involving matters of opinion whether or not expressly so stated is intended as such and not as a representations of fact. The execution and delivery of this Official Statement have been duly authorized by the Commission.

/s/
Chair
Hampton Roads Sanitation District Commission
•
<u>/s/</u>
General Manager and Chief Executive Officer
Hampton Roads Sanitation District
•
/s/
Deputy General Manager and Chief Financial Officer
Hampton Roads Sanitation District

APPENDIX A

Annual Comprehensive Financial Report for the Fiscal Year ended June 30, 2023, including as a part thereof, the Basic Financial Statements and Related Auditor's Report for the Fiscal Year ended June 30, 2023, as rendered by Cherry Bekaert LLP⁽¹⁾⁽²⁾

(1) This Appendix comprises the District's Annual Comprehensive Financial Report for the Fiscal Year Ended June 30, 2023. In order to preserve cross-references within such pages, this Appendix has not been repaginated and, accordingly, retains the original pagination.

⁽²⁾ Cherry Bekaert LLP, the District's independent auditor, has not been engaged to perform and has not performed, since the date of its report included in this Appendix, any procedures on the financial statements addressed in that report. Cherry Bekaert LLP also has not performed any procedures relating to this Official Statement.

APPENDIX B

CERTAIN DEFINITIONS

The following is a brief summary of certain definitions of certain terms contained in the Trust Agreement and the Eleventh Supplemental Trust Agreement and used in this Official Statement. This summary does not purport to be complete or definitive and qualified in its entirety by reference to the Trust Agreement and the Eleventh Supplemental Trust Agreement, copies of which are available for examination at the offices of the Trustee.

- "Additional Bonds" means Bonds, if any, issued by the District after the Effective Date of the Trust Agreement, pursuant to the Trust Agreement, including Additional Bonds issued in exchange for other such Additional Bonds or in replacement for mutilated, destroyed, stolen or lost Additional Bonds.
- "Audited Financial Statements" means the annual financial statements of the District as audited and reported on by a firm of independent public accountants, for a twelve-month period constituting a Fiscal Year or other period indicated, prepared in accordance with generally accepted accounting principles.
- "Balloon Long-Term Indebtedness" means Long-Term Indebtedness 25% or more of the principal payments of which is due in a single year, which portion of the principal is not required by the documents pursuant to which such Indebtedness is issued to be amortized by redemption prior to such date.
- "Bond Registrar" means the Bond Registrar at the time serving as such under the Trust Agreement whether the original or a successor bond registrar.
- "Bond Fund" means the Hampton Roads Sanitation District (Virginia) Bond Fund created and so designated pursuant to the Trust Agreement.
- "Bonds" means the Series 2016 Bonds, the Series 2017 Bonds, the Series 2018 Bonds, the Series 2019 Bonds, the Series 2024A Bonds, the Series 2024B Bonds, and any Additional Bonds under the Trust Agreement, including such Bonds issued in exchange for other such Bonds and Bonds issued in replacement for and upon the cancellation of mutilated Bonds or in lieu of and in substitution for destroyed, stolen or lost Bonds pursuant to the Trust Agreement.
- "Capital Appreciation Bonds" means Bonds the interest on which is compounded at the rates and on the dates set forth in the Series Agreement authorizing the issuance of such Bonds and is payable upon redemption or on the maturity date of such Bonds. Nothing in the Trust Agreement prohibits the District from designating in such Series Agreement any such Bonds by a name other than Capital Appreciation Bonds.
- "Coincidental Maximum Annual Debt Service" means the highest amount of debt service due and payable on the Senior Obligations in the then-current or any succeeding Fiscal Year determined by reference to the Principal and Interest Requirements.
- "Commission" means the Hampton Roads Sanitation District Commission, which is the governing body of the District.
 - "Commonwealth" means the Commonwealth of Virginia.
- "Construction Fund" means the Hampton Roads Sanitation District (Virginia) Construction Fund created and so designated pursuant to the Trust Agreement.

- "Contracted Services" means services rendered or facilities provided to the District for the performance for or on behalf of the District of functions similar to those performed by the District from a specific project, projects or systems, pursuant to a contract, whether a financing lease, a service agreement or another arrangement.
- "Credit Facility" means a line of credit, letter of credit, standby bond purchase agreement or similar credit enhancement or liquidity facility, including self-liquidity provided by the District, established to provide credit or liquidity support for Indebtedness.
- "Cross-over Date" means, with respect to Cross-over Refunding Indebtedness, the date on which the principal portion of the related Cross-over Refunded Indebtedness is to be paid or redeemed from the proceeds of such Cross-over Refunding Indebtedness.
- "Cross-over Refunded Indebtedness" means Indebtedness refunded by Cross-over Refunding Indebtedness.
- "Cross-over Refunding Indebtedness" means Indebtedness issued for the purpose of refunding other Indebtedness if the proceeds of such refunding Indebtedness are irrevocably deposited in escrow to secure the payment on the applicable redemption date or maturity date of the refunded Indebtedness, and the earnings on such escrow deposit (i) are required to be applied to pay interest on such refunding Indebtedness until the Cross-over Date and (ii) are not to be used directly or indirectly to pay interest on the refunded Indebtedness.
- "Current Interest Bonds" means Bonds the interest on which is payable on the Interest Payment Dates provided therefor in the Series Agreement authorizing the issuance of such Bonds.
- "Debt Service Component of Contracted Services" means that part of the payment for Contracted Services for which the District is obligated to pay that the chief financial officer of the District shall have determined in writing in an Officer's Certificate at the time the District commits to receive such Contracted Services to be for the purpose of paying a fixed charge or the principal of and interest on obligations, directly or indirectly associated with rendering the Contracted Services, of the person providing the Contracted Services.
- "Debt Service Reserve Fund" means the "Bond Fund" means the Hampton Roads Sanitation District (Virginia) Debt Service Reserve Fund created and so designated by the Trust Agreement.
- "Debt Service Reserve Fund Requirement" means (i) on the date of issuance of the Series 2024B Bonds, zero (0) and (ii) if, and to the extent, the District in its sole discretion determines to fund the Debt Service Reserve Fund, the Debt Service Reserve Fund Requirement specified in a Series Agreement.
- "**Defaulted Interest**" means any interest on any Bond which is payable, but is not punctually paid or duly provided for, on any Interest Payment Date.
- "Defeasance Obligations" means, with respect to the Series 2024B Bonds, noncallable (i) Government Obligations, (ii) senior debt obligations issued or guaranteed by, or investments otherwise stripped from senior debt obligations issued by, any federal agency, instrumentality, corporation, or government-sponsored enterprise, including but not limited to: (1) Federal Home Loan Bank System, (2) Export-Import Bank of the United States, (3) Federal Financing Bank, (4) Government National Mortgage Association, (5) Federal Home Loan Mortgage Company, (6) Federal Housing Administration, (7) Private Export Funding Corp, (8) Federal National Mortgage Association, (9) Federal Farm Credit Bank, (10) Resolution Funding Corporation, including interest strips and principal strips, (11) Rural Economic

Community Development Administration (formerly, Farmers Home Administration), (iii) evidences of ownership of a proportionate interest in specified Government Obligations, which Government Obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian, (iv) obligations issued pursuant to Section 21B(d)(3) of the Federal Home Loan Bank Act, as amended by Section 511(a) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, and commonly known as "interest strips" of the Resolution Funding Corporation, (v) Defeased Municipal Obligations, (vi) United States Agency for International Development ("US AID") guaranteed notes (including stripped securities) provided that any US AID security shall mature at least 10 business days prior to any cash flow or escrow requirement, and (vii) evidences of ownership of a proportionate interest in specified Defeased Municipal Obligations, which Defeased Municipal Obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity as custodian.

"Defeased Municipal Obligations" means, except as otherwise provided in a Series Agreement, obligations of state or local government municipal bond issuers which are rated at the time of acquisition the highest rating by at least two of the three Rating Agencies, meeting the following conditions:

- (i) (A) such obligations are not to be redeemed prior to maturity or the Trustee has been given irrevocable instructions concerning their call for redemption, and (B) the issuer of such obligations has covenanted not to redeem such obligations other than as set forth in such instructions:
- (ii) such obligations are secured by Government Obligations that may be applied only to interest, principal, and premium payments on such obligations;
- (iii) the principal of and interest on such Government Obligations (plus any cash in the escrow fund with respect to such pre-refunded obligations) are sufficient to meet the liabilities of the obligations;
- (iv) the Government Obligations serving as security for the obligations are held by an escrow agent or trustee; and
- (v) such Government Obligations are not available to satisfy any other claims, including those against the trustee or escrow agent.

"Derivative Agreement" means, without limitation, (i) any contract known as or referred to or which performs the function of an interest rate swap agreement, forward payment conversion agreement or futures contract; (ii) any contract providing for payments based on levels of, or changes or differences in, interest rates or other indices; (iii) any contract to exchange cash flows or payments or series of payments; (iv) any type of contract called, or designed to perform the function of, interest rate floors or caps, options, puts or calls, to hedge or minimize any type of financial risk, including, without limitation, payment, rate or other financial risk; and (v) any other type of contract or arrangement that the District determines is to be used, or is intended to be used, to manage or reduce the cost of Indebtedness, to convert any element of Indebtedness from one form to another or to protect against any type of financial risk or uncertainty.

"Derivative Agreement Counterparty" means, with respect to a Derivative Agreement, the person that is identified in such agreement as the counterparty to, or contracting party with, the District.

"Derivative Indebtedness" means all or any portion of Indebtedness of the District that bears interest at

- (a) a variable rate for any period of time meeting the following requirements: (i) the District has issued or entered into a Derivative Agreement in respect of all or such portion of such Indebtedness, and (ii) such Derivative Agreement provides that, during the period that such Indebtedness bears interest at a variable rate, the District will pay a fixed rate and the provider of the Derivative Agreement will pay a variable rate, then in such case such Indebtedness, taken together with the Derivative Agreement, is to be deemed to result in a net fixed rate payable by the District for such period of time (the "Hedged Fixed Rate"), for so long as the District and the party(ies) with whom the District has entered into the Derivative Agreement makes all payments required to be made by the terms of the Derivative Agreement, or
- (b) a fixed rate for any period of time meeting the following requirements: (i) the District has issued or entered into a Derivative Agreement in respect of all or such portion of such Indebtedness, and (ii) such Derivative Agreement provides that during the period that such Indebtedness bears interest at a fixed rate the District will pay a variable rate and the provider of the Derivative Agreement will pay a fixed rate, then such Indebtedness, taken together with the Derivative Agreement, is to be deemed to result in a net variable rate payable by the District for such period of time (the "Hedged Variable Rate"), assuming the District and the party(ies) with whom the District has entered into the Derivative Agreement make all payments required to be made by the terms of the Derivative Agreement.

"District" means the Hampton Roads Sanitation District, a political subdivision of the Commonwealth of Virginia.

"District Representative" means each of the persons at the time designated to act on behalf of the District in a written certificate furnished to the Trustee, which certificate is to contain the specimen signature(s) of such person(s) and is to signed on behalf of the Commission by its Chair or Vice Chair or the General Manager/Chief Executive Officer of the District.

"Effective Date" means the date on which the Trust Agreement was executed and delivered in accordance with the provisions thereon (, 2024).

"Financial Statements" means the unaudited financial statements of the District for the Fiscal Year or other period indicated, pro forma or otherwise, and containing the same financial information as the Audited Financial Statements.

"Fiscal Year" means the twelve-month period beginning on July 1 of one calendar year and ending on June 30 of the following calendar year or such other twelve-month period designated by the Commission.

"Government Obligations" means direct obligations of, or obligations the timely payment of principal of and interest on which are fully and unconditionally guaranteed by, the United States of America.

"Hedged Fixed Rate" means Hedged Fixed Rate as defined in the definition of Derivative Indebtedness.

"Hedged Variable Rate" means Hedged Variable Rate as defined in the definition of Derivative Indebtedness.

"Holder" means an owner of any Senior Obligation issued in other than bearer form.

"Indebtedness" means (i) all indebtedness of the District for borrowed money, (ii) all installment sales, conditional sales and capital lease obligations incurred or assumed by the District, and (iii) the Debt Service Component of Contracted Services.

"Independent Consultant" means a firm or firms which are not, and no member, stockholder, director, officer, trustee or employee of which is, an officer, director, trustee or employee of the District, and which is a professional management or engineering consultant of national repute for having the skill and experience necessary to render the particular report required by the provision of the Trust Agreement in which such requirement appears.

"Independent Insurance Consultant" means a firm or person selected by the District, who is not an officer, director, trustee or employee of the District, and which or who is qualified to survey risks and to recommend insurance coverage for wastewater treatment systems and organizations engaged in such operations and is selected by the District.

"Interest Payment Date" means each date described as such in a Series Agreement, and, for the Series 2024B Bonds, means each [January 1 and July 1, beginning January 1, 2025].

"Interest Requirements" for any Fiscal Year means the amount that is required to pay interest on all Outstanding Senior Obligations.

"Investment Obligations" means any and all investment obligations authorized by (A) the Investment of Public Funds Act, being Section 2.2-4500 *et seq.*, Code of Virginia, 1950, as amended, (B) the Government Non-Arbitrage Investment Act, being Section 2.2-4700 *et seq.*, Code of Virginia, 1950, as amended, and (C) successor statutes to those described in (A) and (B) above, as the same may be from time to time amended.

"Issuance Costs" means all issuance costs incurred in connection with the Bonds. Examples of such issuance costs include, but are not limited to, the following, if any: (a) counsel fees; (b) financial advisor fees incurred in connection with the issuance of the Bonds; (c) Rating Agency fees; (d) depository fees incurred in connection with the issuance of the Bonds; (e) trustee, paying agent and certifying and authenticating agent fees related to the issuance of the Bonds; (f) accountant fees related to the issuance of the Bonds; (g) printing costs; (h) costs incurred in connection with the required public approval process; and (i) costs of engineering and feasibility studies necessary to the issuance of the Bonds.

"Issuance Fund" means the Hampton Roads Sanitation District (Virginia) Issuance Fund created and so designated by the Trust Agreement.

"Lien" means any mortgage, deed of trust or pledge of, security interest in or encumbrance on any Property of the District that secures any Indebtedness or any other obligation of the District.

"Long-Term Debt Service Coverage Ratio" means, for any period of time, the ratio determined by dividing the Net Revenues by Coincidental Maximum Annual Debt Service.

"Long-Term Debt Service Requirement" means, for any period of 12 consecutive calendar months for which such determination is made, the aggregate of the payments to be made in respect of principal and interest (whether or not separately stated) on Outstanding Long-Term Indebtedness during such period, also taking into account:

(i) with respect to Balloon Long-Term Indebtedness that is not amortized by the terms thereof (a) the amount of principal that would be payable in such period if such principal were

amortized from the date of incurrence thereof over a period of the lesser of 30 years and the number of years until the final maturity of such Indebtedness on a level debt service basis, at an interest rate equal to the market rate for a fixed rate obligation set forth in an opinion, delivered to the District and the Trustee, of a banking institution, an investment banking institution or an independent registered municipal advisor, selected by the District and knowledgeable in municipal finance, as the interest rate at which the District could reasonably expect to borrow the same by incurring Indebtedness with the same term as the period assumed above; provided, however, that if the date of calculation is within 12 calendar months of the actual final maturity of such Indebtedness, the full amount of principal payable at maturity is to be included in such calculation or (b) principal payments or deposits with respect to Indebtedness secured by an irrevocable letter of credit issued by, or an irrevocable line of credit with, a bank or other financial institution, provided such credit arrangement is rated in one of the three highest rating categories by at least two of the Rating Agencies or rated in the highest short-term rating category by at least two of the Rating Agencies, nominally due in the last Fiscal Year in which such Indebtedness matures may, at the option of the District, be treated as if such principal payments or deposits were due as specified in any credit agreement issued in connection with such letter of credit, line of credit or insurance policy or pursuant to the repayment provisions of such letter of credit, line of credit or insurance policy, and interest on such Indebtedness after such Fiscal Year is to be assumed to be payable pursuant to the terms of such credit agreement or repayment provisions;

- (ii) with respect to Long-Term Indebtedness that is Variable Rate (but not Hedged Fixed Rate) Indebtedness, the interest on such Indebtedness is to be calculated at 120% of the rate which is equal to the average of the actual interest rates which were in effect (weighted according to the length of the period during which each such interest rate was in effect) for the most recent twelve-month period immediately preceding the date of calculation for which such information is available (or shorter period if such information is not available for a twelve-month period), except that with respect to new Variable Rate Indebtedness the interest rate for such Indebtedness for the initial interest rate period is 120% of the average of the SIFMA Swap Index for last 12 whole months for which such Index is available and thereafter will be calculated as set forth above;
- (iii) with respect to any Credit Facility, (a) to the extent that such Credit Facility has not been used or drawn upon, the principal and interest relating to such Credit Facility will not be included in the Long-Term Debt Service Requirement and (b) to the extent such Credit Facility has been drawn upon, the payment provisions of such Credit Facility with respect to repayment of principal and interest thereon will be included in the Long-Term Debt Service Requirement;
- (iv) with respect to Derivative Indebtedness, (i) for any historical computation, the interest on such Indebtedness is to be calculated by adding (A) the amount of interest payable by the District on such Derivative Indebtedness pursuant to its terms and (B) the amount of regularly scheduled payments made by the District pursuant to the Derivative Agreement and subtracting (C) the amount of regularly scheduled payments made by the Derivative Agreement Counterparty pursuant to the Derivative Agreement; (ii) for any historical pro forma or forecasted computation, if the Derivative Agreement Counterparty has a long-term credit rating of at least "A" (without regard to any rating refinement or gradation by numerical modifier or otherwise) assigned to it by at least one Rating Agency then rating the Indebtedness and does not have a long-term rating of less than "A" (without regard to any rating refinement or gradation by numerical modifier or otherwise) from any Rating Agency then rating the Indebtedness and has not defaulted on its payment obligations thereunder as of the date of computation, the interest on such Derivative Indebtedness is to be calculated at the Hedged Fixed Rate or the Hedged Variable Rate, as the case may be; and (iii) in all other instances, the amount of interest payable by the District on such

Derivative Indebtedness is to be calculated as if such Derivative Agreement had not been executed; and

(v) in the case of Indebtedness having the benefit of a Credit Facility that provides for a term loan facility that requires the payment of the principal in one year or more, the Indebtedness is to be considered Balloon Long-Term Indebtedness and is to be assumed to have the maturity schedule described in paragraph (i)(a) of this definition;

provided, however, that (i) interest is to be excluded from the determination of Long-Term Debt Service Requirement to the extent the same is provided from the proceeds of the Long-Term Indebtedness, (ii) the aggregate of the payments to be made with respect to principal and interest on Outstanding Long-Term Indebtedness will not include principal and interest payable from Qualified Escrow Funds, and (iii) principal is to be excluded from the determination of Long-Term Debt Service Requirement on Short-Term Indebtedness described in paragraph (c) under the caption "— Limitations on Indebtedness" in Appendix C.

"Long-Term Indebtedness" means all obligations having a maturity of a term longer than one year for borrowed money incurred or assumed by the District, including (a) Short-Term Indebtedness if secured by a Credit Facility containing a commitment to provide financing to retire such Short-Term Indebtedness and such commitment provides for the repayment of principal on terms that would, if such commitment were implemented, constitute Long-Term Indebtedness, and (b) the current portion of Long-Term Indebtedness, for any of the following:

- (1) money borrowed for an original term, or renewable at the option of the borrower for a period from the date originally incurred, longer than one year;
- (2) leases that are required to be capitalized in accordance with generally accepted accounting principles having an original term, or renewable at the option of the lessee for a period from the date originally incurred, longer than one year;
- (3) installment sale or conditional sale contracts having an original term in excess of one year; and
- (4) the Debt Service Component of Contracted Services in connection with Contracted Services rendered or provided pursuant to a contract having an original term of more than one year.

"Net Book Value" when used in connection with Property, Plant and Equipment or other Property, means the value of such property, net of accumulated depreciation, as recognized by the District in conformity with generally accepted accounting principles.

"Net Revenues" means all revenues received by the District from its Wastewater System less Operating Expenses, provided that Net Revenues will not include any Transition Charge.

"Officer's Certificate" means a certificate signed by a District Representative. Each Officer's Certificate presented pursuant to the Trust Agreement is to state that it is being delivered pursuant to (and is to identify the section or subsection of), and incorporate by reference and use in all appropriate instances all terms defined in, the Trust Agreement. Each Officer's Certificate is to state (i) that the terms thereof are in compliance with the requirements of the section or subsection pursuant to which such Officer's Certificate is delivered or to state in reasonable detail the nature of any non-compliance and the steps being taken to remedy such non-compliance and (ii) that it is being delivered together with any opinions, schedules, statements or other documents required in connection therewith.

"Operating Expenses" means those current expenses paid by the District that may be required to pay the cost of maintaining, repairing and operating the Wastewater System, including, but not limited to, reasonable and necessary usual expenses of administration, operation, maintenance and repair, costs for billing and collecting the rates, fees and other charges for the use of or the services furnished by the Wastewater System, insurance premiums, credit enhancement and liquidity support fees, legal, engineering, auditing and financial advisory expenses, expenses and compensation of the Trustee, and deposits into a self-insurance program. Operating Expenses excludes allowance for depreciation and amortization and expenditures for extraordinary maintenance or repair or improvements. Operating Expenses also excludes expenses for improvements that will not be owned by the District but that will, in the reasonable determination of the Commission, as evidenced by a resolution thereof, maintain or improve the integrity of the Wastewater System.

"Opinion of Bond Counsel" means an opinion in writing signed by an attorney or firm of attorneys acceptable to the Trustee and experienced in the field of municipal bonds whose opinions are generally accepted by purchasers of municipal bonds.

"Opinion of Counsel" means an opinion in writing signed by an attorney or firm of attorneys who may be counsel for the District or other counsel selected by the District.

"Outstanding," when used with reference to Bonds or other Senior Obligations, means, as of a particular date, all Bonds and other Senior Obligations theretofore issued under the Trust Agreement, except:

- (1) Bonds and other Senior Obligations theretofore cancelled by the Bond Registrar or delivered to the Bond Registrar for cancellation;
- Obligations, or a combination of both, sufficient to pay, on the date when such Bonds or other Senior Obligations are to be paid, the principal amount of, and the interest accruing to such date on, the Bonds or other Senior Obligations, as applicable, to be paid, has been deposited with the Trustee or the Bond Registrar in trust for the Holders of such Bonds or other Senior Obligations; Defeasance Obligations shall be deemed to be sufficient to pay Bonds and other Senior Obligations on a specified date if the principal of and the interest on such Defeasance Obligations, when due, will be sufficient to pay on such date the principal of, and the interest accruing on, such Bonds or other Senior Obligations to such date;
- (3) Bonds and other Senior Obligations in exchange for or in lieu of which other Bonds or Senor Obligations have been issued; and
- (4) Bonds and other Senior Obligations deemed to have been paid in accordance with the provisions for defeasance contained in such Bonds or Senior Obligations (See " Defeasance" in Appendix C);

provided, however, that Bonds and other Senior Obligations owned or held by or for the account of the District or any affiliate or any subsidiary or controlled affiliate of the District shall not be deemed Outstanding Bonds or Outstanding Senior Obligations for the purpose of any consent or other action or any calculation of Outstanding Bonds or Outstanding Senior Obligations provided for in the articles of the Trust Agreement relating to default and remedies, Supplements and release of the Trust Agreement, and neither the District nor any affiliate, subsidiary or controlled affiliate of the District as registered owners of such Bonds or other Senior Obligations shall be entitled to consent or take any other action provided for in default and remedies, Supplements and release of the Trust Agreement. Notwithstanding the foregoing,

Bonds or other Senior Obligations owned or held for the account of the District or an or any affiliate or any subsidiary or controlled affiliate of the District shall not be deemed to be paid unless the District delivers, or causes such Bonds or other Senior Obligations to be delivered, to the Trustee with the express written instructions of a District Representative directing the Trustee to cancel such Bonds in accordance with the procedures set forth in the Trust Agreement.

"Principal and Interest Requirements" for any Fiscal Year means the sum of the Principal Requirements and Interest Requirements for such Fiscal Year.

"Principal Payment Date" means each date described as such in a Series Agreement.

"Principal Requirements" for any Fiscal Year means the amount required to pay the principal of all other Senior Obligations coming due in such Fiscal Year.

"**Property**" means any and all rights, titles and interests in and to any and all property whether real or personal, tangible or intangible and wherever situated.

"Property, Plant and Equipment" means all Property of the District which is property, plant and equipment under generally accepted accounting principles.

"Qualified Escrow Funds" means amounts deposited in a segregated escrow fund, or other similar fund or account, in connection with the issuance of Indebtedness which fund is required by the documents establishing such fund to be applied toward the District's payment obligations with respect to principal, premium, if any, or interest on (a) the Indebtedness secured thereby which is issued under the documents establishing such fund or (b) Indebtedness secured thereby which was issued prior to the establishment of such fund.

"Qualified Reserve Fund Substitute" means (i) an irrevocable letter of credit, naming the Trustee as beneficiary, issued by any domestic or foreign bank, or any branch or agency thereof, whose long-term debt obligations are rated in one of the two highest rating categories by at least two of the Rating Agencies that will rate such obligations, or (ii) a policy of reserve fund insurance naming the Trustee as beneficiary, issued by an insurance company or financial institution whose claims paying ability is rated in one of the two highest rating categories by at least two of the Rating Agencies that rate such obligations, in either case (A) in an amount not less than the Debt Service Reserve Fund Requirement, (B) the terms of which allow the Trustee to make the draws required to fund the Debt Service Reserve Fund if and as required (See " – Debt Service Reserve Fund; Qualified Reserve Fund Substitute" in Appendix C) and (C) that provides that the issuer of which has not been given a lien on any portion of the property of the District unless such lien also secures the Bonds on a parity basis.

"Rate Covenant" means the rate covenant of the District set out in the Trust Agreement and described under the caption "- Rate Covenant" in Appendix C hereto.

"Rating Agency" or "Rating Agencies" means one or more of Fitch Ratings, Inc., Moody's Investors Service, Inc., or S&P Global Ratings, a division of S&P Global Inc., for so long as it is a nationally recognized statistical rating organization and any new nationally recognized statistical rating organization.

"Senior Obligations" means Bonds and Indebtedness, including, but not limited to, VRA Obligations, secured on a parity with the Bonds under the terms of the Trust Agreement.

"Series Agreement" means a supplemental trust agreement entered into or the resolution adopted by the Commission providing for the issuance of Senior Obligations pursuant to the Trust Agreement. A

Series Agreement will include any Officer's Certificate delivered by a District Representative or Representatives to whom authority has been delegated by the terms of the Series Agreement to provide the details of such Series Obligations and, for purposes of additional VRA Obligations, a Series Agreement will include such resolutions adopted by the Commission or financing agreements authorized thereby specifying the details of such additional VRA Obligations.

"Short-Term Indebtedness" means all obligations for borrowed money, other than the current portion of Long-Term Indebtedness, incurred or assumed by the District for any of the following:

- (1) money borrowed for an original term, or renewable at the option of the borrower for a period from the date originally incurred, of one year or less;
- (2) leases that are capitalized in accordance with generally accepted accounting principles having an original term, or renewable at the option of the lessee for a period from the date originally incurred, of one year or less; and
- (3) installment purchase or conditional sale contracts having an original term of one year or less.

"SIFMA Swap Index" means The Securities Industry and Financial Market Association Municipal Swap Index as of the most recent date for which such index was published or such other weekly, high-grade index comprised of seven-day, tax-exempt variable rate demand notes published by Bloomberg, or its successor, or otherwise designated by The Securities Industry and Financial Market Association; provided, however, that, if such index is no longer available or its successor, the "SIFMA Swap Index" will mean such other reasonably comparable index selected by the remarketing agent appointed by the District in connection with Variable Rate Indebtedness.

"Subordinate Obligations" means Indebtedness of the District the terms of which shall provide that it shall be subordinate and junior in right of payment to the prior payment in full of the Senior Obligations to the extent and in the manner set forth below:

In the event (a) of any insolvency or bankruptcy proceedings, and any receivership, liquidation, reorganization, arrangement or other similar proceedings in connection therewith, relative to the District or to its Property, or in the event of any proceedings for voluntary liquidation, dissolution or other winding-up of the District whether or not involving insolvency or bankruptcy, (b) any Subordinate Obligation is declared or otherwise becomes due and payable before its expressed maturity because of the occurrence of an event of default occurring under the documents pursuant to which such Subordinate Obligation is issued; and such declaration has not been rescinded and annulled, or (c) any Event of Default under the Trust Agreement shall occur and be continuing with respect to any Senior Obligation and (1) written notice of such default shall have been given to the District and (2) judicial proceedings shall be commenced in respect of such Event of Default within 180 days in the case of a default in payment of principal or interest on Senior Obligations and within 90 days in the case of any other default after the giving of such notice, then the Holders of Senior Obligations shall be entitled to receive payment in full of all principal, premium and interest on all Senior Obligations before the Holders of the Subordinate Obligations are entitled to receive any payment on account of principal or interest upon the Subordinate Obligations.

"Supplement" means an agreement, including a Series Agreement, supplemental to, and authorized and executed pursuant to the terms of, the Trust Agreement.

"**Tax Certificate**" means a certificate or comparable instrument of the District that contains undertakings of the District with reference to Tax-Exempt Senior Obligations.

"**Tax-Exempt**" with reference to Bonds or other Senior Obligations means any Bonds or Senior Obligations so designated in the related Series Agreement.

"Total Operating Revenues" means, with respect to the District, as to any period of time, total operating revenues as determined in accordance with generally accepted accounting principles.

"Transition Charge" means any rates, fees, charges or surcharges relating to the Wastewater System or the customers thereof established by irrevocable rate order or other action or instrument, and applicable to or by the District, in conjunction with the issuance of debt or other securities under a separate resolution, indenture or similar instrument (other than the Trust Agreement or other instrument securing Indebtedness secured by revenues of the Wastewater System) to the extent such rates, fees, charges or surcharges are pledged or otherwise encumbered or conveyed as security for such debt or other securities.

"Trust Agreement" means the trust agreement entered into by and between Hampton Roads Sanitation District and The Bank of New York Mellon Trust Company, N.A., as Trustee, dated as of October 1, 2011, as amended and restated as of March 1, 2016, as amended, as further amended and restated as of ______ 1, 2024, and effective on the Effective Date, including any Series Agreement and any other trust agreement amendatory thereto or supplemental thereto.

"Variable Rate Indebtedness" means any portion of Indebtedness the interest rate on which is not established at the time of incurrence at a fixed or constant rate until maturity.

"VRA Obligations" means the District's VRA Obligations or other evidences of indebtedness heretofore issued, and such additional Senior Obligations issued to VRA payable on a parity with Senior Obligations issued pursuant to the Trust Agreement.

"Wastewater System" means the wastewater treatment system of the District, as it may at any time exist, and includes all improvements and expansions thereof and additions thereto except as may otherwise be provided by resolution of the Commission.

APPENDIX C

SUMMARY OF CERTAIN PROVISIONS OF THE TRUST AGREEMENT

The following is a brief summary of certain provisions of the Trust Agreement. This summary does not purport to be complete or definitive and qualified in its entirety by reference to the Trust Agreement, a copy of which is available for examination at the offices of the Trustee.

Establishment of Funds

The Trust Agreement provides for an Issuance Fund, a Construction Fund, a Bond Fund, and a Debt Service Reserve Fund. It requires that the money and securities in each Fund be held in trust by the Trustee and applied as provided in the Trust Agreement, and pending such application be subject to a lien and charge in favor of the Holders and for the further security of the Holders until paid or transferred pursuant to the Trust Agreement.

Issuance Fund and Construction Fund

The Trust Agreement requires that money in the Issuance Fund be applied to the payment of Issuance Costs incurred in connection with the issuance of the Bonds to be financed from Bond proceeds. Money in the Construction Fund will be applied to Capital Improvement Program Costs. Unexpended fund balances in the Issuance Fund and the Construction Fund will be applied as directed by the District, except as otherwise provided in the applicable Series Agreement.

The District may, in any Series Agreement, create Subfunds within the Issuance Fund and the Construction Fund.

Bond Fund

The District will make payments directly to the Trustee for deposit in the Bond Fund in amounts sufficient to pay in full, when due, all Bonds issued under the Trust Agreement, together with the interest thereon. In the event the balance in the Bond Fund is insufficient for such purposes, upon notification by the Trustee, the District is to deliver to the Trustee an amount sufficient to cure the same. If such amount is insufficient, the Trustee is required to transfer to the Bond Fund the amount necessary to remedy the deficiency from the Debt Service Reserve Fund.

Debt Service Reserve Fund; Qualified Reserve Fund Substitute

No funds are on deposit in the Debt Service Reserve Fund as of the date of this Official Statement, and none will be deposited to the credit of the Debt Service Reserve Fund upon the delivery of the Series 2024B Bonds. If the District elects to fund the Debt Service Reserve Fund, then an amount equal to the Debt Service Reserve Fund Requirement, as the same shall be specified in a Supplement, shall be deposited to the Debt Service Reserve Fund Requirement.

The Trustee will use amounts in the Debt Service Reserve Fund to make transfers to the Bond Fund to the extent necessary to pay interest on and principal of the Bonds, whenever and to the extent that the money on deposit in the Bond Fund is insufficient for such purposes and the District has failed to cure such deficiency.

The District may, at any time, deliver to the Trustee a Qualified Reserve Fund Substitute. In such event, if the District also delivers to the Trustee a written statement setting forth the proposed use of the

cash and Investment Obligations then on deposit to the credit of the Debt Service Reserve Fund, accompanied by an Opinion of Bond Counsel to the District, addressed to the Trustee, to the effect that such proposed use will not cause the interest on the Tax-Exempt Bonds to be includable in the gross income of the owners thereof for purposes of federal income taxation, the Trustee is to transfer to the District all amounts on deposit to the credit of the Debt Service Reserve Fund. If any Qualified Reserve Fund Substitute is in effect, the Trustee is to give such notices and execute such documents as required to assure that funds (i) are available in such amounts and at such times to assure timely payment of principal of and interest on the Bonds and (ii) are drawn to fund the Debt Service Reserve Fund in an amount equal to the Debt Service Reserve Fund Requirement at least six months prior to the expiration date of the Qualified Reserve Fund Substitute to replace such expiring Qualified Reserve Fund Substitute or (b) the expiration date of the expiring Qualified Reserve Fund Substitute is no earlier than the final stated maturity date of the Bonds.

Payment of Principal and Interest

The District will cause to be paid, when due, the principal of (whether at maturity, by acceleration or otherwise) and interest on the Bonds at the places, on the dates and in the manner provided in the Trust Agreement and in said Bonds; provided that it is understood that the Bonds are not general obligations of the District but are special obligations and are payable solely from Net Revenues derived by the District from its Wastewater System and the money attributable to proceeds of Bonds and the income from the investment thereof and not from any other fund or source. To secure the prompt payment of the principal and purchase price of, redemption premium, if any, and the interest on the Senior Obligations and the performance by the District of its other obligations under the Trust Agreement, the District grants to the Trustee a security interest in its Net Revenues.

Investment of Money

Money held for the credit of all funds and accounts created under the Trust Agreement is to be continuously invested and reinvested by the Trustee in Investment Obligations, to the extent practicable in accordance with the instructions of a District Representative. The Trust Agreement requires that any Investment Obligations mature not later than the respective dates when the money held for the credit of such funds or accounts will be required for the purposes intended; provided, however, that Investment Obligations deposited in the Debt Service Reserve Fund mature no later than the final maturity date of the Bonds secured by the Debt Service Reserve Fund.

Unless a Qualified Reserve Fund Substitute is in effect, the District is to reimburse the Debt Service Reserve Fund for any loss resulting from a decline in the value of Investment Obligations in which money held for the credit of the Debt Service Reserve Fund is invested if on any date of valuation the amount on deposit in the Debt Service Reserve Fund is less than the Debt Service Reserve Fund Requirement.

Investment Obligations acquired with money and credited to any fund or account established under the Trust Agreement are required to be held by or under the control of the Trustee and will be deemed at all times to be part of such fund or account in which such money was originally held. Interest accruing on such Investment Obligation and any profit or loss realized upon the disposition or maturity of such investment will be credited to or charged against such fund or account. The Trustee is required to sell at the best price attainable or reduce to cash a sufficient amount of such Investment Obligations whenever it is necessary to provide money to make any payment or transfer of money from any such fund or account. The Trustee will not be liable or responsible for any loss resulting from any such investment.

Valuation

For the purpose of determining the amount on deposit in any fund or account, Investment Obligations in which money in such fund or account is invested are to be valued (a) if such Investment Obligations mature, or are subject to redemption at the option of the holder thereof, within five years or less from the date of valuation thereof, such Investment Obligations are to be valued at amortized cost, and (b) if such Investment Obligations mature, or are subject to redemption at the option of the holder thereof, more than five years from the date of valuation thereof, such Investment Obligations are to be valued at the market value or the amortized cost thereof, whichever is lower.

The Trustee will value the Investment Obligations in the funds and accounts five Business Days prior to each Interest Payment Date. In addition, subject to prior notice, the Investment Obligations will be valued by the Trustee at any time requested by the District Representative, but not more than once in any calendar month other than as provided in the Trust Agreement.

Limitations on Indebtedness

The District may issue Additional Bonds or incur other Senior Obligations, provided that, after giving effect to all other Indebtedness incurred by the District, such Additional Bonds, other Senior Obligations and Subordinate Obligations are incurred only in the manner and pursuant to the terms set forth below:

- (a) Long-Term Indebtedness may be incurred if, prior to incurrence of the Long-Term Indebtedness, there is delivered to the Trustee:
 - (i) an Officer's Certificate of a District Representative certifying that the Long-Term Debt Service Coverage Ratio for the most recent period of twelve (12) full consecutive calendar months preceding the date of delivery of the certificate of the District Representative for which there are Financial Statements available, adjusted for revenues and expenses resulting from anticipated new customers and any planned program of rate increases that has been approved by the Commission, taking all Long-Term Indebtedness incurred after such period and the proposed Long-Term Indebtedness into account as if such Long-Term Indebtedness had been incurred at the beginning of such period, is not less than 120%;
 - (ii) an Officer's Certificate of a District Representative certifying that the District is expected to comply with the Rate Covenant set forth in the Trust Agreement for the five Fiscal Years following the date of issuance of the proposed Long-Term Indebtedness. Such certificate is to be accompanied by a statement of the relevant assumptions upon which such pro forma Financial Statements for the District are based, including but not limited to, adjustments to revenues and expenses resulting from anticipated new customers and any planned program of rate increases that has been approved by the Commission;
 - (iii) if the Long-Term Indebtedness is authorized for any purpose other than the refunding of the outstanding Senior Obligations, an Officer's Certificate of a District Representative to the effect, and to the extent applicable, that in his or her opinion (a) the improvements or property to which the proceeds from the issuance of the Long-Term Indebtedness are to be applied will be a part of the Wastewater System, (b) the proceeds of the Long-Term Indebtedness and other specified sources will be sufficient to pay the estimated cost of such improvements or property, (c) the period of time that will be required to complete such improvements or acquire such property, and (d)(1) the proceeds of the Long-Term Indebtedness are necessary to complete the project to be financed thereby, (2) the failure to make such

improvements or acquire or construct such property will result in an interruption or reduction of Net Revenues, or (3) during the first two Fiscal Years following the completion of the improvements or the acquisition of the property, the projected Net Revenues will satisfy the Rate Covenant described below. In providing this certificate, the District Representative may take into consideration future Wastewater System rate increases, provided that such rate increases have been duly approved by the Commission and any other person and entity required to give approval for the rate increase to become effective. In addition, he or she may take into consideration additional future revenues of the Wastewater System to be derived under then existing contractual agreements entered into by the District and from reasonable estimates of growth in the customer base of the District; or

- (iv) an Officer's Certificate of a District Representative certifying compliance with the Rate Covenant (see " Rate Covenant" below) for the most recent period of 12 full consecutive calendar months for which there are Financial Statements available preceding the date of delivery of the certificate; provided that the District has covenanted in the WIFIA Master Agreement not to issue Long-Term Indebtedness in reliance on the test described in this sub-paragraph (iv) during the period any WIFIA Bonds are outstanding.
- Term Indebtedness if, either (i) a certificate of an independent financial advisor to the effect that, the Long-Term Indebtedness issued to refund Outstanding Senior Obligations will have, in the aggregate, a lower Long-Term Debt Service Requirement than the Long-Term Debt Service Requirement on the Senior Obligations to be refunded with the proceeds thereof, or (ii) an Officer's Certificate of a District Representative to the effect that during the first two complete Fiscal Years following the issuance of the refunding Long-Term Indebtedness, the projected Net Revenues will satisfy the Rate Covenant described under "— Rate Covenant" below. In providing the certificate described in clause (b), the Officer's Certificate may take into account the factors described in the last two sentences of subsection (a)(iii) of this Section. In addition, the Trustee shall receive an Opinion of Counsel stating that upon the incurrence of such proposed Long-Term Indebtedness and application of the proceeds thereof (on the Cross-over Date, in the case of Cross-over Refunding Indebtedness), the Outstanding Long-Term Indebtedness to be refunded thereby will no longer be Outstanding.
- (c) Short-Term Indebtedness may be incurred as a Senior Obligation subject to the same tests that apply to the incurrence of Senior Obligations generally; provided, however, that notwithstanding such limitation, the District may incur as a Senior Obligation from time to time and have outstanding at any one time Short-Term Indebtedness in an amount up to 10% of its Total Operating Revenues as reflected in the Financial Statements of the District for the most recent period of twelve consecutive months for which Financial Statements are available, and provided, further, that the District may incur Short-Term Indebtedness secured by a Credit Facility without limitation. Short-Term Indebtedness may be incurred as Subordinate Obligations without compliance with the tests that apply to the incurrence of Senior Obligations.
- (d) Additional VRA Obligations may be incurred by the District subject to the delivery of an Officer's Certificate of a District Representative demonstrating compliance with the incurrence test for the issuance of Long-Term Indebtedness described above in paragraphs (a) or (b) above and the Rate Covenant described below, *provided*, *however*, anything in the Trust Agreement notwithstanding, the District may make such additional covenants in a supplemental resolution, financing agreement or other agreement authorizing and securing VRA Obligations as may be required by VRA as a condition of purchasing such VRA Obligations.
 - (e) Subordinate Obligations may be incurred without limitation.

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- (f) For purposes of demonstrating compliance with the incurrence test for the issuance of Long-Term Indebtedness described above in paragraph (a), the District may (but is not required to) elect in the applicable Series Agreement to treat all or any Senior Obligations authorized in a Credit Facility (including, for example and without limitation, a self-liquidity arrangement provided by the District, a line of credit or a liquidity facility supporting a commercial paper program), but not immediately issued or incurred under such Credit Facility, as subject to such incurrence test as of a single date, notwithstanding that none, or less than all, of the authorized principal amount of such Senior Obligations have been issued or incurred as of such date.
- (g) Notwithstanding the foregoing provisions regarding limitations on Indebtedness described above, nothing contained in the Trust Agreement will preclude the District from incurring any obligation under a Credit Facility.

Rate Covenant

- (a) The District has covenanted and agreed in the Trust Agreement 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 Wastewater System, and will from time to time revise such rates, fees and other charges so that in each Fiscal Year the Net Revenues will equal at least 120% of the sum of the Principal and Interest Requirements. If, for any reason, the Net Revenues are insufficient to satisfy the foregoing covenant, the District shall within one hundred twenty (120) days adjust and increase its rates, fees and other charges (to the extent permitted by the Enabling Act), or reduce its operating and maintenance expenses so as to provide sufficient Net Revenues to satisfy such requirement.
- (b) If at any time the District fails to comply with its Rate Covenant described in paragraph (a) above, the District is to immediately notify the Trustee, such notice also containing an Officer's Certificate of a District Representative as to (i) the amount of the deficiency in Net Revenues that existed for the applicable period and the rates, fees and other charges which must be established by the District to cure such deficiency, and (ii) during the Fiscal Year in which the certificate is delivered, the projected Net Revenues will satisfy the Rate Covenant made by the District and described in paragraph (a) above, or, if not, the rates, fees and other charges the District must establish to satisfy such rate covenant. In addition, the District agrees, to the extent permitted by law, to take appropriate action to increase its rates, fees and other charges or reduce its Operating Expenses to cure any deficiency.
- (c) On or before the last day of each Fiscal Year, the District will review the adequacy of its rates, fees and other charges for the next Fiscal Year, and, if such review indicates the District's rates, fees and other charges are insufficient to satisfy the Rate Covenant described in paragraph (a) above, the District is to promptly take appropriate action to increase its rates, fees and other charges or reduce its operating and maintenance expenses to cure any deficiency.

Limitation on Creation of Liens

The District agrees that it will not create or permit the existence of any Lien on its Property or upon its Net Revenues other than Permitted Liens.

"Permitted Liens" consist of the following:

(a) Liens arising by reason of good faith deposits with the District in connection with leases of real estate, bids or contracts (other than contracts for the payment of money), deposits by the District to secure public or statutory obligations, or to secure, or in lieu of, surety, stay or appeal bonds, and deposits as security for the payment of taxes or assessments or other similar charges;

- (b) Any Lien arising by reason of deposits with, or the giving of any form of security to, any governmental agency or any body created or approved by law or governmental regulation for any purpose at any time as required by law or governmental regulation as a condition to the transaction of any business or the exercise of any privilege or license, or to enable the District to maintain self-insurance or to participate in any funds established to cover any insurance risks or in connection with any workers' compensation, unemployment insurance, pension or profit sharing plans or other social security, or to share in the privileges or benefits required for companies participating in such arrangements;
- (c) Any judgment lien against the District so long as such judgment is being contested in good faith and execution thereon is stayed;
- (d) (i) Rights reserved to or vested in any municipality or public authority by the terms of any right, power, franchise, grant, license, permit or provision of law, affecting any Property; (ii) any liens on any Property for taxes, assessments, levies, fees, water and sewer rents, and other governmental and similar charges and any liens of mechanics, materialmen, laborers, suppliers or vendors for work or services performed or materials furnished in connection with such Property, which are not due and payable or which are not delinquent or which, or the amount or validity of which, are being contested and execution thereon is stayed or, with respect to liens of mechanics, materialmen, laborers, suppliers or vendors, have been due for less than 90 days; (iii) easements, rights-of-way, servitudes, restrictions, oil, gas or other mineral reservations and other minor defects, encumbrances, and irregularities in the title to any Property which do not materially impair the use of such Property or materially and adversely affect the value thereof; (iv) to the extent that it affects title to any Property, the Trust Agreement; and (v) landlord's liens;
- (e) Any Lien that was existing on the date of authentication and delivery of the first Bonds issued under the Trust Agreement (October 20, 2011); provided that no such Lien may be increased, extended, renewed or modified to apply to any Property of the District not subject to such Lien on such date or to secure Indebtedness not Outstanding on the date of issuance of such Bonds, unless such Lien as so extended, renewed or modified otherwise qualifies as a Permitted Lien under the Trust Agreement;
- (f) Any lien on pledges, gifts or grants to be received in the future, including any income derived from the investment thereof;
 - (g) Any Lien securing Senior Obligations on a parity basis;
- (h) Any Liens on Property received by the District through gifts, grants or bequests, such liens being due to restrictions on such gifts, grants or bequests of Property or the income thereon:
- (i) Any Lien on moveable equipment securing Indebtedness incurred to purchase such moveable equipment, provided that the total of such Indebtedness does not exceed 15% of the Net Book Value of the Property, Plant and Equipment of the District as shown on the Financial Statements for the prior Fiscal Year; and
- (j) Any Lien on Net Revenues securing Subordinate Indebtedness; provided that such Lien is expressly subordinate and junior to the Lien on Net Revenues granted to the Trustee for the payment of principal of, redemption premium, if any, and the interest on the Senior Obligations and to secure the prompt payment of the and the performance by the District of its other obligations under the Trust Agreement.

Designation of Funds

No later than the last Business Day of each month, the District will specifically earmark cash, cash equivalents or marketable securities or any combination thereof in an amount equal to the interest on and the principal of Bonds that will accrue in the next month, taking into account any scheduled maturities of interest or principal scheduled to become due and payable in such month and the funds theretofore earmarked for such purpose. The District may assume that both interest and principal accrue daily from the prior payment date or date of issuance but not more than 12 months prior to a payment date.

Maintenance of Properties

The District covenants in the Trust Agreement:

- (a) At all times, to cause its Property to be maintained, preserved and kept in good repair, working order and condition and all needed and proper repairs, renewals and replacements thereof to be made; provided, however, that nothing described in this paragraph (a) will be construed to (i) prevent it from ceasing to operate any portion of its Property, if in its judgment (supported, in the case of such a cessation other than in the ordinary course of business by an opinion or certificate of an Independent Consultant) it is advisable not to operate the same, or if it intends to sell or otherwise dispose of the same and within a reasonable time endeavors to effect such sale or other disposition, or (ii) obligate it to retain, preserve, repair, renew or replace any Property, leases, rights, privileges or licenses no longer used or, in the judgment of the Commission, useful in the conduct of its business;
- (b) To do all things reasonably necessary to conduct its affairs and carry on its business and operations in such manner as to comply with any and all applicable laws of the United States and the Commonwealth of Virginia and duly observe and conform to all valid orders, regulations or requirements of any governmental authority relative to the conduct of its business and the ownership of its Properties; provided, nevertheless, that nothing contained in the Trust Agreement requires it to comply with, observe and conform to any such law, order, regulation or requirement of any governmental authority so long as the validity thereof or the applicability thereof to it is contested in good faith;
- (c) To pay promptly all lawful taxes, governmental charges and assessments at any time levied or assessed upon or against it or its Property; provided, however, that it will have the right to contest in good faith any such taxes, charges or assessments or the collection of any such sums and pending such contest may delay or defer payment thereof;
- (d) To pay promptly or otherwise satisfy and discharge all of its Indebtedness and all demands and claims against it as and when the same become due and payable, other than any thereof (exclusive of the Indebtedness created and Outstanding under the Trust Agreement) whose validity, amount or collectability is being contested in good faith;
- (e) At all times to comply with all terms, covenants and provisions of any Liens at such time existing upon its Property or any part thereof or securing any of its Indebtedness; and
- (f) To procure and maintain all necessary licenses and permits for the operation of its Wastewater System;

provided, however, that it need not comply with the covenants described in this section if and to the extent that the Commission determines in good faith, evidenced by a resolution of the Commission, that such

compliance is not in its best interests and that lack of such compliance would not materially impair its ability to pay its Indebtedness when due.

Insurance

- (a) The District agrees that it will maintain, or cause to be maintained, the following types of insurance, subject to the provisions described in subsection (b) below, in such amounts as, in its judgment, are adequate to protect it and its Property and operations from material financial loss: (i) comprehensive general liability insurance, and (ii) property coverage on an "all risk" basis.
- (b) If the District is self-insured (excluding deductibles) for any coverage described in (a) above, the District is to provide the Trustee a report of an Independent Insurance Consultant selected by the District not less than every three years, which report is to state whether the anticipated funding of any self-insurance fund is sufficient, and if not, the required funding to obtain such result, and any such self-insurance coverage will be reviewed by the Independent Insurance Consultant not less frequently than annually. If the Independent Insurance Consultant determines in any such report that the anticipated funding of any self-insurance fund is not sufficient, the District covenants that it will undertake to fund such self-insurance fund in the manner recommended by the Independent Insurance Consultant.

Insurance and Condemnation Proceeds

- (a) Amounts that do not exceed 20% of the Net Book Value of the Property, Plant and Equipment of the District received by the District as insurance proceeds with respect to any casualty loss or as condemnation awards may be used in such manner as the District may determine, including, without limitation, applying such money to the partial payment or prepayment of any Indebtedness in accordance with the terms thereof and of any pertinent Supplement.
- (b) Amounts that exceed 20% of the Net Book Value of the Property, Plant and Equipment received by the District as insurance proceeds with respect to any casualty loss or as condemnation awards will be applied in such manner as the District may determine; provided, however, that the District is to notify the Trustee and within 12 months after the casualty loss or taking, deliver to the Trustee a report of an Independent Consultant stating the Independent Consultant's recommendations, including recommendations as to the use of such proceeds or awards, to cause the Long-Term Debt Service Coverage Ratio for each of the two periods of 12 full consecutive calendar months following the date on which such proceeds or awards are expected to have been fully applied to be not less than 120%, or, if in the opinion of the Independent Consultant the attainment of such level is impracticable, at the highest practicable level.

Annual Budget

The District covenants that on or before the first day of the last month preceding the beginning of each Fiscal Year the Commission will adopt a budget of operating and non-operating revenues and expenses for the ensuing Fiscal Year.

Events of Default

Events of Default under the Trust Agreement are as follows: (a) payment of the purchase price of any Bond shall not be made by the District when the same shall become due and payable; or (b) payment of any installment of interest on any Bond is not made by the District when the same becomes due and payable; or (c) payment of the principal of any Bond is not made by the District when the same becomes due and payable, whether at maturity or by acceleration or otherwise; or (d) default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Trust

Agreement or any Supplement to the Trust Agreement, including any covenant, condition, agreement or provision in the Trust Agreement applicable to the District and incorporated by reference in the Trust Agreement, and such default continues for 30 days after receipt by the District of a written notice from the Trustee specifying such default and requiring the same to be remedied; provided, however, if prior to the expiration of such 30 day period the District institutes action reasonably designed to cure such default, no Event of Default is to be deemed to have occurred upon the expiration of such 30-day period for so long as the District pursues such curative action with reasonable diligence and provided that such curative action can be completed within a reasonable time.

Remedies for Default

Upon the happening and continuance of an Event of Default, the Trustee may take the following remedial steps: (i) in the case of an Event of Default described in clauses (a), (b) or (c) under " – Events of Default" above, the Trustee may take whatever action at law or in equity is necessary or desirable to collect the payments then due under the Trust Agreement or the Bonds; and (ii) in the case of an Event of Default described in clause (d) under " – Events of Default" above, the Trustee may take whatever action at law or in equity is necessary or desirable to enforce performance, observance or compliance by the District with any covenant, condition, agreement or provision under the Trust Agreement.

Upon the happening and continuance of an Event of Default, the Trustee may, and upon the written request of the Holders of not less than a majority in aggregate principal amount of Bonds then Outstanding is required to, by notice in writing to the District, declare the principal of all Bonds then Outstanding (if not then due and payable) to be due and payable immediately.

However, if at any time after the principal of Bonds has been declared to be due and payable, and before the entry of final judgment or decree in any suit, action or proceeding instituted on account of such default, or before the completion of the enforcement of any other remedy under the Trust Agreement, (i) money has accumulated in or has been paid into the Bond Fund sufficient to pay the principal of all matured Bonds and all arrears of interest, if any, upon all Bonds then Outstanding (except the principal of any Bond not then due and payable by its terms and the interest accrued on such Bond since the last Interest Payment Date), and the charges, compensations, expenses, disbursements, advances and liabilities of the Trustee and (ii) all amounts then payable by the District under the Trust Agreement have been paid or a sum sufficient to pay the same has been deposited with the Trustee, and (iii) every other default known to the Trustee in the observance or performance of any covenant, condition or agreement contained in the Bonds or in the Trust Agreement (other than a default in the payment of the principal of such Bonds then due only because of a declaration of acceleration of maturities) has been remedied to the satisfaction of the Trustee, then the Trustee may, and upon the written request of the Holders of not less than a majority in aggregate principal amount of Bonds not then due and payable by their terms (Bonds then due and payable only because of a declaration of acceleration will not be deemed to be due and payable by their terms) and then Outstanding is required to, by written notice to the District, rescind and annul such declaration and its consequences, but no such rescission or annulment will extend to or affect any subsequent Event of Default or impair any right consequent thereon.

Upon the happening and continuance of an Event of Default, the Trustee may, and upon the written request of the Holders of not less than a majority in aggregate principal amount of Bonds then Outstanding, and upon satisfactory indemnification, is required to, proceed either at equity or at law, or by proceedings in the office of any board or officer having jurisdiction to protect and enforce its rights and the rights of the Holders under the laws of the Commonwealth of Virginia or under the Trust Agreement as the Trustee, being advised by counsel chosen by the Trustee, deems most effectual to protect and enforce such rights. The Holders of not less than a majority in aggregate principal amount of Bonds then Outstanding, upon indemnification satisfactory to the Trustee, have the right to direct the method and place of all remedial

proceedings to be taken by the Trustee, provided that such direction is in accordance with law and the provisions of the Trust Agreement.

Restrictions upon Actions by Individual Holders

Except for the right of any Holder to enforce the payment of the principal of and interest on such Holder's Bond, no Holder will have any right to institute any suit, action or proceeding in equity or at law on any Bond or for the execution of any trust under the Trust Agreement or for any other remedy under the Trust Agreement unless (a) such Holder previously has given to the Trustee written notice of the particular Event of Default, (b) also the Holders of not less than a majority in aggregate principal amount of Bonds then Outstanding have made a request of the Trustee after the right to exercise such powers or right of action has accrued, and such Holder has afforded the Trustee a reasonable opportunity either to proceed to exercise the powers granted in the Trust Agreement or to institute such action, suit or proceedings in its or their name, and (c) there has been offered to the Trustee reasonable security and indemnity against the costs, expenses and liabilities (including attorney's fees, costs and expenses to be incurred therein or thereby, and the Trustee has refused or neglected to comply with such request within a reasonable time. Notwithstanding the foregoing provisions and without complying therewith, the Holders of not less than a majority in aggregate principal amount of Bonds then Outstanding may institute any such suit, action or proceeding in their own names for the benefits of all Holders of the Bonds.

Notice of Default to Holders

The Trustee is required to give written notice to all Holders of the occurrence of any Event of Default within 30 days after the Trustee has actual notice thereof, provided, however, except upon the occurrence of an Event of Default due to failure by the District to make payments of any installment of interest on or principal or purchase price of any Bond when the same become due and payable within 30 days after the Trustee received notice of the same, the Trustee may withhold such notice to the Holders if in its opinion such withholding is in the interest of the Holders.

Pro-Rata Application of Funds

Notwithstanding anything in the Trust Agreement to the contrary, if at any time the money in the Bond Fund is not sufficient to pay the interest on or the principal of Bonds as the same become due and payable (either by their terms or by acceleration of maturities under the provisions of the Trust Agreement), such money, together with any money then available or thereafter becoming available for such purpose, is to be applied, subject to the compensation and indemnification to the Trustee and Bond Registrar, as follows:

(a) if the principal of all Bonds has not become or has not been declared due and payable, all such money in the Bond Fund is to be applied:

first: to the payment to the persons entitled thereto of all installments of interest on Bonds then due and payable in the order in which such installments became due and payable and, if the amount available is not sufficient to pay in full any particular installment, then to the payment, ratably according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or preference except as to any difference in the respective rates of interest specified in such Bonds;

second: to the payment to the persons entitled thereto of the unpaid principal of any Bonds that have become due and payable (other than Bonds called for redemption for the payment of which money is held pursuant to the provisions of the Trust Agreement), in the order of their due dates, and, if the amount available is not sufficient to pay in full the principal of Bonds due and payable on any particular date, then to the payment ratably according to the amount of such principal due on such date, to the persons entitled thereto without any discrimination or preference; and

third: to the payment of the interest on and the principal of Bonds, to the purchase and retirement of Bonds due to the redemption of Bonds in accordance with the Trust Agreement and the applicable Series Agreement.

- (b) If the principal of all Bonds has become or has been declared due and payable, all such money is to be applied to the payment of principal and interest then due upon the Bonds without preference to the persons entitled thereto, without preference or priority of principal over interest or interest over principal, or of any installment of interest over any other installment of interest or any Bond over any other Bond ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto, without any discrimination or preference.
- (c) If the principal of all Bonds has been declared due and payable and if such declaration is thereafter rescinded and annulled due to the remediation of an Event of Default, then, subject to the provisions described in paragraph (b) of this section, in the event that the principal of all Bonds later becomes due and payable or is declared due and payable, the money then remaining in and thereafter accruing to the Bond Fund is to be applied in accordance with the provisions described in paragraph (a) above.

Supplemental Trust Agreements without Consent of Holders

The District and the Trustee may without the consent of or notice to any of the Holders, enter into agreements supplemental to the Trust Agreement as are substantially consistent with the terms and provisions of the Trust Agreement:

- (a) to cure any ambiguity or formal defect or omission, to correct or supplement any provision of the Trust Agreement that may be inconsistent with any other provision of the Trust Agreement, to make any other provisions with respect to matters or questions arising under the Trust Agreement, or to modify, alter, amend, add to or rescind, in any particular, any of the terms or provisions contained in the Trust Agreement, or
- (b) to grant to or confer upon the Trustee for the benefit of the Holders any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the Holders or the Trustee, or
- (c) to add to the provisions of the Trust Agreement other conditions, limitations and restrictions thereafter to be observed, or
- (d) to add to the covenants and agreements of the District in the Trust Agreement other covenants and agreements thereafter to be observed by the District or to surrender any right or power reserved in the Trust Agreement to or conferred upon the District, or
- (e) to permit the qualification of the Trust Agreement under any federal statute now or hereafter in effect or under any state Blue Sky law, and, in connection therewith, if the District so determines, to add to the Trust Agreement or any supplemental trust agreement such other terms, conditions and provisions as may be permitted or required by such federal statute or Blue Sky law, or

- (f) to provide for the issuance of Bonds under a book-entry system, or
- (g) to make any other change in the Trust Agreement that, in the judgment of the District, expressed in a resolution of the Commission, and the Trustee, each of which may rely upon a written Opinion of Counsel, will not materially and adversely affect the Holders of the Bonds of each series that will be affected by such supplement.

Modification of Trust Agreement with Consent of Holders

The Holders of not less than a majority of the aggregate principal amount of Bonds then Outstanding will have the right to consent to and approve the execution and delivery by the District and the acceptance by the Trustee of such trust agreement or trust agreements supplemental to the Trust Agreement as deemed necessary or desirable by the District for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, the Trust Agreement; provided, however, that nothing contained in the Trust Agreement will permit, or be construed as permitting (a) an extension of the maturity of the principal of or the interest on any Bonds issued under the Trust Agreement without the consent of the Holders of such Bonds, or (b) a reduction in the principal amount of any Bonds or the rate of interest thereon without the consent of the Holders of such Bonds, or (c) the creation of a pledge of receipts and revenues superior to the pledge created by the Trust Agreement without the consent of the Holders of all Bonds Outstanding, or (d) a preference or priority of any Bond over any other Bond without the consent of the Holders of all Bonds Outstanding, or (e) a reduction in the aggregate principal amount of Bonds required for consent to such supplemental trust agreement without the consent of the Holders of all Bonds Outstanding.

If the District requests the Trustee to enter into any supplemental trust agreement described in the immediately preceding paragraph, the Trustee will cause notice of the proposed supplemental trust agreement to be mailed to all Holders. If the Holders of not less than a majority in aggregate principal amount of Bonds Outstanding at the time of the execution of such supplemental trust agreement have consented to and approved the execution, no Holder will have any right to object to the adoption of such supplemental trust agreement.

Defeasance

(a) When the Bonds become due and payable and the whole amount of the principal and the interest so due and payable upon all Bonds is required to be paid, and (b) if the Bonds have not become due and payable, the Trustee or the Bond Registrar holds, sufficient money or Defeasance Obligations, or a combination of money and Defeasance Obligations, the principal of and the interest on which, when due and payable, will provide sufficient money to pay the principal of, and the interest on, all Bonds then Outstanding to the maturity date or dates of such Bonds and (c) sufficient funds also have been provided or provision has been made for paying all other obligations payable under the Trust Agreement by the District, then and in that case the right, title and interest of the Trustee in the funds and accounts mentioned in the Trust Agreement will thereupon cease, determine and become void and, on demand of the District and upon being furnished with an opinion, satisfactory to the Trustee, of counsel approved by the Trustee, to the effect that all conditions precedent to the release of the Trust Agreement have been satisfied, the Trustee will release the Trust Agreement and will execute such documents to evidence such release as may reasonably be required by the District and will turn over to the District any surplus in, and all balances remaining in, all funds and accounts.

Otherwise, the Trust Agreement will continue to be and remain in full force and effect; provided, that, in the event Defeasance Obligations are deposited with and held by the Trustee or the Bond Registrar as provided for above, (i) the Trustee will nevertheless retain such rights, powers and privileges under the Trust Agreement as may be necessary and convenient in respect of the Bonds for the payment of the

principal and interest for which such Defeasance Obligations have been deposited, and (ii) the Bond Registrar will retain such rights, powers and privileges under the Trust Agreement as may be necessary and convenient for the registration, transfer and exchange of Bonds.

Release of Eleventh Supplemental Trust Agreement

When (a) the Series 2024B Bonds have become due and payable in accordance with their terms or otherwise as provided in the Eleventh Supplemental Trust Agreement, the whole amount of the principal and the interest so due and payable upon all Series 2024B Bonds is paid, (b) if the Series 2024B Bonds have not become due and payable in accordance with their terms, the Trustee or the Bond Registrar holds, sufficient money or Defeasance Obligations, or a combination of money and Defeasance Obligations, the principal of and the interest on which, when due and payable, will provide sufficient money to pay the principal of, and the interest on, all Series 2024B Bonds then Outstanding to the maturity date or dates of such Series 2024B Bonds and (c) sufficient funds also have been provided or provision made for paying all other obligations payable under the Eleventh Supplemental Trust Agreement by the District, then and in that case the right, title and interest of the Trustee in the funds and accounts mentioned in the Eleventh Supplemental Trust Agreement will 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 Bond Counsel, to the effect that all conditions precedent to the release of the Eleventh Supplemental Trust Agreement and the defeasance of the Series 2024B Bonds have been satisfied, the Trustee is to release the Eleventh Supplemental Trust Agreement and is to execute such documents to evidence such release as may reasonably be required by the District and, subject to the provisions of the Trust Agreement, is to turn over to the District any surplus in, and all balances remaining in, all funds and accounts.

Removal of Trustee

The Trustee may be removed at any time by an instrument or concurrent instruments in writing, (i) executed by the Holders of not less than a majority in aggregate principal amount of Bonds then Outstanding and filed with the District, or (ii) so long as no Event of Default has occurred and is continuing, an instrument executed by the District, not less than 60 days before such removal is to take effect as stated in said instrument or instruments. The Trustee may also be removed at any time for acting or proceeding in violation of, or for failing to act or proceed in accordance with, any provisions of the Trust Agreement with respect to the duties and obligations of the Trustee by any court of competent jurisdiction upon the application of the District or the Holders of not less than a majority in aggregate principal amount of Bonds then Outstanding.

APPENDIX D

PROPOSED OPINION OF BOND COUNSEL

August , 2024

Hampton Roads Sanitation District Commission Virginia Beach, Virginia

We have examined Chapter 66 of the Acts of Assembly of Virginia of 1960, as amended (the "Act"), and certified copies of the proceedings of the Hampton Roads Sanitation District Commission (the "Commission"), the governing body of Hampton Roads Sanitation District (a political subdivision of the Commonwealth of Virginia and herein sometimes called the "District"), authorizing the execution and delivery of the 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 October 1, 2011, as amended and restated as of March 1, 2016, as amended, as further amended and restated as of ________1, 2024 (the "Amended and Restated Trust Agreement"), as supplemented by the Eleventh Supplemental Trust Agreement, dated as of ________1, 2024 (the "Eleventh Supplemental Trust Agreement" and together with the Amended and Restated Trust Agreement, as so supplemented and as the same may be amended and further supplemented, the "Trust Agreement"), each by and between the District and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"), and the issuance of

HAMPTON ROADS SANITATION DISTRICT

Wastewater Revenue Bonds, Series 2024B

Dated, maturing, subject to redemption, and bearing interest, all as provided in the Trust Agreement.

Pursuant to the Trust Agreement, as security for the payment of the amounts due on the above-captioned bonds (the "Bonds"), the District has pledged its Net Revenues to the Trustee. The District's Net Revenues consist of all revenues derived by the District from the Wastewater System (as defined in the Trust Agreement) except such part of such revenues as may be required to pay the cost of maintaining, repairing and operating such Wastewater System.

For purposes of the opinions in paragraphs 1, 2 and 3 below, we have relied upon the opinion of Sands Anderson PC to the effect that the resolutions of the Commission authorizing the Bonds and approving the Trust Agreement were duly adopted.

We have also examined one of the Bonds, as executed and authenticated.

Based upon such examination, we are of the opinion that:

1. The Bonds have been duly authorized, executed and issued for the purpose of providing funds, together with other available funds, to finance certain improvements included as part of the District's Capital Improvement Program and to pay certain costs of issuing the Bonds.

- 2. The Trust Agreement has been duly authorized and executed by the District and, assuming due authorization and execution by the Trustee, is a valid, binding and enforceable obligation of the District in accordance with its terms.
- 3. As provided by the Act, the Bonds, their transfer and the income therefrom, including any profit made on the sale thereof, shall be free and exempt from taxation by the Commonwealth of Virginia and any political subdivision thereof. The Bonds are valid and binding special obligations of the District payable solely from the Net Revenues and other funds pledged as security therefor under the Trust Agreement.
- 4. The Bonds do not constitute a debt of the Commonwealth of Virginia or of any county, city, town or political subdivision thereof, 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 the Bonds does 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.
- 5. Assuming continuing compliance by the District with its covenants to comply with the requirements of the Internal Revenue Code of 1986, as amended (the "Code"), and except as provided in the following sentence, interest on the Bonds is not includable in the gross income of the owners thereof for federal income tax purposes under current law. Interest on the Bonds will be includable in the gross income of the owners thereof retroactive to the date of issue of the Bonds in the event of a failure by the District to comply with applicable requirements of the Code and its covenants regarding use, expenditure, and investment of the proceeds of the Bonds and the timely payment of certain investment earnings to the United States Treasury, and we render no opinion as to the effect on the exclusion from gross income of the interest on the Bonds for federal income tax purposes of any action taken or not taken without our approval or upon the advice or approval of counsel other than us.
- 6. Interest on the Bonds is not an item of tax preference for purposes of the federal alternative minimum tax on individuals.

The Code contains other provisions that could result in tax consequences, as to which we render no opinion, as a result of ownership of the Bonds or the inclusion in certain computations (including without limitation those related to the corporate alternative minimum tax) of interest that is excluded from gross income.

The enforceability of the Trust Agreement and the obligations of the District with respect to such documents described above are subject to applicable bankruptcy, insolvency, moratorium, reorganization and other similar laws affecting creditors' rights generally and to general principles of equity (regardless of whether enforcement is sought in proceedings in equity or law).

Respectfully submitted,

APPENDIX E

FORM OF CONTINUING DISCLOSURE AGREEMENT

This Continuing Disclosure Agreement (this "Disclosure Agreement"), dated as of August ___, 2024, is executed and delivered by Hampton Roads Sanitation District (the "District") in connection with the issuance by the District of its Wastewater Revenue Bonds, Series 2024B (the "Bonds"), pursuant to the provisions of the 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 October 1, 2011, as amended and restated as of March 1, 2016, as amended, as further amended and restated as of ______ 1, 2024 (the "Amended and Restated Trust Agreement"), as supplemented by the Eleventh Supplemental Trust Agreement, dated as of ______ 1, 2024 (the "Eleventh Supplemental Trust Agreement" and together with the Amended and Restated Trust Agreement, as so supplemented, and as the same may be amended and further supplemented, the "Trust Agreement"), by and between the District and The Bank of New York Mellon Trust Company, N.A., as trustee. The proceeds of the Bonds are being used by the District to provide funds to finance certain improvements included as part of the District's Capital Improvement Program. The District hereby covenants and agrees as follows:

SECTION 1. <u>Purpose of the Disclosure Agreement</u>. This Disclosure Agreement is being executed and delivered by the District for the benefit of the holders of the Bonds and in order to assist the Participating Underwriters (defined below) in complying with the Rule (defined below). The District acknowledges that it is undertaking primary responsibility for any reports, notices or disclosures that may be required under this Disclosure Agreement.

SECTION 2. <u>Definitions</u>. In addition to the definitions set forth in the Trust Agreement, which apply to any capitalized term used in this Disclosure Agreement unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

"Annual Report" shall mean any Annual Report provided by the District pursuant to, and as described in, Sections 3 and 4 of this Disclosure Agreement.

"Dissemination Agent" shall mean the District, acting in its capacity as Dissemination Agent hereunder, or any successor Dissemination Agent designated in writing by the District and which has filed with the District a written acceptance of such designation.

"Filing Date" shall have the meaning given to such term in Section 3(A) hereof.

"Financial Obligation" means 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) guarantee of a debt obligation or any such derivative instrument; provided that "financial obligation" shall not include municipal securities (as defined in the Securities Exchange Act of 1934, as amended) as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

"Fiscal Year" shall mean the twelve-month period at the end of which financial position and results of operations are determined. Currently, the District's Fiscal Year begins July 1 and continues through June 30 of the next calendar year.

"Holder" or "holder" shall mean, for purposes of this Disclosure Agreement, any person who is a record owner or beneficial owner of a Bond.

"Listed Events" shall mean any of the events listed in subsection (b)(5)(i)(C) of the Rule, which are as follows:

- (i) principal and interest payment delinquencies;
- (ii) non-payment related defaults, if material;
- (iii) unscheduled draws on debt service reserves reflecting financial difficulties;
- (iv) unscheduled draws on credit enhancements reflecting financial difficulties;
- (v) substitution of credit or liquidity providers, or their failure to perform;
- (vi) 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 material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (vii) modifications to rights of security holders, if material;
- (viii) bond calls, if material, and tender offers;
 - (ix) defeasances;
 - (x) release, substitution, or sale of property securing repayment of the Bonds, if material;
- (xi) rating changes;
- (xii) bankruptcy, insolvency, receivership or similar event of the District;
- (xiii) the consummation of a merger, consolidation, or acquisition involving the District or the sale of all or substantially all of the assets of the District, 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, if material; and appointment of a successor or additional paying agent or the change of name of a paying agent, if material;
- (xiv) appointment of a successor or additional paying agent or the change of name of a paying agent, if material;
- (xv) incurrence of a Financial Obligation of the District, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the District, any of which affect security holders, if material; and
- (xvi) default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the District, any of which reflect financial difficulties.

For these purposes, (a) any event described in the immediately preceding paragraph (xii) is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar

officer for the District in a proceeding under the United States 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 District or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers of the District 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 District, and (b) the District intends the words used in the immediately preceding paragraphs (xv) and (xvi) and the definition of Financial Obligation in this Section 2 to have the same meanings as when they are used in the Rule, as evidenced by SEC Release No. 34-83885, dated August 20, 2018.

"MSRB" means the Municipal Securities Rulemaking Board.

"Participating Underwriters" shall mean any of the original underwriters of the Bonds required to comply with the Rule in connection with the offering of such Bonds.

"Repository" shall mean The Electronic Municipal Market Access ("EMMA") system administered by the Municipal Securities Rulemaking Board. EMMA is recognized as a National Repository for purposes of the Rule.

"Rule" shall mean Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

SECTION 3. <u>Provision of Annual Reports.</u>

- A. The District shall, or shall cause the Dissemination Agent to, provide to the Repository an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Agreement. Such Annual Report shall be filed on a date (the "Filing Date") that is not later than December 31 after the end of any Fiscal Year (commencing with its Fiscal Year ended June 30, 2024). Not later than ten (10) days prior to the Filing Date, the District shall provide the Annual Report to the Dissemination Agent (if applicable). In such case, the Annual Report (i) may be submitted as a single document or as separate documents comprising a package, (ii) may cross-reference other information as provided in Section 4 of this Disclosure Agreement and (iii) shall include the District's audited financial statements or, if audited financial statements are not available, such unaudited financial statements as may be required by the Rule. In any event, audited financial statements of the District must be submitted, if and when available, together with or separately from the Annual Report.
- B. The annual financial statements of the District shall be prepared on the basis of generally accepted accounting principles and will be audited. Copies of the audited annual financial statements, which may be filed separately from the Annual Report, will be filed with the Repository when they become publicly available.
- C. If the District fails to provide an Annual Report to the Repository by the date required in subsection A hereto or to file its audited annual financial statements with the Repository when they become publicly available, the District shall send a notice to the Repository in substantially the form attached hereto as Exhibit B.
- SECTION 4. <u>Content of Annual Reports</u>. Except as otherwise agreed, any Annual Report required to be filed hereunder shall contain or incorporate by reference, at a minimum, annual financial information relating to the District, including operating data, updating such information relating to the

District as described in Exhibit A, all with a view toward assisting the Participating Underwriters in complying with the Rule.

Any or all of such information may be incorporated by reference from other documents, including official statements of securities issues with respect to which the District is an "obligated person" (within the meaning of the Rule), which have been filed with the Repository or the Securities and Exchange Commission. If the document incorporated by reference is a final official statement, it must be available from the Repository. The District shall clearly identify each such other document so incorporated by reference.

- SECTION 5. <u>Reporting of Listed Events</u>. The District will provide within ten business days to the Repository, notice of any of the Listed Events.
- SECTION 6. <u>Termination of Reporting Obligation</u>. The District's obligations under this Disclosure Agreement shall terminate upon the earlier to occur of the legal defeasance and final retirement of all the Bonds.
- SECTION 7. <u>Dissemination Agent</u>. The District may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Agreement and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent. If at any time there is not any other designated Dissemination Agent, the District shall be the Dissemination Agent.
- SECTION 8. <u>Amendment</u>. Notwithstanding any other provision of this Disclosure Agreement, the District may amend this Disclosure Agreement, if such amendment is supported by an opinion of independent counsel with expertise in federal securities laws, to the effect that such amendment is permitted or required by the Rule.
- SECTION 9. Additional Information. Nothing in this Disclosure Agreement shall be deemed to prevent the District from disseminating any other information, using the means of dissemination set forth in this Disclosure Agreement or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Agreement. If the District chooses to include any information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is specifically required by this Disclosure Agreement, the District shall have no obligation under this Disclosure Agreement to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

SECTION 10. <u>Default</u>. Any person referred to in Section 12 (other than the District) may take such action as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the District to file its Annual Report or to give notice of a Listed Event. The holders of not less than a majority in aggregate principal amount of Bonds Outstanding may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to challenge the adequacy of any information provided pursuant to this Disclosure Agreement, or to enforce any other obligation of the District hereunder. A default under this Disclosure Agreement shall not be deemed an event of default under the Trust Agreement or the Bonds, and the sole remedy under this Disclosure Agreement in the event of any failure of the District to comply herewith shall be an action to compel performance. Nothing in this provision shall be deemed to restrict the rights or remedies of any holder pursuant to the Securities Exchange Act of 1934, the rules and regulations promulgated thereunder, or other applicable laws.

SECTION 11. <u>Format of Filings</u>. Unless otherwise required by the Repository, all notice, documents and information provided to the Repository pursuant to this Disclosure Agreement shall be provided to EMMA, the current Internet address of which is www.emma.msrb.org. All notices, documents and information provided to the EMMA shall be provided in an electronic format prescribed by the Repository (currently, portable document format (pdf) which must be word-searchable except for non-textual elements) and shall be accompanied by identifying information as prescribed by the Repository.

SECTION 12. <u>Beneficiaries</u>. This Disclosure Agreement shall inure solely to the benefit of the District, the Participating Underwriters and the holders from time to time of the Bonds, and shall create no rights in any other person or entity.

HAMPTON ROADS SANITATION DISTRICT

By: _		
	Deputy General Manager and	
	Chief Financial Officer	

CONTENT OF ANNUAL REPORT HAMPTON ROADS SANITATION DISTRICT

- (a) **Financial Information**. Updated information including summary financial results, treatment charge collection rate, revenue collections from the District's largest customers, and a five-year comparison of revenues, expenses, debt service and debt service coverage ratios.
- (b) **Debt Information**. Updated information including the debt service requirements of long-term indebtedness.
- (c) **Operating Data.** Updated operating data including wastewater flows to the Wastewater System and its major treatment plants, the treatment capacities of its major treatment plants, total billed wastewater flows, and changes in rates and charges.

In general, the foregoing will include information as of the end of the most recent fiscal year or as of the most recent practicable date. Where information for the fiscal year just ended is provided, it may be preliminary and unaudited. Where information has historically been provided for more than a single period, comparable information will in general be provided for the same number of periods where valid and available. Where comparative demographic or economic information for the District and the United States as a whole is contemporaneously available and, in the judgment of the District, informative, such information may be included. Where, in the judgment of the District, an accompanying narrative is required to make data presented not misleading, such narrative will be provided.

NOTICE OF FAILURE TO FILE ANNUAL REPORT [AUDITED ANNUAL FINANCIAL STATEMENTS]

Re: HAMPTON ROADS SANITATION DISTRICT WASTEWATER REVENUE BONDS, SERIES 2024B

CUSIP NO.: 409327 _____

Bonds Dat	ted: August, 2024
Report [Audited Annual Financial Statements] Agreement, which was entered into in connection used to finance certain improvements included as	npton Roads Sanitation District has not provided an Annual as required by Section 3 of the Continuing Disclosure in with the above-named bonds, the proceeds of which were as part of the District's Capital Improvement Program. [The Audited Annual Financial Statements] will be filed by
Dated:	HAMPTON ROADS SANITATION DISTRICT
	By

APPENDIX F

THE DEPOSITORY TRUST COMPANY

The Depository Trust Company (DTC), the world's largest depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provision of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 2.2 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments from over 100 countries that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC, in turn, is owned by a number of Direct Participants of DTC and Members of the National Securities Clearing Corporation, Fixed Income Clearing Corporation, and Emerging Markets Clearing Corporation, (NSCC, FICC, and EMCC, also subsidiaries of DTCC), as well as by the New York Stock Exchange, Inc., the American Stock Exchange LLC, and the National Association of Securities Dealers, Inc. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at www.dtcc.com.

Purchases of Series 2024B Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Series 2024B Bonds on DTC's records. The ownership interest of each actual purchaser of each Series 2024B Bond (the "Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Series 2024B Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Series 2024B Bonds, except if use of the bookentry system for the Series 2024B Bonds is discontinued.

To facilitate subsequent transfers, all Series 2024B Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Series 2024B Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Series 2024B Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Series 2024B Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial

Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

Redemption notices shall be sent to DTC. If less than all of the Series 2024B Bonds within a maturity are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such maturity to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to the Series 2024B Bonds unless authorized by a Direct Participant in accordance with DTC's procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the District as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Series 2024B Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal, premium, if any, and interest payments on the Series 2024B Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the District on the payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC nor its nominee, or the District, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal, premium, if any, and interest to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the District, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

ELEVENTH 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 _____ 1, 2024

Securing

\$

Wastewater Revenue Bonds, Series 2024B

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EXHIBIT A – FORM OF 2024B BONDS

THIS ELEVENTH SUPPLEMENTAL TRUST AGREEMENT, dated for convenience of reference as of ______ 1, 2024 (this "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, as amended, and as further amended and restated as of ______ 1, 2024 (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 from time to time, 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, among other things:

- (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 determined to provide for the issuance under the Trust Agreement at this time of revenue bonds of the District in the aggregate principal amount of ______ Thousand Dollars (\$______) (the "2024B Bonds") for the purpose of providing funds, together with other available funds, (i) to finance a portion of the costs of its 2025-2034 Capital Improvement Program and (ii) to pay certain expenses incurred in connection with the issuance of the 2024B Bonds by the District; and

WHEREAS, the District is entering into this Supplemental Trust Agreement for the purpose of fixing the details of the 2024B Bonds; and

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

THIS **SUPPLEMENTAL TRUST** NOW. THEREFORE, **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 2024B Bonds by the Holders (as defined in the Trust Agreement) 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 2024B Bonds are to be issued, authenticated, delivered, secured and accepted by all persons who shall from time to time be or become Holders thereof, and to secure the payment of all 2024B Bonds at any time issued and Outstanding under this Supplemental Trust Agreement and the interest thereon according to their 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 respective Holders, from time to time, of 2024B Bonds, or any part thereof, as follows:

(end of Preamble)

ARTICLE I.

DEFINITIONS

Section 1.1 <u>Meaning of Words and Terms</u>. In addition to words and terms defined in the Original 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.

"Closing" means the date on which this Supplemental Trust Agreement becomes legally effective, the same being the date on which the 2024B Bonds are delivered against payment therefor.

"Defeasance Obligations" means noncallable (i) Government Obligations, (ii) senior debt obligations issued or guaranteed by, or investments otherwise stripped from senior debt obligations issued by, any federal agency, instrumentality, corporation, or government-sponsored enterprise, including but not limited to: (1) Federal Home Loan Bank System, (2) Export-Import Bank of the United States, (3) Federal Financing Bank, (4) Government National Mortgage Association, (5) Federal Home Loan Mortgage Company, (6) Federal Housing Administration, (7) Private Export Funding Corp, (8) Federal National Mortgage Association, (9) Federal Farm Credit Bank, (10) Resolution Funding Corporation, including interest strips and principal strips, (11) Rural Economic Community Development Administration (formerly, Farmers Home Administration), (iii) evidences of ownership of a proportionate interest in specified Government Obligations, which Government Obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian, (iv) obligations issued pursuant to Section 21B(d)(3) of the Federal Home Loan Bank Act, as amended by Section 511(a) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, and commonly known as "interest strips" of the Resolution Funding Corporation, (v) Defeased Municipal Obligations, (vi) United States Agency for International Development ("US AID") guaranteed notes (including stripped securities) provided that any US AID security shall mature at least 10 business days prior to any cash flow or escrow requirement, and (vii) evidences of ownership of a proportionate interest in specified Defeased Municipal Obligations, which Defeased Municipal Obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity as custodian.

"Defeased Municipal Obligations" means obligations of state or local government municipal bond issuers which are rated the highest rating by at least two of the three Rating Agencies, meeting the following conditions:

- (i) (A) such obligations cannot be redeemed prior to maturity or (B) the trustee for which has been given irrevocable instructions concerning their call for redemption, and the issuer of such obligations has covenanted not to redeem such obligations other than as set forth in such instructions;
- (ii) such obligations are secured by Government Obligations that may be applied only to interest, principal, and premium payments on such obligations;

- (iii) the principal of and interest on such Government Obligations (plus any cash in the escrow fund with respect to such pre-refunded obligations) are sufficient to meet the liabilities of the obligations;
- (iv) the Government Obligations serving as security for the obligations are held by an escrow agent or trustee; and
- (v) such Government Obligations are not available to satisfy any other claims, including those against the trustee or escrow agent.
- "Electronic Means" means, e-mail, secure electronic transmission containing applicable authorization codes, passwords 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.

	""Interest Payment	Date"	means	each	1 and	1,	commencing	1,
202	, to and including	1, 20_						

- "Principal Payment Date" means [July] 1 of each of the years set forth in the tables in Section 2.1 and Section 2.3 below.
- "Regular Record Date" means the fifteenth day (whether or not a business day) of the calendar month next preceding each Interest Payment Date.
- "Tax Certificate" means the certificate, including the exhibits thereto, of that name delivered by the District in connection with the issuance of the 2024B Bonds.

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 2024B BONDS

Section 2.1 <u>Details of 2024B Bonds</u>. The 2024B Bonds 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 supplemented by this Supplemental Trust Agreement, as Current Interest Bonds in the aggregate principal amount of \$______ for the purposes set forth in Section 209 of the Trust Agreement and the Preamble of this Supplemental Trust Agreement, shall be dated their date of delivery, shall be designated "Wastewater Revenue Bonds, Series 2024B," shall be numbered R-1 and upwards, shall be issued in substantially the form set forth in <u>Exhibit B</u> hereto, shall bear interest (based on a 360-day year consisting of twelve 30-day months) from their dated date until their payment, such interest to the maturity thereof being payable semi-annually on the Interest Payment Dates, [January] 1 and [July] 1 in each year, commencing [January] 1, 202_, at the following rates, and shall be stated to mature on [July] 1, as the case may be, in the following years and amounts:

Due	Principal	Interest
[July] 1	Amount	Rate
2025		
2026		
2027		
2028		
2029		
2030		
2031		
2032		
2033		
2034		
2035		
2036		
2037		
2038		
2039		
204-		
205-		

Section 2.2 Optional Redemption. From any available money, the District may, at its option, redeem prior to their respective maturities, as a whole or in part, the 2024B Bonds stated to mature after [July] 1, 203_, on any date beginning [July] 1, 203_, at a redemption price equal to the principal amount thereof, together with interest accrued to the date fixed for redemption.

Section 2.3 <u>Mandatory Redemption</u>. The 2024B Bonds due on [July] 1, 20__ are term bonds subject to mandatory sinking fund redemption on [July] 1 in the following years in the following principal amounts ("Sinking Fund Requirements") at a redemption price equal to par, together with interest accrued to the date of redemption:

Series 2024B Term Bonds due [July] 1, 20___

<u>Year</u>
Sinking Fund
Requirement

†

Section 2.4 Selection of 2024B Bonds to be Redeemed. The 2024B Bonds shall be redeemed only in the minimum denomination authorized in Section 202 of the Trust Agreement or in whole multiples of such minimum denomination. In selecting 2024B Bonds for redemption, the Trustee shall treat each 2024B Bond as representing the number of 2024B Bonds that is obtained by dividing the principal amount of such 2024B Bond by the minimum denomination authorized by this Supplemental Trust Agreement. Except while the 2024B Bonds are held in a Book-Entry Only system, and subject to its rules, if less than all of the 2024B Bonds of a particular maturity shall be called for redemption, the particular 2024B Bonds or portions of 2024B Bonds to be redeemed shall be selected by the Trustee by such method as the Trustee in its sole discretion shall determine.

Redemption Notice. At least thirty (30), but not more than sixty (60), days Section 2.5 before the redemption date of any 2024B Bonds, whether such redemption be in whole or in part, the Trustee shall cause a notice of such redemption, in the name of the District, to be mailed, certified mail, return receipt requested to all Holders owning 2024B Bonds to be redeemed in whole or in part, but any defect in such notice or the failure so to mail any such notice to any Holder owning any 2024B Bonds shall not affect the validity of the proceedings for the redemption of any other 2024B Bonds. Each such notice shall set forth the 2024B Bonds or portions thereof to be redeemed, the date fixed for redemption, the redemption price to be paid, and if less than all the 2024B Bonds shall be called for redemption, the maturities of the 2024B Bonds to be redeemed and, if less than all of the 2024B Bonds of any one maturity then Outstanding shall be called for redemption, the distinctive numbers and letters, if any, of such 2024B Bonds to be redeemed and, in the case of 2024B Bonds to be redeemed in part only, the portion of the principal amount thereof to be redeemed. If any 2024B Bond is to be redeemed in part only, the notice of redemption shall state also that on or after the redemption date, upon surrender of such 2024B Bond, a new 2024B Bond in principal amount equal to the unredeemed portion of such 2024B Bond and of the same maturity will be issued.

Section 2.6 Effect of Calling for Redemption. On the date fixed for redemption, notice having been mailed in the manner and under the conditions hereinabove provided, the 2024B Bonds or portions thereof called for redemption shall become due and payable at the redemption price provided therefor, plus accrued interest to such date; provided, however, that the District may direct that the notice of an optional redemption may state that the call for redemption is expressly conditioned on there being on deposit with the Trustee on the redemption date sufficient money to effect the redemption at the applicable redemption price plus accrued interest, if any, and if such money shall not be so on deposit, the call for redemption shall be deemed

[†] Unamortized balance at maturity.

cancelled, void and of no effect and all 2024B Bonds called for such redemption shall remain Outstanding and if presented for payment, such 2024B Bonds shall be returned forthwith to their registered owners. If money or Government Obligations, or a combination of both, sufficient to pay the redemption price of the 2024B Bonds to be redeemed, plus accrued interest thereon to the date fixed for redemption, are held by the Bond Registrar in trust for the Holders of 2024B Bonds to be redeemed, interest on the 2024B Bonds called for redemption shall cease to accrue after the date fixed for redemption; such 2024B Bonds shall cease to be entitled to any benefits or security under this Supplemental Trust Agreement or to be deemed Outstanding; and the Holders of such 2024B Bonds shall have no rights in respect thereof except to receive payment of the redemption price thereof, plus accrued interest to the date of redemption. 2024B Bonds and portions of 2024B Bonds for which irrevocable instructions to pay or to call for redemption on one or more specified dates have been given to the Trustee and the Bond Registrar in form satisfactory to them shall not thereafter be deemed to be Outstanding under this Supplemental Trust Agreement and shall cease to be entitled to the security of or any rights under the Trust Agreement as supplemented by this Supplemental Trust Agreement, other than rights to receive payment of the redemption price thereof and accrued interest thereon, to be given notice of redemption in the manner provided in Section 2.5, and, to the extent hereinafter provided, to receive 2024B Bonds for any unredeemed portions of 2024B Bonds if money or Defeasance Obligations, or a combination of both, sufficient to pay the redemption price of such 2024B Bonds or portions thereof, together with accrued interest thereon to the date upon which such 2024B Bonds are to be paid or redeemed, are held in separate accounts by the Trustee or the Bond Registrar in trust for the holders of such 2024B Bonds.

Section 2.7 Redemption of Portion of 2024B Bonds. If a portion of an Outstanding 2024B Bond shall be selected for redemption, the Holder thereof or his attorney or legal representative shall present and surrender such 2024B Bond to the Bond Registrar for payment of the principal amount thereof so called for redemption and the redemption premium, if any, on such principal amount, and the District shall execute and the Bond Registrar shall authenticate and deliver to or upon the order of such registered owner or his legal representative, without charge therefor, for the unredeemed portion of the principal amount of the 2024B Bond so surrendered, a 2024B Bond of the same maturity and bearing interest at the same rate.

Section 2.8 <u>Cancellation</u>. 2024B Bonds so redeemed, presented and surrendered shall be cancelled upon the surrender thereof.

Section 2.9 <u>Use of Defeasance Obligations to Redeem 2024B Bonds</u>. For purposes of this Article, Defeasance Obligations shall be deemed to be sufficient to pay or redeem 2024B Bonds on a specified date if the principal of and the interest on such Defeasance Obligations, when due, will be sufficient to pay on such date the redemption price of, and the interest accruing on, such 2024B Bonds to such date.

(end of Article II)

ARTICLE III.

APPLICATION OF THE PROCEEDS OF THE 2024B BONDS

Section 3.1 <u>Creation of Subfunds</u>. For purposes of convenience and to enable the District to track the proceeds from the sale of the 2024B Bonds, the Trustee shall establish (i) the "Series 2024B Issuance Subfund" (the "Issuance Subfund") within the Issuance Fund and (ii) the "Series 2024B Construction Subfund (the "Construction Subfund") within the Construction Fund.

The creation of such Subfunds shall not be deemed to create a preference in favor of the holders of the 2024B Bonds with respect to amounts on deposit therein.

Section 3.2 Application of the Proceeds of the 2024B Bonds. Simultaneously with the delivery of the 2024B Bonds, the proceeds of the 2024B Bonds shall be applied by the Trustee as follows:

; and	(1) to the credit of the Issuance Subfund, the amount of \$	(1)
·	(2) to the credit of the Construction Subfund, the amount of \$	(2)
	(end of Article III)	

ARTICLE IV.

TAX COVENANTS

Section 4.1 Covenant as to Arbitrage. The District agrees that money on deposit in any fund or account maintained in connection with the 2024B Bonds, whether or not such money was derived from the proceeds of the sale of the 2024B Bonds or from any other sources, and whether or not the 2024B Bonds are Outstanding hereunder, (i) will not be used in a manner that would cause the 2024B Bonds to be, and (ii) will be used in a manner that will cause the 2024B Bonds not to be, "arbitrage bonds" within the meaning of Section 148 of the Code and applicable regulations thereunder. The District shall observe and not violate the requirements of Section 148 of the Code and any such applicable regulations. The Trustee agrees that, to the extent, if any, that it exercises discretion over the investment of funds, money on deposit in any fund or account maintained in connection with the 2024B Bonds, whether or not such money was derived from the proceeds of the sale of the 2024B Bonds or from any other sources, and whether or not the 2024B Bonds are Outstanding hereunder, will not be used in a manner that the Trustee actually knows would cause the 2024B Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code and applicable regulations thereunder; and, to that end, to the extent that it exercises discretion over the investment of funds, the Trustee shall not knowingly violate the requirements of Section 148 of the Code and any applicable regulations thereunder. The Trustee shall be protected in relying upon any investment instruction of the District given in compliance with the provisions of this Supplemental Trust Agreement and the Tax Certificate. In the event the District is of the opinion that it is necessary to restrict or limit the yield on the investment of money held by the Trustee pursuant to this Supplemental Trust Agreement, or to use such money in certain manners, in order to avoid the 2024B Bonds being considered "arbitrage bonds" within the meaning of Section 148 of the Code and the regulations thereunder as such may be applicable to the 2024B Bonds at such time, the District may issue to the Trustee a written certificate to such effect and appropriate instructions, in which event the Trustee shall take such action as is necessary to restrict or limit the yield on such investment or to use such money in accordance with such certificate and instructions, irrespective of whether the Trustee shares such opinion. The Trustee shall be required to take such action only if the District or a District Representative shall specify the specific Investment Obligations in which the Trustee is to invest money in order to effect the restriction or limitation provided for in the preceding sentence.

Section 4.2 Exclusion From Gross Income Covenant. The District covenants that it will not take any action that will, or fail to take any action which failure will, cause interest on the 2024B Bonds to become includable in the gross income of the owners thereof for federal income tax purposes pursuant to the provisions of the Code and regulations promulgated thereunder.

[Remainder of page intentionally left blank]

Section 4.3 Payment of Rebate. The District shall cause to be paid, at the times described in the Tax Certificate, the Rebate Requirement (as defined in the Tax Certificate) to the United States Government. The obligation of the District to make such payments shall survive the termination of this Supplemental Trust Agreement.

(end of Article IV)

ARTICLE V.

DEFEASANCE

- Section 5.1 Release of this Supplemental Trust Agreement. When (a)(i) the 2024B Bonds secured hereby shall have become due and payable in accordance with their terms or otherwise as provided in this Supplemental Trust Agreement, the whole amount of the principal and the interest so due and payable upon all 2024B Bonds shall be paid, or (ii) if the 2024B Bonds shall not have become due and payable in accordance with their terms, the Trustee or the Bond Registrar shall hold, sufficient money or Defeasance Obligations, or a combination of money and Defeasance Obligations, the principal of and the interest on which, when due and payable, will provide sufficient money to pay the principal of, and the interest on, all 2024B Bonds then Outstanding to the maturity date or dates of such 2024B Bonds 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 defeasance of the 2024B Bonds have been satisfied and, if the 2024B Bonds are to be redeemed more than ninety (90) days after the date the escrow therefor is established, a verification report prepared by an independent firm of certified public accountants or other qualified financial consultants stating that the money and Defeasance Obligations, together with investment earnings thereon, delivered to or held by the Trustee or Bond Registrar, will be sufficient to pay the principal and redemption price of, and interest on the 2024B Bonds called for redemption to their maturity or redemption date, as applicable, 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. Otherwise, this Supplemental Trust Agreement shall be, continue and remain in full force and effect; provided, that, in the event Defeasance Obligations shall be deposited with and held by the Trustee or the Bond Registrar as hereinabove provided, (x) the Trustee shall nevertheless retain such rights, powers and privileges under this Supplemental Trust Agreement as may be necessary and convenient in respect of the 2024B Bonds for the payment of the principal and interest for which such Defeasance Obligations have been deposited, and (y) the Bond Registrar shall retain such rights, powers and privileges under this Supplemental Trust Agreement as may be necessary and convenient for the registration, transfer and exchange of 2024B Bonds.
- (1) All money and Defeasance Obligations held by the Trustee (or the Bond Registrar) pursuant to this Section shall be held in trust and applied to the payment, when due, of the obligations payable therewith. If the District shall pay or cause to be paid to the Owners of less than all of the Outstanding 2024B Bonds the principal of and interest on such 2024B Bonds, or such portions thereof, such 2024B Bonds, or such portions thereof, shall cease to be entitled to any lien, benefit or security under this Supplemental Trust Agreement.
- (2) Any Outstanding 2024B Bond (or any portion thereof) shall be deemed to have been paid for the purposes of subsection (a) or (b) of the first paragraph of this Section 5.1 when

- (i) there shall have been deposited with the Trustee or any other Depository either money in an amount which, or Defeasance Obligations the principal of and the interest on which when due, and without any reinvestment thereof, will provide money in an amount which, together with the money, if any, deposited with or held by the Trustee or any Depository or Paying Agent and available therefor, shall be sufficient to pay when due the principal of and interest due and to become due on such 2024B Bond (or portion thereof) on or prior to the maturity date thereof, (ii) in the event such 2024B Bond is not to mature within the next succeeding sixty (60) days, the District shall have given the Trustee irrevocable instructions to give notice to the Owner of such 2024B Bond (or portion thereof) stating that money or Defeasance Obligations have been deposited with the Trustee or any other Depository as provided in this Article V and that such 2024B Bond (or portion thereof) is deemed to have been paid in accordance with this Article V and stating the maturity date upon which money is to be available for the payment of the principal thereof and interest thereon and (iii) provisions satisfactory to the Trustee shall have been made for the payment of the Trustee's and the Bond Registrar's fees and expenses, and any Paying Agent's or other Depository's fees and all fees and expenses payable by the District in connection with the defeasance of such 2024B Bond.
- (3) The money and Defeasance Obligations deposited with the Trustee or any other Depository pursuant to this Section and all payments of principal or interest on any such Defeasance Obligations shall not be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of and interest on the 2024B Bonds (or portions thereof) deemed to have been paid in accordance with this Section.
- (4) If 2024B Bonds (or portions thereof) are deemed to have been paid in accordance with the provisions of this Article by reason of the deposit with the Trustee or any other Depository of money or Defeasance Obligations, no amendment to the provisions of this Section which would adversely affect the Owners of such 2024B Bonds (or portions thereof) shall be made without the consent of each Owner affected thereby.
- (5) All money and Defeasance Obligations held pursuant to this Article shall be held in trust and applied to the payment, when due, of the 2024B Bonds (or portions thereof) payable therewith.

(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/Chief Executive Officer

(b) As to the Trustee—

The Bank of New York Mellon Trust Company, N.A. 500 Ross Street, 12th Floor Pittsburgh, Pennsylvania 15262 Attention: Corporate Trust Department

(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: Corporate Trust Department

Any such notice, demand or request may also be transmitted to the appropriate abovementioned party by 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 this Indenture or any other document reasonably relating to the Bonds 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 5.1 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 <u>Substitute Mailing</u>. 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.

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 Holders, 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 Holders.

Section 6.4 Effect of Partial Invalidity. In case any one or more of the provisions of this Supplemental Trust Agreement or the 2024B Bonds 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 2024B Bonds, but this Supplemental Trust Agreement and the 2024B

Bonds 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 2024B Bonds 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. 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. This Supplemental Trust Agreement is adopted with the intent that the laws of the State shall govern its construction.

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 any 2024B 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 any such 2024B 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 2024B Bonds 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 2024B Bonds.

Section 6.7 <u>Dealing in 2024B Bonds</u>. The Trustee and the Bond Registrar and their directors, officers, employees or agents may in good faith, buy, sell, own, hold and deal in any 2024B Bonds issued under the provisions of this Supplemental Trust Agreement and may join in any action which any Holder may be entitled to take with like effects as if such Trustee were not a Trustee and such bank or trust company were not the Bond Registrar under this Supplemental Trust Agreement.

Section 6.8 <u>Legal Holidays</u>. In any case where the date of maturity of principal of and interest on the 2024B Bonds shall be on a day on which banking institutions at the place of payment are authorized by law to remain closed, then payment of such principal and interest need not be made on such date but may be made on the next succeeding day not a day on which banking institutions are authorized by law to remain closed with the same force and effect as if made on the date of maturity, and in the case of such payment, no interest shall accrue for the period from and after such date.

- **Section 6.9** <u>Multiple Counterparts</u>. 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 6.10** <u>Headings</u>. 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 6.11** 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 Agreement for the full, punctual and complete performance of all of the terms, covenants and agreements contained in the 2024B Bonds 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 first day of ______, 2024.

HAMPTON ROADS SANITATION

(Seal) By: ______ Steven G. de Mik, Deputy General Manager and Chief Financial Officer Attest: By: _____ Secretary THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Trustee By: _____ Rhonda J. Brannon, Vice President (Seal)

[Signature Page to Eleventh Supplemental Trust Agreement]

CITCID

FORM OF 2024B BONDS

UNLESS THIS CERTIFICATE IS PRESENTED BY AN**AUTHORIZED** REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION ("DTC"), TO THE DISTRICT OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE, OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REOUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

No. R-	\$

HAMPTON ROADS SANITATION DISTRICT (VIRGINIA) WASTEWATER REVENUE BOND, SERIES 2024B

<u>INTEREST RATE</u>	MATURITY DATE	DATED DATE	CUSIP
%	1. 20	. 2024	409327
, 0	1,	, = = = :	.0,02,
Registered Owner: Cede	e & Co.		
Principal Amount:			

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, or registered assigns, the principal amount set forth above on the Maturity Date set forth above, upon the presentation and surrender hereof, at the corporate trust office of The Bank of New York Mellon Trust Company N.A. (the "Bond Registrar") located on the date hereof at The Bank of New York Mellon Trust Company, N.A., 500 Ross Street, 12th Floor, Pittsburgh, Pennsylvania 15262. The District also promises to pay, solely from such sources, interest on this Bond (calculated based upon a 360-day year consisting of twelve 30-day months) from the interest payment date next preceding the date on which it is authenticated, unless it is authenticated on an interest payment date, in which event it shall bear interest from such date, or unless it is authenticated prior to its dated date in which event it shall bear interest from its date, payable on [January 1 and July] 1 of each year, commencing [January 1], 2025, at the rate per annum set forth above until the principal sum hereof is paid. The interest so payable and punctually paid or duly

provided for, on any interest payment date, will, as provided in the Trust Agreement hereinafter referred to, be paid to the person in whose name this Bond is registered at the close of business on the Regular Record Date for such interest, which shall be the fifteenth (15th) day (whether or not a business day) of the calendar month next preceding such interest payment date. Any such interest not so punctually paid or duly provided for shall forthwith cease to be payable to the registered owner on such Regular Record Date, and may be paid to the person in whose name this Bond is registered at the close of business on a Special Record Date for the payment of such defaulted interest to be fixed by the Trustee hereinafter mentioned, notice whereof being given to the registered owners not less than ten (10) days prior to such Special Record Date, or may be paid at any time in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Bonds of this series may be listed and upon such notice as may be required by such exchange, or as more fully provided in said Trust Agreement. All such payments shall be made in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

This Bond is one of a duly authorized series of revenue bonds of the District, designated "Hampton Roads Sanitation District (Virginia) Wastewater Revenue Bonds, Series 2024B" (the "Bonds"), 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, as further amended and restated as of ____ 1, 2024, and as the same may be amended and supplemented from time to time (the "Trust Agreement"). The Bonds are being issued for the purpose of providing funds, together with other available funds, (i) to finance a portion of the costs of its 2025-2034 Capital Improvement Program and (ii) to pay certain expenses incurred in connection with the issuance of the 2024B Bonds by the District.

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.

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 with the Bonds for the purposes, under the terms and conditions and to the extent described therein.

This Bond is a special obligation of the District and is payable solely from Net Revenues Available (as defined in this Trust Agreement) derived by the District from its Wastewater System (as defined in the Trust Agreement) and the money attributable to proceeds of the Bonds 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.

The Bonds are issuable as fully registered Bonds in denominations of \$5,000 or any whole multiple thereof. Bonds may be exchanged at the corporate trust office of the Bond Registrar for the delivery of Bonds, in the manner and subject to the limitations and conditions provided in the Trust Agreement, for an equal aggregate principal amount of Bonds of the same series and maturity, of other authorized denominations and bearing interest at the same rate.

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 Bonds, 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 or Bonds, registered in the name of the transferee, of authorized denominations, in an aggregate principal amount equal to the principal amount of this Bond, of the same series and maturity and bearing interest at the same rate.

The District may, at its option, redeem prior to their respective maturities, in whole or in part, the Bonds of the series, of which this Bond is one, stated to mature after [July 1, _____, on any date, beginning July 1, ____], at a redemption price of par, together with interest accrued to the date fixed for redemption.

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 this Trust Agreement and except that any registered owner may institute action to enforce the payment of the principal of or the interest on such owner's Bond.

Upon the occurrence of certain events, and on the conditions, in the manner and with the effect set forth in the Trust Agreement, the principal of all Bonds then Outstanding under the Trust Agreement may become or may be declared due and payable before the stated maturities thereof, together with the interest accrued thereon.

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

This Bond is issued with the intent that the laws of the Commonwealth of Virginia shall govern its construction.

All acts, conditions and things required to happen, exist and be performed precedent to and in the issuance of this Bond and the execution of the Trust Agreement 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.

to be executed in its name and on its behat the Secretary of the Hampton Roads Sa	Hampton Roads Sanitation District has caused this Bond If with the [facsimile] signatures of the [Vice] Chair and initation District Commission and [a facsimile of] the appressed [printed] hereon and this Bond to be dated the
	HAMPTON ROADS SANITATION DISTRICT
Ву	Chair
By [Seal]	Secretary

CERTIFICATE OF AUTHENTICATION

Date of authentication:	
This Bond is a Bond issued ur	nder the provisions of the within-mentioned Trust Agreement.
	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Bond Registrar
	ByAuthorized Signatory

[FORM OF ASSIGNMENT]

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto			
[Please Print or Typewrite Nan	ne and Address of Transferee]		
the within Bond and all rights thereunder, and heattorney to register the transfer of the v thereof, with full power of substitution in the presentation.	within Bond on the books kept for registration		
Date:			
Signature Guaranteed:	NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every		
NOTICE: Signature(s) must be guaranteed by an institution which is a participant in the Securities Transfer Agent Medallion Program (STAMP) or similar program.	particular, without alteration or enlargement or any change whatever.		

HAMPTON ROADS SANITATION DISTRICT WASTEWATER REVENUE BONDS, SERIES 2024B

BOND PURCHASE AGREEMENT	

July , 2024

Hampton Roads Sanitation District 1434 Air Rail Avenue Virginia Beach, Virginia 23455

Attn: Steven G. de Mik, Deputy General Manager and Chief Financial Officer

Ladies and Gentlemen:

The undersigned, [_____] (the "Representative"), offers to enter into this Bond Purchase Agreement (this "Agreement") between the Hampton Roads Sanitation District (the "District"), a political subdivision of the Commonwealth of Virginia (the "Commonwealth"), and the Representative, acting on behalf of itself, [______], and [______], as the Underwriters (collectively, the "Underwriters"), for the purchase by the Underwriters and the sale by the District of the District's \$_____ Wastewater Revenue Bonds, Series 2024B (the "Bonds"). This offer is made subject to acceptance, which will be evidenced by the District's execution and delivery to the Underwriters of this Agreement at or before 11:00 p.m., Virginia Beach, Virginia, time, on August ___, 2024, and, if not so accepted, will be subject to withdrawal by the Representative upon notice delivered to the District at any time thereafter.

The District has heretofore delivered to the Representative the Preliminary Official Statement of the District with respect to the Bonds, dated July ___, 2024, (the "Preliminary Official Statement"), and will deliver an Official Statement in final form, dated July ___, 2024 (the "Official Statement"), as provided herein. Capitalized terms used herein and not otherwise defined herein shall have the meanings given such terms in the Official Statement.

1. Agreement to Purchase and Sell; Good Faith Deposit. Upon the terms and conditions, and based upon the representations, warranties and agreements set forth herein, the Underwriters hereby agree to purchase from the District for offering to the public and the District hereby agrees to sell and deliver to the Underwriters, all (but not less than all) of the Bonds. The Underwriters intend to make a bona fide initial public offering of all of the Bonds at prices no higher than, or yields no lower than, those shown in the Official Statement. Subject to Section 3 hereof, the Underwriters reserve the right to lower such initial offering prices as they deem necessary in connection with the marketing of the Bonds. The Underwriters may offer and sell the Bonds to certain dealers (including dealers depositing the bonds into investment trusts) and others at prices different from the public offering prices stated on the inside cover page of the Official Statement. The Underwriters also reserve the right to (a) over-allot or effect transactions which stabilize or maintain the market price of the Bonds at levels above those that might otherwise

prevail in the open market and (b) discontinue such stabilizing, if commenced, at any time without prior notice.

The Bonds shall be dated the date of delivery thereof and shall mature in the principal

amounts, bear interest at the rates, and be subject to the redemption provisions, all as described in the Official Statement and in Exhibit A attached hereto. The Bonds shall be secured as set forth n the Official Statement. The aggregate purchase price of the Bonds shall be \$
(representing the sum of the \$ par amount of the Bonds, plus an original issue premium of \$, less an underwriting discount of \$ on the Bonds).
The Representative has delivered to the District, and the District acknowledges receipt of, a wire transfer in the aggregate amount of \$\scrip, representing the good faith deposit of the Underwriters. At the Closing (as defined in Section 7 below), the good faith deposit, exclusive of any interest earned on such amount, which shall accrue to the benefit of the District, will be deducted from the amount payable by the Underwriters with respect to the aggregate purchase price of the Bonds (and applied by the District as proceeds of the Bonds), and the Underwriters will pay \$\scrip (representing the \$\scrip purchase price, less the \$\scrip good faith deposit). If the District fails to deliver the Bonds at the Closing, or if the District is unable on or before the Closing to satisfy the conditions to the Underwriters' obligations contained in this Agreement, or if the obligations of the Underwriters are terminated for any reason permitted by this Agreement, the good faith deposit (with no credit for interest thereon) will be returned to the Representative. If the Underwriters fail (other than for a reason permitted in this Agreement) to accept and pay for the Bonds upon their tender by the District as provided in this Agreement, the good faith deposit will be retained by the District as full liquidated damages for such failure and for any and all defaults on the part of the Underwriters, and the delivery of the good faith deposit will constitute satisfaction, and will result in full release and discharge of the Underwriters and their affiliates from all claims and damages for such failure and for any and all defaults. The Underwriters and the District understand that in such event the actual damages of the District may be greater or may be less than the good faith deposit. Accordingly, the Underwriters hereby waive any right to claim that the actual damages of the District are less than such sum, and the acceptance of this offer by the District shall constitute a waiver of any right th
2. <u>Description of the Bonds; Public Offering</u> . (a) The Bonds are authorized to be issued pursuant to the provisions of Chapter 66 of the Acts of Assembly of Virginia of 1960, as amended (the "Enabling Act"), a resolution adopted on June 25, 2024 (the "Bond Resolution"), by the Hampton Roads Sanitation District Commission (the "Commission"), the governing body of

(b) The proceeds of the Bonds are being used to (i) to finance a portion of the cost of the District's Capital Improvement Program, and (ii) to pay certain expenses incurred in connection with the issuance of the Series 2024B Bonds by the District.

(collectively, the "Trust Agreement").

the District, and the Trust Agreement, dated as of October 1, 2011, as amended and restated as of March 1, 2016, as amended, and as further amended and restated as of ______, 2024, by and between the District and The Bank of New York Mellon Trust Company, N.A., as further supplemented by the Eleventh Supplemental Trust Agreement, dated as of _____ 1, 2024

- (c) To assist the Underwriters in complying with Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (the "Rule"), the District will execute a Continuing Disclosure Agreement, dated as of the Closing Date (as defined in Section 7 below), for the benefit of the holders of the Bonds (the "Continuing Disclosure Agreement"). The District will agree in the Continuing Disclosure Agreement to provide annual financial information and operating data and notices of the occurrence of specified events. A description of the Continuing Disclosure Agreement is set forth in, and a form of such agreement is attached as an appendix to, the Preliminary Official Statement and the Official Statement. This Agreement, the Trust Agreement, and the Continuing Disclosure Agreement are hereinafter collectively referred to as the "District Documents."
- (d) The District consents to the use of any name, seal, logo or emblem owned by or associated with it in any of the Underwriters' sales, promotional, advertising or marketing material, or in any other form publicly used by the Underwriters.
- 3. Concurrent Delivery of Official Statement; Establishment of Issue Price of the Bonds. (a) Upon the acceptance, execution and delivery of this Agreement by the District, the District will deliver to the Representative a sufficient number of copies of the final version of the Official Statement, which shall be signed by the Chair or the Vice Chair of the Commission, the General Manager/Chief Executive Officer, and the Deputy General Manager/Chief Financial Officer of the District, to enable the Underwriters to comply with the Rule. The Underwriters' approval of the Official Statement will be conclusively evidenced by the Representative's execution and delivery of this Agreement.
- (b) The Representative, on behalf of the Underwriters, agrees to assist the District in establishing the issue price of the Bonds and shall execute and deliver to the District on the Closing Date an "issue price" or similar certificate, together with the supporting pricing wires or equivalent communications, substantially in the form attached hereto as Exhibit E, with such modifications as may be appropriate or necessary, in the reasonable judgment of the Representative, the District and Bond Counsel (as defined herein), to accurately reflect, as applicable, the sales price or prices or the initial offering price or prices to the public of the Bonds.
- (c) The District will treat the first price at which 10% of each maturity of the Bonds (the "10% test") is sold to the public as the issue price of that maturity. At or promptly after the execution of this Agreement, the Representative shall report to the District the price or prices at which the Underwriters have sold to the public each maturity of Bonds.
- (d) The Representative confirms that the Underwriters have offered all of the Bonds to the public on or before the date hereof for purchase at the offering price or prices, or priced to yield, as set forth in Exhibit A attached hereto (the "initial offering price").

Exhibit A also sets forth, as of the date of this Agreement, the maturities, if any, of the Bonds for which the 10% test has not been satisfied and for which District and the Representative, on behalf of the Underwriters, agree that the restrictions set forth in the next sentence shall apply to each such maturity of the Bonds, which will allow the District to treat the initial offering price to the public of each such maturity of the Bonds as of the date hereof as the issue price of that maturity (the "hold-the-offering-price rule"). So long as the hold-the-offering-price rule remains

applicable to any maturity of the Bonds, the Underwriters will neither offer nor sell any Bonds of that maturity to any person at a price that is higher than the initial offering price to the public during the period starting on the date hereof and ending on the earlier of the following:

- (1) the close of the fifth (5th) business day after the date hereof; and
- (2) the date on which the Underwriters have sold at least 10% of that maturity of the Bonds to the public at a price that is no higher than the initial offering price to the public.

The Representative shall promptly advise the District after the close of the fifth (5th) business day after the date hereof whether it has sold 10% of that maturity of the Bonds to the public at a price that is no higher than the initial offering price to the public.

Initial disclosure of maturities that have met the 10% test will be made after the signing of this Agreement, at the earlier of (1) all tickets having been entered by the Representative and (2) 5:00 p.m. Eastern Time, on July ___, 2024.

The District acknowledges that, in making the representation set forth in this subsection, the Representative will rely on (i) the agreement of each Underwriter to comply with the requirements for establishing the issue price of the Bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, as set forth in an agreement among underwriters and the related pricing wires, (ii) in the event a selling group has been created in connection with the initial sale of the Bonds to the public, the agreement of each dealer that is a member of the selling group to comply with the requirements for establishing the issue price of the Bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, as set forth in a selling group agreement and the related pricing wires, and (iii) in the event that an Underwriter or a dealer that is a member of the selling group is a party to a third-party distribution agreement that was employed in connection with the initial sale of the Bonds to the public, the agreement of each broker-dealer that is a party to such agreement to comply with the requirements for establishing the issue price of the Bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, as set forth in the third-party distribution agreement and the related pricing wires. The District further acknowledges that each Underwriter shall be solely liable for its failure to comply with its agreement regarding the requirements for establishing the issue price of the Bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, and that no Underwriter shall be liable for the failure of any other Underwriter or of any dealer that is a member of a selling group, or of any broker-dealer that is a party to a third-party distribution agreement, to comply with its corresponding agreement to comply with the requirements for establishing the issue price of the Bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule.

(e) The Representative confirms that:

(i) any agreement among underwriters, any selling group agreement and each third-party distribution agreement (to which the Representative is a party) relating to the initial sale of the Bonds to the public, together with the related pricing wires, contains or will contain language obligating each Underwriter, each dealer who is a member of the selling group, and each broker-dealer that is a party to such third-party distribution

agreement, as applicable, (A) to comply with the hold-the-offering-price rule in each case if and for so long as directed by the Representative and as set forth in the related pricing wires, (B) to promptly notify the Representative of any sales of Bonds that, to its knowledge, are made to a purchaser who is a related party to an underwriter participating in the initial sale of the Bonds to the public (each such term being used as defined below), and (C) to acknowledge that, unless otherwise advised by the Underwriter, dealer, or broker-dealer, the Representative shall assume that each order submitted by the Underwriter, dealer, or broker-dealer is a sale to the public, and

- (ii) any agreement among underwriters or selling group agreement relating to the initial sale of the Bonds to the public, together with the related pricing wires, contains or will contain language obligating each Underwriter or dealer that is a party to a third-party distribution agreement to be employed in connection with the initial sale of the Bonds to the public to require each broker-dealer that is a party to such third-party distribution agreement to comply with the hold-the-offering-price rule if and for so long as directed by the Representative or the Underwriter or dealer and as set forth in the related pricing wires.
- (f) The Underwriters acknowledge that sales of any Bonds to any person that is a related party to an underwriter participating in the initial sale of the Bonds to the public (each such term being defined below) shall not constitute sales to the public for purposes of this section. Further, for purposes of this section:
 - (i) "maturity" means Bonds with the same credit and payment terms; Bonds with different maturity dates, or with the same maturity date but different stated interest rates, are treated as separate maturities,
 - (ii) "public" means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an underwriter or a related party,
 - (iii) "underwriter" means (A) any person that agrees pursuant to a written contract with the District (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Bonds to the public and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) to participate in the initial sale of the Bonds to the public (including a member of a selling group or a party to a third-party distribution agreement participating in the initial sale of the Bonds to the public), and
 - (iv) a purchaser of any of the Bonds is a "related party" to an underwriter if the underwriter and the purchaser are subject, directly or indirectly, to (A) more than 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (B) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (C) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interests or profit interests of the partnership, as applicable, if one entity is a

corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other).

- 4. <u>Representations Warranties and Covenants of the District</u>. The District represents and warrants to, and agrees with, the Underwriters as follows:
- (a) The District is a political subdivision of the Commonwealth duly created and validly existing under the laws of the Commonwealth;
- (b) The District has complied with all applicable provisions of the Constitution and laws of the Commonwealth, including the Enabling Act, with respect to the consummation of all of the transactions contemplated by the Official Statement and the District Documents, and has full right, power and authority to enter into the District Documents, to adopt the Bond Resolution, to issue, sell and deliver the Bonds to the Underwriters pursuant to the Trust Agreement and this Agreement, to prepare the Preliminary Official Statement and the Official Statement and to authorize the distribution thereof by the Underwriters and to carry out and consummate all transactions contemplated by the Official Statement and the District Documents, and with respect to the Bonds, the District has complied, and as of the Closing Date will have complied, with the Bond Documents and the laws of the Commonwealth applicable thereto;
- (c) The District is authorized under the provisions of the Enabling Act to issue the Bonds for the purposes described in the Trust Agreement and the Official Statement;
- (d) The Bond Resolution has been duly adopted by the Commission at a meeting duly called and held and duly and validly authorizes the issuance, sale and delivery of the Bonds pursuant to the Trust Agreement and the execution and delivery of the District Documents, and the Bond Resolution and the Trust Agreement, as of the date hereof, have not been amended, modified or repealed, in any material respect (other than as contemplated herein or by the Official Statement);
- (e) The Commission has duly and validly authorized all necessary action to be taken by it or the District for (i) the issuance, sale, and delivery of the Bonds upon the terms set forth herein, (ii) the execution, delivery, and performance of the District Documents, including the Trust Agreement which provides for the issuance and delivery of and security for the Bonds, (iii) the carrying out, giving effect to, and consummation of the transactions contemplated hereby, and (iv) the consent to the distribution by the Underwriters of the Official Statement;
- (f) The District Documents, when executed by the other parties thereto, if any, will have been duly and validly executed and delivered by the District and will be in full force and effect as to the District, and such District Documents constitute legal, valid and binding obligations of the District, enforceable in accordance with their respective terms, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws and principles of equity relating to or affecting the enforcement of creditors' rights; and the Bonds, when issued, authenticated and delivered to the Underwriters in accordance with the Bond Resolution will constitute legal, valid and binding obligations of the District enforceable in accordance with their terms, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws and principles of equity relating to or affecting the enforcement of creditors' rights;

- (g) Except as described in the Official Statement, there is no action, suit, proceeding, inquiry or investigation, at law or in equity before or by any court, governmental agency or public board or body, pending or, to the best knowledge of the District, threatened against the District that (i) may affect the existence of the District or the titles or rights of its officers to their respective offices, (ii) may affect or that seeks to prohibit, restrain or enjoin (A) the sale, issuance or delivery of the Bonds or (B) the collection or payment of the Net Revenues or the pledge and assignment thereof by the District to make payments on the Bonds, (iii) in any way contests or affects the validity or enforceability of the District Documents, (iv) contests in any way the completeness or accuracy of the Official Statement, or (v) contests the powers of the District or, to the best knowledge of the District, any authority or proceedings for the issuance, sale or delivery of the Bonds, the District Documents or any of them or the transactions contemplated thereby, nor, to the best knowledge of the District, is there any basis therefor wherein an unfavorable decision, ruling or finding would materially adversely affect the validity or enforceability of the Bonds, the Bond Resolution or any of the other District Documents;
- (h) The District is not in any material respect in breach of or default under any applicable constitutional provision, law or administrative regulation of the Commonwealth of Virginia or the United States or any applicable judgment or decree or any loan agreement, indenture, bond, note, ordinance, resolution, agreement or other instrument to which the District is a party or to which the District or any of the property or assets of the District are otherwise subject; no event has occurred and is continuing that constitutes or with the passage of time or the giving of notice, or both, would constitute a default or event of default by the District under any such instrument; and the execution and delivery of this Agreement and the other District Documents, and the compliance with the provisions thereof, will not conflict with or constitute on the part of the District a violation of, breach of, or default under (i) the Enabling Act, (ii) in any material respect, any indenture, mortgage, lease or note agreement or any other material agreement or instrument to which the District is a party or by which the District is bound, or (iii) any constitutional provision or statute or any order, rule or regulation of any court or governmental agency or body having jurisdiction over the District or any of its activities or properties;
- (i) All consents, approvals, authorizations and orders of governmental or regulatory authorities that are required to be obtained by the District in connection with the execution and delivery of this Agreement and the other District Documents and the consummation of the transactions contemplated thereby to be consummated on or before the Closing Date have been or will be, at Closing, duly obtained and in full force and effect; provided, that no representation or warranty is expressed as to any action required under applicable federal or state securities laws or Blue Sky laws of any jurisdiction in connection with the issuance and sale of the Bonds;
- (j) At the time of the District's acceptance hereof and (unless an event occurs of the nature described in Section 5(b)) at all times subsequent hereto during the period up to and including twenty-five (25) days subsequent to the end of the underwriting period, as hereinafter defined, the Official Statement was and will be true and correct in all material respects and did not and will not contain any untrue or misleading statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, no representation or warranty is made as to any of the information described in the proviso of Section 4(o) below;

- (k) If the Official Statement is supplemented or amended pursuant to Section 5(b), at the time of each supplement or amendment thereto and (unless subsequently again supplemented or amended pursuant to such paragraph) at all times subsequent thereto during the period up to and including twenty-five (25) days subsequent to the end of the underwriting period, the Official Statement as so supplemented or amended will be true and correct in all material respects and will not contain any untrue or misleading statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, no representation or warranty is made as to any of the information described in the proviso of Section 4(o) below;
- (l) The District will execute and deliver the Continuing Disclosure Agreement, at or prior to the Closing, in substantially the form attached to the Official Statement as "APPENDIX E FORM OF CONTINUING DISCLOSURE AGREEMENT;"
- (m) During the 5-year period ending on the date hereof, except as set forth in the Official Statement, the District has not failed in any material respect to comply with all previous undertakings made by it of the type specified in paragraph (b)(5)(i) of the Rule;
- (n) During the 5-year period ending on the date hereof, except as set forth in the Official Statement, no notice of the type specified in paragraph (b)(5)(i)(D) of the Rule has been filed by or on behalf of the District;
- (o) (i) Other than the hereinafter defined Excluded Information, the information contained in the Preliminary Official Statement was, as of its date, and the Official Statement is, and as of the Closing Date will be, true and correct in all material respects and does not and will not, as applicable, contain any untrue statement of a material fact or omit to state a material fact that is necessary to make the statements contained therein, in the light of the circumstances under which they were made, not misleading, and (ii) notwithstanding the foregoing, the District has not provided the information in and does not provide any assurance that the information relating to "Price or Yield" of the Bonds and CUSIP numbers on the inside cover, or the first paragraph of page (iv) thereof, or contained in the sections or appendices, as the case may be, captioned "TAX MATTERS," "UNDERWRITING," "APPENDIX D PROPOSED OPINION OF BOND COUNSEL," and "APPENDIX F THE DEPOSITORY TRUST COMPANY" (collectively, the "Excluded Information") in the Official Statement is true and correct in all material respects;
- (p) The financial statements of, and other financial information regarding the District in the Official Statement and Appendix A thereof, fairly present the financial position and results of the operations of the District as of the dates and for the periods therein set forth; and the audited financial statements have been prepared in accordance with U.S. generally accepted accounting principles consistently applied;
- (q) The District will cause the Trustee to authenticate and deliver the Bonds when ready for delivery;
- (r) To the District's knowledge, neither the Securities and Exchange Commission ("SEC") nor the securities commission of any jurisdiction has issued or threatened to issue any order preventing or suspending the use of the Official Statement;

- (s) No person, whether generally or through an enterprise, fund, or account of such person, other than the District, is committed by contract or other arrangement structured to support payment of all, or part, of the obligations on the Bonds for purposes of and within the meaning of the Rule;
- (t) Any certificate signed by any of the District's authorized officers and delivered to the Representative shall be deemed a representation and warranty by the District to the Underwriters as to the statements made therein;
- (u) Prior to the Closing Date, except as otherwise contemplated by the Official Statement, the Issuer shall not create, assume or guarantee any indebtedness payable from, or pledge or otherwise encumber, the Net Revenues or other assets, properties, funds or interests that will be pledged as security or be available as a source of payment for the Bonds pursuant to the Resolution and the Trust Agreement;
- (v) The District shall cooperate with the Underwriters in the qualification of the Bonds for offering and sale and the determination of their eligibility for investment under the laws of such jurisdictions, to the extent applicable, as the Representative may request; provided that the District shall not be required to qualify as a foreign corporation in, or submit to the general jurisdiction of, any other state or to file any general or special consent to service of process under the laws of any jurisdiction;
- (w) The District shall not knowingly take or omit to take any action that, under existing law, may adversely affect the exclusion from gross income for federal income tax purposes, or the exemption from any state tax, of the interest on the Bonds;
- (x) Prior to the Closing Date, the District will not amend, terminate or rescind the Bond Resolution or the Trust Agreement without the prior written consent of the Representative, provided, however, that the execution and delivery of the Eleventh Supplemental Trust Agreement in connection with the Bonds is expressly permitted; and
- (y) The District acknowledges and agrees that (i) the primary role of the Underwriters, as underwriters, is to purchase securities, for resale to investors, in an arm's length commercial transaction between the District and the Underwriters, and the Underwriters have financial and other interests that differ from those of the District; (ii) the Underwriters are acting solely as principals and are not acting as municipal advisors, financial advisors or fiduciaries to the District and have not assumed any advisory or fiduciary responsibility to the District with respect to the transaction contemplated hereby and the discussions, undertakings and procedures leading thereto (irrespective of whether the Underwriters have provided other services or are currently providing other services to the District on other matters); (iii) the only obligations the Underwriters have to the District with respect to the transaction contemplated hereby expressly are set forth in this Agreement; and (iv) the District has consulted its own financial, municipal, legal, accounting, tax and other advisors, as applicable, to the extent it has deemed appropriate.

All representations, warranties and agreements of the District shall remain operative and in full force and effect, regardless of any investigations made by any Underwriter or on the Underwriters' behalf, and shall survive the delivery of the Bonds.

5. Compliance with the Rule; Other Covenants.

- The Preliminary Official Statement has been deemed final by the District in (a) accordance with the Rule and remains as such on the date hereof. The District ratifies and consents to the distribution and use by the Underwriters on or before the date hereof, in connection with the public offering of the Bonds, of the Preliminary Official Statement. The District agrees to supply, at the District's expense, within seven (7) business days after the date hereof and in any event not later than two (2) business days before the Closing, sufficient quantities of the Official Statement to enable the Representative to send copies of the Official Statement to any potential customer upon request in compliance with paragraph (b)(4) of the Rule and the rules and regulations of the Municipal Securities Rulemaking Board ("MSRB"). Delivery of such copies of the Official Statement shall constitute the District's approval and authorization thereof for use in connection with the public offering and sale by the Underwriters of the Bonds. The Official Statement shall be in substantially the same form as the Preliminary Official Statement and, other than information permitted to have been omitted by the Rule, the District shall only make such other additions, deletions and revisions in the Official Statement that are approved by the Representative. The District agrees to deliver to the Representative an electronic copy of the Official Statement in a form that permits the Representative to satisfy its obligations under the rules and regulations of the MSRB and the SEC. The Representative agrees to file the Official Statement with the MSRB in compliance with MSRB Rule G-32.
- The District covenants and agrees to notify the Representative if, during the period (b) commencing on the date hereof through the date twenty-five (25) days after the "end of the underwriting period," as hereinafter defined, any event shall occur including, but not limited to, any material adverse change in the financial position, results of operations or condition, financial or otherwise, of the District, and of which the District has knowledge, that would cause the Official Statement to contain any untrue or incorrect statement of a material fact or to omit to state a material fact that should be included therein for the purpose for which the Official Statement is to be used or that is necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, and, if in the reasonable opinion of the Representative such event requires any amendment or supplement to the Official Statement, the District will at the District's expense promptly amend or supplement the Official Statement in a form and manner jointly approved by the District and the Representative. Anything in this Section 5(b) to the contrary notwithstanding, in no event shall the District be under any obligation to perform any continuing due diligence or monitoring to determine if any event described in this Section 5(b) has occurred subsequent to the end of the underwriting period. The "end of the underwriting period" means the Closing Date unless the Representative advises in writing on such Closing Date that as of such date there remains an unsold balance of the Bonds, in which case the "end of the underwriting period" means the date as of which the Representative notifies the District that the Underwriters no longer retain an unsold balance of the Bonds for sale to the public; however, in no event shall the "end of the underwriting period" extend beyond the date that is thirty-five (35) days from the Closing Date.
- (c) Subject to Section 9, the District shall furnish such information, execute such instruments and take such other action in cooperation with the Representative as the Representative may reasonably request to qualify the Bonds for offering and sale under the securities or "blue sky" laws of such states and other jurisdictions of the United States as the Representative may

designate; provided, however, the District shall not be obligated to accept, or consent to accept, service of process, or to appoint an agent to accept service of process, outside the Commonwealth of Virginia.

- (d) The Representative agrees on behalf of the Underwriters that the Bonds will only be offered pursuant to the Official Statement and only in jurisdictions where such offer is legal and that a copy of the final version of the Official Statement will be delivered to each purchaser of the Bonds.
- 6. <u>Conditions to Underwriters' Obligations</u>. The Underwriters' obligation to purchase and pay for the Bonds shall be subject to the performance by the District of its obligations to be performed hereunder and in the documents delivered at the Closing, and the accuracy in all material respects of the representations and warranties contained hereunder and shall also be subject to the satisfaction of each of the following conditions, both as of the date hereof and the Closing Date:
- (a) The Representative shall not have discovered any material error, misstatement or omission in the representations and warranties made by the District in this Agreement, which representations and warranties will be deemed to have been made again at and as of the time of the Closing and will then be true, accurate and complete in all material respects;
- (b) The Bond Resolution, the Enabling Act and the District Documents shall be in full force and effect and shall not have been amended, modified or supplemented, and the Official Statement shall not have been supplemented or amended, except as may have been agreed or consented to by the Representative;
- (c) At the time of the Closing, all official action of the District relating to this Agreement, the Bonds and the other District Documents shall be in full force and effect and shall not have been amended, modified or supplemented except as otherwise agreed to by the Representative;
- (d) At the time of the Closing, there shall have been no material adverse change in the condition, financial or otherwise, of the District from that set forth in the Official Statement that in the reasonable judgment of the Representative makes it impracticable to market the Bonds on the terms and in the manner contemplated in the Official Statement;
- (e) The Representative shall have received the Official Statement, and each supplement or amendment, if any, to it, executed on behalf of the District by its General Manager and its Deputy General Manager and Chief Financial Officer and a fully executed copy of each of the District Documents;
- (f) The Representative shall have received from Norton Rose Fulbright US LLP, Bond Counsel for the District ("Bond Counsel"), an approving opinion with respect to the Bonds, dated the Closing Date and addressed to the District, in substantially the form set forth in Appendix D to the Official Statement;

- (g) The Representative shall have received from Bond Counsel a supplemental opinion or opinions with respect to the Bonds, dated the Closing Date and addressed to the Underwriters, in substantially the form set forth as Exhibit B hereto;
- (h) The Representative shall have received from Sands Anderson PC, general counsel to the District, the opinions dated the Closing Date and addressed to the Underwriters (or shall receive a reliance letter with respect thereto), in substantially the forms set forth in Exhibit C hereto;
- (i) The Representative shall have received from Aqualaw, PLC, special counsel to the District, the opinions dated the Closing Date and addressed to the Underwriters (or shall receive a reliance letter with respect thereto), in substantially the form set forth in Exhibit D hereto;
- (j) The Representative shall have received from [_____], counsel to the Underwriters, an opinion dated the Closing Date and addressed to the Underwriters, in form and satisfactory acceptable to the Representative;
- (k) The Representative shall have received (i) a certificate of the General Manager and the Deputy General Manager and Chief Financial Officer of the District setting forth facts, estimates and circumstances (including covenants of the District) in existence on the Closing Date sufficient to support the conclusion that it is not expected that the proceeds of the Bonds (or other amounts provided by the District) will be used in a manner that would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, and applicable rules and regulations, and (ii) an executed Information Return for Tax-Exempt Bond Issues (Internal Revenue Service Form 8038-G) in a form satisfactory to Bond Counsel for filing, executed by a duly authorized officer of the District;
- (l) The Representative shall have received a certificate of the District as to the receipt of payment for the Bonds;
- (m) A certificate, dated the Closing Date, signed by the General Manager of the District to the effect that (a) the representations and agreements of the District contained herein are true and correct in all material respects as of the date of the Closing, and the District has complied with all of the agreements and satisfied all of the conditions in the District Documents to be performed or satisfied at or prior to the Closing; (b) except as described in the Official Statement, no litigation is pending or, to his knowledge, threatened (i) seeking to restrain or enjoin the execution or delivery of any of the District Documents, (ii) in any way contesting or affecting any authority for the Bond Resolution or any District Document, (iii) in any way contesting the creation, existence or powers of the District or the application of the proceeds of the Bonds, or (iv) which, if adversely determined, could materially adversely affect the District's financial position or operating condition or the transactions contemplated by the Official Statement or any District Document; and (c) the Official Statement is true and correct in all material respects and does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, except no review has been made of the Excluded Information;

- (n) A certificate, dated the Closing Date, signed by the General Manager of the District, in form and substance satisfactory to the Representative, to the effect that (i) the financial statements of the District as of June 30, 2023, fairly represent the receipts, expenditures, assets, liabilities and cash balances of such amounts and, insofar as presented, other funds of the District as of the dates and for the periods therein set forth and (ii) except as disclosed in the Official Statement, since June 30, 2023, no materially adverse change has occurred, or any development involving a prospective material change, in the financial position or results of operations of the District, and the District has not incurred since June 30, 2023, any material liabilities other than in the ordinary course of business or as set forth in or contemplated by the Official Statement;
- (o) The Representative shall have received confirmation of a long-term rating from S&P Global Ratings, a division of S&P Global Inc. ("S&P"), indicating that the Bonds have been rated "AA+," which rating shall remain in effect on the Closing Date;
- (p) The Representative shall have received a copy of the Blanket Letter of Representations to DTC relating to the Bonds signed by the District;
- (q) The Representative shall have received a certificate of the Trustee, wherein the Trustee shall represent that it can perform the duties and obligations with respect to the Bonds imposed upon it by the Trust Agreement;
- (r) The Representative shall have received a certified copy of the Bond Resolution and PDF copies of the executed District Documents and such other legal opinions, certificates, instruments and other documents as the Representative or Bond Counsel reasonably may request.

If the District shall be unable to satisfy or cause to be satisfied any material (in the sole judgment of the Representative) condition to the obligations of the Underwriters contained in this Agreement, or if the obligations of the Underwriters shall be terminated for any reason permitted by this Agreement, this Agreement shall terminate, and neither the Underwriters nor the District shall be under any further obligations or liabilities hereunder, except for the return or retention of the good faith deposit as provided in Section 1 hereof and the respective obligations of the District and the Underwriters for the payment of expenses as provided in Section 9 hereof, which obligations shall continue in full force and effect.

7. <u>Closing.</u> By 11:00 a.m. Virginia Beach, Virginia time, on August ___, 2024, or such other time or date as shall otherwise be mutually agreed upon by the District and the Representative (such date is herein sometimes called the "Closing Date"), the District will deliver or cause to be delivered to the Underwriters either through the facilities of The Depository Trust Company ("DTC"), or as shall otherwise have been mutually agreed upon by the District and the Representative, the Bonds and, subject to the terms and conditions hereof, the Underwriters will accept such delivery and pay to the District the purchase price of the Bonds as set forth in Section 1 hereof, such purchase price to be payable in same day Federal Funds. Such delivery and such acceptance and payment are herein sometimes called the "Closing." Delivery of the other documents as aforesaid shall be made at the offices of Bond Counsel in Washington, D.C. The Bonds shall be made available to the Underwriters, or delivered at their direction to such place and at such time as shall be mutually agreed upon, prior to the Closing. At the direction of the Underwriters, the District will deliver the Bonds in definitive form for registration through the

book-entry-only system of registration as described in the Official Statement, registered in the name of Cede & Co., as nominee for DTC. It is anticipated that the CUSIP identification numbers will be printed on the Bonds, but neither the failure to print such numbers nor any error with respect thereto shall constitute a cause for failure or refusal by the Underwriters to accept delivery of the Bonds in accordance with the terms of this Agreement.

- 8. <u>Termination</u>. The Representative may terminate the obligation of the Underwriters to purchase the Bonds by notification to the District in writing, if between the date hereof and the Closing:
- (1) legislation shall have been enacted or introduced by the Congress of the United States or the General Assembly of the Commonwealth or legislation shall have been reported out of committee of either body or be pending in committee of either body, or a decision shall have been rendered by a court of the United States or the Commonwealth, or a ruling, resolution, regulation, or temporary regulation, release, or announcement shall have been made or shall have been proposed to be made by the Treasury Department of the United States or the Internal Revenue Service, or other federal or Commonwealth authority, with respect to federal or Commonwealth taxation upon revenues or other income of the general character of that to be derived by the District from its operations, or upon interest received on obligations of the general character of the Bonds that, in the Underwriters' reasonable judgment, materially adversely affects the market price or the marketability of the Bonds;
- (2) legislation shall have been introduced in or enacted by or a bill shall be favorably reported out of committee of either house of Congress or recommended for passage by the President of the United States, or a decision by a court of the United States shall be rendered, or a ruling, regulation, proposed regulation or statement by or on behalf of the SEC or any other agency of the federal government having jurisdiction of the subject matter shall be made, to the effect that the Bonds, the Resolution or the Trust Agreement are not exempt from the registration, qualification or other requirements of the Securities Act of 1933, as amended, the Securities Exchange Act of 1934, as amended, or the Trust Indenture Act of 1939, as amended;
- effective on or prior to the Closing, or a decision of a court of the United States shall be rendered, or a stop order, ruling, regulation or proposed regulation by or on behalf of the SEC or other agency having jurisdiction over the subject matter shall be issued or made, to the effect that the issuance, sale and delivery of the Bonds or the District is in violation of the federal securities laws, including the Securities Act of 1933, as amended, the Securities Exchange Act of 1934, as amended, or the Trust Indenture Act of 1939, as amended, or with the purpose or effect of otherwise prohibiting the offering, issuance, sale or delivery of the Bonds as contemplated hereby or by the Official Statement or of obligations of the general character of the Bonds;
- (4) an event shall have occurred that (A) makes untrue or incorrect in any material respect, as of the time of such event, any statement or information contained in the Preliminary Official Statement or the Official Statement or which is not reflected in the Preliminary Official Statement or the Official Statement but should be reflected therein in order to make the statements and information contained therein not misleading in any material respect and (B) in the judgment

of the Representative, materially adversely affects the market price or marketability of the Bonds or the sale, at the contemplated offering prices, by the Underwriters of the Bonds;

- (5) there shall have occurred (whether or not foreseeable) any engagement in, or escalation of hostilities or other national or international calamity or crisis, or any material adverse change in the financial or economic conditions affecting the United States, the effect of such engagement, escalation, calamity, crisis or change on the financial markets of the United States being such as, in the Representative's reasonable judgment, would have a material adverse impact on the market price or marketability of the Bonds;
- (6) there shall have occurred a material disruption in commercial banking or securities settlement or clearance services, or there shall be in force a general suspension of trading on any national securities exchange or minimum or maximum prices for trading shall have been fixed and be in force, or maximum ranges for prices for securities shall have been required and be in force on any national securities exchange whether by virtue of a determination by that exchange or by order of the SEC, or any other governmental authority having jurisdiction that, in the Representative's reasonable judgment, would have a material adverse impact on the market price or marketability of the Bonds;
- (7) a general suspension of trading on the New York Stock Exchange or other major exchange shall be in force, or minimum or maximum prices for trading shall have been fixed and be in force, or maximum ranges for prices for securities shall have been required and be in force on any such exchange, whether by virtue of determination by that exchange or by order of the Securities Exchange Commission or any other governmental authority having jurisdiction or a general banking moratorium shall have been declared by federal, Commonwealth of Virginia or State of New York authorities;
- (8) a material disruption in securities settlement, payment or clearance services affecting the Bonds shall have occurred;
- (9) any new restriction on transactions in securities materially affecting the market for securities (including the imposition of any limitation on interest rates) or the extension of credit by, or a charge to the net capital requirements of, underwriters shall have been established by the New York Stock Exchange, the SEC, any other federal or Commonwealth agency or the Congress of the United States, or by Executive Order; or
- (10) any litigation shall be instituted or be pending on the Closing Date to restrain or enjoin the issuance, sale or delivery of the Bonds, or in any way contesting or affecting any authority for or the validity of the proceedings authorizing and approving the Enabling Act, the Bond Resolution, the District Documents or the existence or powers of the District.
- 9. <u>Expenses</u>. Except as set forth herein, the Underwriters shall not be under any obligation to pay, and the District agrees to pay, any expenses incident to the performance of the District's obligations hereunder, including but not limited to: (i) the cost of preparation of the Bond Resolution; (ii) the costs of the preparation and printing of the definitive Bonds; (iii) the fees and disbursements of Bond Counsel; (iv) the fees and disbursements of the accountants, advisors and consultants retained by the District; (v) the cost of publication of all required notices; (vi) the

disbursements of District officials and employees and any expenses incurred by the Underwriters on behalf of the District's employees and representatives which are incidental to implementing this Agreement, including without limitation meals, transportation, and lodging of such employees and representatives; (vii) fees for the rating on the Bonds; and (viii) the cost of the preparation and printing of a reasonable number of copies of the Official Statement and any amendments or supplements thereto and a reasonable number of copies required for distribution in connection with the public offering of the Bonds.

The Underwriters shall pay the fees and disbursements of Underwriters' counsel, the cost of preparation and printing of this Agreement, all advertising expenses in connection with the public offering of the Bonds and all other expenses incurred by them in connection with the public offering and distribution of the Bonds, including the cost of printing any Preliminary and Final Blue Sky Memoranda and all other underwriting documents. The District shall not be under any obligation to pay any such expenses incident to the performance of the obligations of the Underwriters hereunder.

The District and the Underwriters acknowledge that expenses included in the expense component of the Underwriters' discount are based upon estimates. The District and the Underwriters agree that if the aggregate estimated expenses exceed the aggregate actual expenses incurred by the Underwriters in an amount equal to or greater than \$500 (the "Reimbursement Threshold"), the Underwriters shall reimburse to the District the amount that the aggregate estimated expenses exceed the aggregate actual expenses. The District acknowledges and agrees that if the aggregate estimated expenses exceed the aggregate actual expenses incurred by the Underwriters in an amount less than the Reimbursement Threshold, no reimbursement will be made by the Underwriters to the District. The District acknowledges that it has had an opportunity, in consultation with such advisors as it may deem appropriate, if any, to evaluate and consider the fees and expenses being incurred as part of the issuance of the Bonds.

- 10. <u>Notices</u>. Any notice or other communication to be given under this Agreement may be given by delivering the same in writing (a) to the District at the District's address set forth above, with a copy to PFM Financial Advisors LLC, 4350 North Fairfax Drive, Suite 590, Arlington, Virginia 22203, Attention: Sarah Frey, Director, and (b) to the Representative at ______, Attention: ______].
- 11. <u>Successors and Assigns</u>. This Agreement is made solely for the benefit of the District and the Underwriters (including the successors or assigns of the Underwriters), and no other person shall acquire or have any right hereunder or by virtue hereof. All of the representations, warranties and agreements of the District contained in this Agreement shall remain operative and in full force and effect, and shall survive the delivery of the Bonds, regardless of any investigations made by or on behalf of the Underwriters.
- 12. <u>Counterparts</u>. This Agreement may be executed in one or more counterparts, each of which will be regarded as an original and all of which will constitute one and the same document.
- 13. <u>Governing Law</u>. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, without regard to its choice of laws principles.

14. <u>Entire Agreement.</u> This Agreement is the entire agreement of the parties, superseding all prior agreements, and may not be modified except in writing signed by the parties hereto.

 greement shall become effective upon the execution of the shall be valid and enforceable as of the time of such
Very truly yours,
[], [], []
By: [], as representative

HAMPTON ROADS SANITATION DISTRICT

[Signature page to Bond Purchase Agreement for Hampton Roads Sanitation District Wastewater Revenue Bonds, Series 2024B]

HAMPTON ROADS SANITATION DISTRICT WASTEWATER REVENUE BONDS, SERIES 2024B

Maturities, Amounts, Interest Rates and Price or Yield

Year of Maturity ([July] 1)	Principal <u>Amount</u>	Interest Rate	Price or <u>Yield</u>
2025	\$	%	%
2026	*	, ,	, 0
2027			
2028			
2029			
2030			
2031			
2032			
2033			
2034			
2035			
2036			
2037			
2038			
2039			
2040			
2041			
2042			
2043			
2044			
2045			
2046			
2047			
2048			
2049			

*Yield to first optional redemption date of [July 1, 2034]

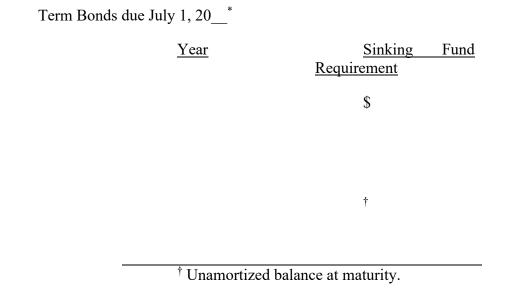
Redemption Provisions

Optional Redemption. The Bonds maturing on or before [July 1, 2034], are not subject to optional redemption prior to maturity. The Bonds maturing after [July 1, 2034], are subject to redemption prior to their respective maturities on or after [July 1, 2034], at the option of the District, in whole or in part (in increments of \$5,000) at any time, at a redemption price equal to 100% of the principal amount of such Bonds to be redeemed, plus the unpaid interest accrued

thereon to the date fixed for redemption.

Mandatory Redemption.

The Series 2024B Bonds due on [July 1, 20__*], are subject to mandatory sinking fund redemption on July 1 in the following years in the following principal amounts ("Sinking Fund Requirements") at a redemption price equal to the principal amount thereof, together with interest accrued to the date of redemption.



In the event of a partial optional redemption or purchase of such term bonds, the District will credit the principal amount of such term bonds so purchased or redeemed against the Sinking Fund Requirements for the remaining term bonds outstanding in such amounts and in such years as it in its sole discretion shall determine.

SUPPLEMENTAL OPINION OF BOND COUNSEL

August, 2024
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Ladies and Gentlemen:
We have delivered to you copies of our approving opinion as Bond Counsel, dated this date, rendered in connection with the issuance by the Hampton Roads Sanitation District, a political subdivision of the Commonwealth of Virginia (the "District"), for the purchase by the Underwriters and the sale by the District of the District's \$
You may rely upon our approving opinions as if each were addressed to you.
At your request, we have reviewed, in addition to the proceedings and other papers described in our approving opinions, the following:
(a) the Bond Purchase Agreement, dated July, 2024, between you and the District (the "Purchase Agreement");
(b) the Preliminary Official Statement, dated July, 2024, with respect to the Bonds, together with the final version of the Official Statement, dated July, 2024, with respect to the Bonds (the "Official Statement"); and

(c) the Continuing Disclosure Agreement, dated the date hereof (the "Continuing Disclosure Agreement").

Based on the foregoing and upon such other information and papers as we consider necessary for the purposes of rendering this opinion, we are of the opinion that:

- 1. The Purchase Agreement and the Continuing Disclosure Agreement have been duly authorized, executed and delivered by the District and, assuming their due authorization, execution and delivery by the other parties thereto, constitute valid and legally binding agreements of the District, enforceable against the District in accordance with their terms. The enforceability of the Purchase Agreement and the Continuing Disclosure Agreement may be limited by bankruptcy, insolvency, moratorium, reorganization or other laws affecting creditors' rights generally and may be subject to judicial discretion.
- 2. The offering, sale and delivery of the Bonds do not require their registration under the Securities Act of 1933, as amended, and the Trust Agreement is exempt from qualification as a trust indenture under the Trust Indenture Act of 1939, as amended. No opinion is expressed with respect to the necessity of the registration of the Bonds under the "Blue Sky" or securities laws of any state, federal district, territory or possession of the United States.

In our capacity as Bond Counsel, we have participated in the preparation and have reviewed those portions of the Official Statement contained under the captions "THE SERIES 2024B BONDS," "SECURITY AND SOURCES OF PAYMENT," "TAX MATTERS," and "CONTINUING DISCLOSURE" (other than information under such caption with respect to the District's compliance with previous undertakings under Rule 15c2-12, as to which no opinion is expressed) and in Appendices B, C, and D. In our opinion, the statements relating to the Bonds and the summaries of documents, statutes and opinions contained in the sections of the Official Statement referred to above fairly summarize the material provisions of the Bonds and the documents, statutes and opinions referred to therein. We offer no other opinion or view as to the information contained in the Official Statement.

This letter is furnished by us in our capacity as Bond Counsel to the District. No attorney-client relationship has existed or exists between our firm and the addresses hereof in connection with the Bonds, the Official Statement or by virtue of this opinion. This opinion is delivered to, and is solely for the benefit of, the addressees hereof and is not to be used, circulated, quoted or otherwise referred to or relied upon by any person other than you. This opinion is not intended to be relied upon by the Trustee (as described in the Purchase Agreement) or the holders or the beneficial owners of the Bonds.

Very truly yours,

OPINIONS OF SANDS ANDERSON PC COUNSEL FOR THE DISTRICT

		August, 2024
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Ladies ar	nd Ger	ntlemen:
in connectare being as of Ma The Bank as amend Eleventh Trustee (etion version version version 1, k of Nodelled. The Supplication of the collection with the collection version	e acted as general counsel to the Hampton Roads Sanitation District (the "District") with the issuance and sale of the above-referenced bonds (the "Bonds"). The Bonds d under the Trust Agreement, dated as of October 1, 2011, as amended and restated 2016, and as amended and restated as of1, 2024, between the District and lew York Mellon Trust Company, N.A., as trustee (in such capacity, the "Trustee"), The Bonds are secured by such Trust Agreement, as further supplemented by the lemental Trust Agreement, dated as of1, 2024, between the District and the tively, the "Trust Agreement"). Unless otherwise defined, the capitalized terms nion have the meanings set forth in the Bond Purchase Agreement (as hereinafter
Ir	n conn	ection with our opinion, we have examined the following:
(1		Chapter 66 of the Acts of Assembly of Virginia of 1960, as amended (the "Enabling Act");
(2	,	the resolution relating to the Bonds adopted by the Hampton Roads Sanitation District Commission, the governing body of the District, on June 25, 2024 (the "Resolution");
(3	3)	the Trust Agreement;
(4	4)	the Bonds;

- (5) the Bond Purchase Agreement, dated July ___, 2024 (the "Bond Purchase Agreement"), between you and the District;
- (6) the Official Statement, dated July ___, 2024 (the "Official Statement"), prepared in connection with the offering of the Bonds; and
- (7) the Continuing Disclosure Agreement, dated as of August ___, 2024 (the "Continuing Disclosure Agreement"), delivered by the District for the benefit of the Underwriters and the holders of the Bonds.

The Trust Agreement, the Continuing Disclosure Agreement, and the Bond Purchase Agreement are referred to collectively as the "District Documents."

As to questions of fact material to this opinion, we have relied upon representations of, and the compliance as of the date hereof with the covenants by, the District contained in the District Documents, certifications of public officials furnished to us, and certifications and representations contained in certificates of the District and others delivered at Closing; provided that nothing has come to our attention that would lead us to believe that reliance upon such representations and certifications is unreasonable. We have assumed that (i) all signatures on documents, certificates, and instruments submitted to us as originals are authentic, and (iii) all documents, certificates, and instruments submitted to us as copies conform to the originals. In addition, we have assumed that all documents, certificates, and instruments relating to this financing have been duly authorized, executed, and delivered by all parties thereto.

Based upon the foregoing, as of the date hereof, we are of the opinion that:

- 1. The District is a political subdivision of the Commonwealth of Virginia duly created and validly existing under the Enabling Act and has full power and authority under the Enabling Act to (i)adopt the resolution, (ii) execute and deliver the District Documents and the Bonds, (iii) issue, sell and deliver the Bonds pursuant to the Trust Agreement, and (iv) consummate the transactions contemplated by, and perform its obligations under, the District Documents. The directors and officers of the District identified in the District's general certificate delivered the date hereof have been duly appointed and are qualified to serve as such.
- 2. The Resolution has been duly adopted, complies with the Enabling Act and is in full force and effect on this date. The Bonds and the District Documents have been duly authorized, executed and delivered by the District and assuming due authorization, execution and delivery by the other parties thereto constitute legal, valid and binding agreements of the District enforceable in accordance with their terms except to the extent their enforceability may be limited by bankruptcy, reorganization or similar laws affecting creditors' rights generally and by general equitable principles.
- 3. The District has duly approved the Official Statement and its use in connection with the public offering of the Bonds.
- 4. The authorization, execution and delivery of the District Documents and the Bonds and the performance by the District of its obligations thereunder will not conflict with or constitute

a violation or breach of or default under (i) any federal or Virginia constitutional provision or any other provision of Virginia law, (ii) to the best of our knowledge, any material agreement or other material instrument to which the District is a party or by which the District is bound, or (iii) to the best of our knowledge, any order, rule or regulation of any court or governmental agency or body having jurisdiction over the District or any of its properties.

- Based on our familiarity with the affairs of the District, but without having undertaken to determine independently the accuracy or completeness of the statements contained in the Preliminary Official Statement as of its date, together with the final version of the Official Statement as of its date and as of the date hereof, each with respect to the Bonds, nothing has come to our attention which would lead us to believe that the information in the Preliminary Official Statement or the Official Statement under the caption "LITIGATION" insofar as it pertains to the District, contains an untrue statement of a material fact or omits to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. Except as disclosed in the Official Statement, no litigation or other proceedings are pending or, to the best of our knowledge after due inquiry with respect thereto, threatened in any court or other tribunal of competent jurisdiction, state or federal, in any way (a) restraining or enjoining the issuance, sale or delivery of any of the Bonds or the collection of revenues of the System by the District or the pledge of revenues under the Trust Agreement, (b) questioning or affecting the validity of the Bonds, the Resolution or the District Documents, (c) questioning or affecting the validity of any of the proceedings for the authorization, sale, execution, registration, issuance or delivery of the Bonds, (d) questioning or affecting the organization or existence of the District or the title to the offices of the officers thereof or (e) contesting in any material respect the completeness or accuracy of the Preliminary Official Statement or the Official Statement. The District has expressly disclosed that the District and the United States Environmental Protection Agency ("EPA") have modified the consent agreement with the Commonwealth of Virginia and the Order from EPA into a federal consent decree lodged with the Federal District Court for the Eastern District of Virginia. Such consent decree could impose penalties and other relief, as set forth in the Official Statement under "THE SYSTEM - State Consent Agreement and EPA Consent Decree." A separate opinion will be issued by AquaLaw, PLC, as to these matters, and we express no opinion as to these matters.
- 6. All authorizations, approvals, consents and orders of any governmental authority, legislative body, board, agency or commission having jurisdiction that are required for the due authorization of the Resolution, the District Documents and the Bonds have been duly obtained, provided that no opinion is expressed with respect to the necessity of the registration of the Bonds under the "Blue Sky" or securities laws of any state, federal district, territory or possession of the United States

Our services as counsel to the District have been limited to rendering the foregoing opinions based on our review of such legal proceedings as we deem necessary to make the statements herein contained. Wherever in this letter an opinion is qualified by the phrase "to our knowledge" or words of like import, it shall mean that we have no actual knowledge to the contrary of the matter or matters so qualified and that no such knowledge to the contrary has come to us during the course of our representation of the District in connection with this transaction, but that we have conducted no independent investigation of such matter or matters or otherwise sought verification thereof, except as may be expressly set forth herein. We have not examined any

documents or other information concerning the business or financial resources of the District, and therefore we express no opinion as to the accuracy or completeness of any information that may have been relied upon by any purchaser of the Bonds in making its decision to purchase the Bonds.

We express no opinion as to (i) the status of interest on the Bonds for federal or state income tax purposes, (ii) compliance with federal and state laws regulating securities, (iii) the perfection or priority of any liens or security interests, (iv) any matter which may be governed by the law of any jurisdictions other than the Commonwealth and the United States of America, or (v) any other matter not expressly set forth above. Finally, we do not undertake to advise you of any changes in the opinions expressed herein resulting from matters that might hereafter come or be brought to our attention.

This letter is furnished by us in our capacity as counsel for the District. No attorney-client relationship has existed or exists between our firm and the addressees hereof in connection with the Bonds, the Official Statement or by virtue of this opinion. This opinion is delivered to, and is solely for the benefit of, the addressees hereof and is not to be used, circulated, quoted or otherwise referred to or relied upon by any person other than you. This opinion may not be relied upon by the Trustee or the holders of the Bonds.

By			

SANDS ANDERSON PC

August ___, 2024

The Bank of New York Mellon Trust Company, N.A., as Trustee Pittsburgh, Pennsylvania
\$ HAMPTON ROADS SANITATION DISTRICT WASTEWATER REVENUE BONDS, SERIES 2024B
Ladies and Gentlemen:
We have served as general counsel to the Hampton Roads Sa

We have served as general counsel to the Hampton Roads Sanitation District (the "District") in connection with the issuance and sale of the above-captioned bonds (the "Bonds"). The Bonds are being issued under the Trust Agreement, dated as of October 1, 2011, as amended and restated as of March 1, 2016, and as amended and restated as of _____ 1, 2024, between the District and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"), as amended. The Bonds are secured by such Trust Agreement, as further supplemented by the Eleventh Supplemental Trust Agreement, dated as of _____ 1, 2024, between the District and the Trustee (collectively, the "Trust Agreement"). Unless otherwise defined, the capitalized terms used in this opinion have the meanings set forth in the Trust Agreement.

In connection with our opinion, we have examined the following:

- (1) Chapter 66 of the Acts of Assembly of Virginia of 1960, as amended;
- (2) the resolution relating to the Bonds adopted by the Hampton Roads Sanitation District Commission, the governing body of the District, on June 25, 2024 (the "Resolution");
 - (3) the Trust Agreement; and
 - (4) the Bonds.

As to questions of fact material to this opinion, we have relied upon representations of, and the compliance as of the date hereof with the covenants by, the District contained in the Trust Agreement, certifications of public officials furnished to us, and certifications and representations contained in certificates of the District and others delivered in connection with the issuance of the

Bonds; provided that nothing has come to our attention that would lead us to believe that reliance upon such representations and certifications is unreasonable. We have assumed that all signatures on documents, certificates, and instruments examined by us are genuine, all documents, certificates, and instruments submitted to us as originals are authentic, and all documents, certificates, and instruments submitted to us as copies conform to the originals. In addition, we have assumed that all documents, certificates, and instruments relating to the Bonds have been duly authorized, executed, and delivered by all parties to them other than the District.

Based upon the foregoing and upon such other information and documents as we consider necessary, we are of the opinion that:

- (1) the District has the power and authority to execute and deliver the Trust Agreement and the Bonds and to consummate the transactions contemplated by such instruments; and
- (2) the Trust Agreement and the Bonds have been duly authorized, executed and delivered by the District.

Our services as counsel to the District have been limited to rendering the foregoing opinions based on our review of such legal proceedings as we deem necessary to make the statements herein contained. Wherever in this letter an opinion is qualified by the phrase "to our knowledge" or words of like import, it shall mean that we have no actual knowledge to the contrary of the matter or matters so qualified and that no such knowledge to the contrary has come to us during the course of our representation of the District in connection with this transaction, but that we have conducted no independent investigation of such matter or matters or otherwise sought verification thereof, except as may be expressly set forth herein. We have not examined any documents or other information concerning the business or financial resources of the District, and therefore we express no opinion as to the accuracy or completeness of any information that may have been relied upon by any purchaser of the Bonds in making its decision to purchase the Bonds.

We express no opinion as to (i) the status of interest on the Bonds for federal or state income tax purposes, (ii) compliance with federal and state laws regulating securities, or the necessity for the registration of the Bonds or the qualification of the Trust Agreement under applicable law, including the Securities Act of 1933, as amended, and the Trust Indenture Act of 1939, as amended.,(iii) the perfection or priority of any liens or security interests, (iv) any matter that may be governed by the law of any jurisdictions other than the Commonwealth of Virginia and the United States of America, or (v) any other matter not expressly set forth above. Finally, we do not undertake to advise you of any changes in the opinions expressed herein resulting from matters that might hereafter come or be brought to our attention.

SANDS ANDERSON PC

FORM OF OPINION OF AQUALAW PLC, SPECIAL COUNSEL TO THE DISTRICT

August , 2024

Hampton Roads San	itation District
Virginia Beach, Virg	ginia
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	HAMPTON ROADS SANITATION DISTRICT
	WASTEWATER REVENUE BONDS,
	SERIES 2024B

Ladies and Gentlemen:

We are writing as outside environmental counsel to the Hampton Roads Sanitation District ("HRSD") regarding statements made in the Preliminary Official Statement, dated July ___, 2024 (the "Preliminary Official Statement"), and the Official Statement, dated July ___, 2024 (the "Official Statement"), of HRSD concerning federal and State enforcement initiatives for HRSD's sewage collection system. These initiatives relate to the portion of HRSD's system that serves localities in the Hampton Roads, Virginia, region.

Specifically, we are writing to confirm that the statements contained in the Preliminary Official Statement and in the Official Statement under the caption "THE SYSTEM – State Consent Agreement and EPA Consent Decree" present a fair and accurate summary of the matters purported to be summarized therein. These statements do not contain an untrue statement of a material fact. Nor do they omit to state any material fact necessary in order to make such statements, in the light of the circumstances under which they were made, not misleading with respect to the Preliminary Official Statement, as of its date, and with respect to the Official Statement, as of the date hereof.

Sincerely,

AquaLaw, PLC

\$_____HAMPTON ROADS SANITATION DISTRICT WASTEWATER REVENUE BONDS, SERIES 2024B

ISSUE PRICE CERTIFICATE (Hold-the-Offering-Price Rule)

The undersigned, on behalf of _____ (the "Representative"), and the other members of the underwriting syndicate (together, the "Underwriting Group"), hereby certifies as set forth below with respect to the sale and issuance of the above-captioned obligations (the "Bonds") of Hampton Roads Sanitation District (the "Issuer").

1. Initial Offering Price of the Hold-the-Offering-Price Maturities.

- (a) The Underwriting Group offered the Hold-the-Offering-Price Maturities to the Public for purchase at the respective initial offering prices listed in Schedule A (the "Initial Offering Prices") on or before the Sale Date. A copy of the pricing wire or equivalent communication for the Bonds is attached to this certificate as Schedule B.
- (b) As set forth in the Bond Purchase Agreement, dated July ___, 2024, the members of the Underwriting Group agreed in writing on or prior to the Sale Date that, (i) for each Maturity of the Hold-the-Offering-Price Maturities, they would neither offer nor sell any of the Bonds of such Maturity to any person at a price that is higher than the Initial Offering Price for such Maturity during the Holding Period for such Maturity (the "hold-the-offering-price rule"), and (ii) any selling group agreement shall contain the agreement of each dealer who is a member of the selling group, and any retail or other third-party distribution agreement shall contain the agreement of each broker-dealer who is a party to the retail or other third-party distribution agreement, to comply with the hold-the-offering-price rule. Pursuant to such agreement, no Underwriter offered or sold any Maturity of the Hold-the-Offering-Price Maturities at a price that is higher than the respective Initial Offering Price for that Maturity of the Bonds during the Holding Period.

2. **Defined Terms**.

- (a) *Hold-the-Offering-Price Maturities* means those Maturities of the Bonds listed in Schedule A hereto as the "**Hold-the-Offering-Price Maturities**."
- (b) Holding Period means, with respect to a Hold-the-Offering-Price Maturity, the period starting on the Sale Date and ending on the earlier of (i) the close of the fifth business day after the Sale Date, or (ii) the date on which the Underwriters sold at least 10% of such Hold-the-Offering-Price Maturity to the Public at prices that are no higher than the Initial Offering Price for such Hold-the-Offering-Price Maturity.

- (c) *Maturity* means Bonds with the same credit and payment terms. Bonds with different maturity dates, or Bonds with the same maturity date but different stated interest rates, are treated as separate maturities.
- (d) *Public* means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter or a related party to an Underwriter. The term "related party" for purposes of this certificate generally means any two or more persons who have greater than 50 percent common ownership, directly or indirectly.
- (e) Sale Date means the first day on which there is a binding contract in writing for the sale of a Maturity of the Bonds. The Sale Date of the Bonds is July , 2024.
- (f) Underwriter means (i) any person that agrees pursuant to a written contract with the Issuer (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Bonds to the Public, and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this paragraph to participate in the initial sale of the Bonds to the Public (including a member of a selling group or a party to a retail or other third-party distribution agreement participating in the initial sale of the Bonds to the Public).

[Final certificate may include standard representations regarding callable premium bonds and computations performed by the underwriter (e.g., yield and weighted average maturity) as may be required by the Issuer.]

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents the Representative's interpretation of any laws, including specifically Sections 103 and 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the Issuer with respect to certain of the representations set forth in the Tax Certificate with respect to the Bonds and with respect to compliance with the federal income tax rules affecting the Bonds, and by Norton Rose Fulbright US LLP in connection with rendering its opinion that the interest on the Bonds is excluded from gross income for federal income tax purposes, the preparation of the Internal Revenue Service Form 8038-G, and other federal income tax advice that it may give to the Issuer from time to time relating to the Bonds.

		[], On behalf of the Underwriters, including itself
		By:
		Name:
		Title:
Dated:	, 2024	

SCHEDULE A

INITIAL OFFERING PRICES OF THE HOLD-THE-OFFERING-PRICE MATURITIES (Attached)

SCHEDULE B PRICING WIRE OR EQUIVALENT COMMUNICATION

(Attached)

HAMPTON ROADS SANITATION DISTRICT

and

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

as ESCROW AGENT

Escrow Deposit Agreement relating to	
Wastewater Revenue Bonds, [Refunding] Series	

Dated as of ________, 202_

ESCROW DEPOSIT AGREEMENT

This ESCROW DEPOSIT AGREEMENT, dated as of _______, 202__ (this "Agreement"), is by and between Hampton Roads Sanitation District (the "District") and The Bank of New York Mellon Trust Company, N.A., as trustee under the Trust Agreement, under the Amended and Restated Trust Agreement, dated as of March 1, 2016, as amended and supplemented, and as amended by the Amended and Restated Trust Agreement, dated as of ______, 1 2024 (the "Trust Agreement"), and its successor or successors and any other corporation that may be substituted in its place pursuant to the Trust Agreement and as Paying Agent for the Defeased Bonds (as hereinafter defined) (in such capacity, the "Trustee") and as escrow agent hereunder (hereinafter referred to, in either or both capacities, as the "Escrow Agent").

WHEREAS, the District has authorized and issued multiple series of Bonds under the Trust Agreement; and

WHEREAS, the District wishes to defease [all] [a portion] of its outstanding Wastewater Revenue Bonds, [Refunding] Series _____, such Obligations being more particularly identified in **Exhibit A** (the "Defeased Bonds"); and

WHEREAS, the District has determined to issue its Wastewater Revenue Bonds, Refunding Series 202[4][5] (the "Series 202[4][5] Bonds") under the Trust Agreement; and

WHEREAS, pursuant to the Trust Agreement, the Trustee will transfer a portion of the proceeds of the Series 202[4][5]_ Bonds to the Escrow Agent, along with certain other money, to enable the Escrow Agent to purchase securities in order to pay the Defeased Bonds and discharge and satisfy the covenants, agreements and other obligations of the District to the holders of the Defeased Bonds under the Trust Agreement; and

WHEREAS, the purchase and deposit of Escrow Securities (as defined below) and the deposit of the Cash Amount (as defined below) with the Trustee will accomplish the discharge and satisfaction of the covenants, agreements and other obligations of the District to the holders of the Defeased Bonds under the Trust Agreement;

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

- 1. All capitalized terms used herein and not otherwise defined herein shall have the same meanings in this Agreement as such terms are given in the Trust Agreement. Reference herein to or citation herein of any provisions of the Trust Agreement shall be deemed to incorporate the same as a part hereof in the same manner and with the same effect as if the same were fully set forth herein.
- 2. The Bank of New York Mellon Trust Company, N.A., is hereby appointed as Escrow Agent by the District and, by its execution and delivery hereof, The Bank of New York Mellon Trust Company, N.A., accepts appointment as Escrow Agent hereunder.

3. There is hereby created and established with the Escrow Agent a special and irrevocable fund designated the "Hampton Roads Sanitation District 201__ Defeasance Escrow Deposit Fund" (the "Escrow Fund") to be held by the Escrow Agent separate and apart from all other funds of the District or the Escrow Agent.

On _____. 202_, the District shall cause to be transferred Series 202[4][5]_ Bond proceeds in the amount of \$_____ (the "Escrow Deposit") to the Escrow Agent, and the Escrow Agent shall acknowledge receipt of the Escrow Deposit.

The District directs the Escrow Agent, and the Escrow Agent agrees, to deposit the Escrow Deposit in the Escrow Fund and to apply amounts credited to the Escrow Fund to the purchase of the Defeasance Obligations listed in **Exhibit B** (such Defeasance Obligations together with any Defeasance Obligations substituted therefor and any Defeasance Obligations purchased pursuant to paragraphs (4) or (5) hereof are collectively referred to herein as the "Escrow Securities"), which, as provided in paragraph (6) hereof, are intended to mature at times and in amounts sufficient (excluding reinvestment earnings) to pay principal or redemption price of and interest when due on the Defeased Bonds, as applicable. Except as otherwise provided below under subparagraph (b) of paragraph (4) with respect to the Escrow Securities, the Escrow Agent shall have no power or duty to invest any money held hereunder or to make substitutions of the Escrow Securities held hereunder or to sell, transfer, or otherwise dispose of the Escrow Securities or money acquired hereunder except in accordance with written instructions of the District. Any amounts derived from Escrow Securities not required to be applied to the payment of the principal or redemption price of and interest when due on the Defeased Bonds shall, to the extent practicable, be reinvested at the written direction of the District.

- 4. (a) Other than as hereinafter provided in this paragraph (4), or in paragraph (5) below, with respect to any amounts received from principal or interest payments on such Escrow Securities (as defined above) remaining in the Escrow Fund, and principal or redemption price of and interest due or to become due on the Defeased Bonds, the Escrow Agent shall leave such amounts received from the maturing principal of and interest on the Escrow Securities to the extent not then used to pay the principal or redemption price of or interest on the Defeased Bonds uninvested in the Escrow Fund.
- (b) The District hereby directs the Escrow Agent to enter into this Agreement, and to invest and reinvest the amount held in the Escrow Fund pursuant to the terms hereof. The Escrow Agent hereby agrees that it will take all of the actions required to be taken by it in its capacity as Trustee under the Trust Agreement and as Escrow Agent hereunder in order to effectuate this Agreement. The liability of the Escrow Agent for the payment of the Defeased Bonds, pursuant to this paragraph and the Trust Agreement shall be limited to the application thereto of the Escrow Securities and the interest earnings thereon available for such purposes in the Escrow Fund. The Escrow Agent shall have no responsibility for any investment losses resulting from the investment, reinvestment, liquidation or substitution of Escrow Securities in accordance with the written direction of the District or the failure of the District to provide timely written investment direction, if it shall become necessary. The Escrow Agent shall invest amounts held in the Escrow Fund in accordance with the terms of this Agreement, but in the absence of reinvestment instructions from the District (if the same become necessary), the Escrow Agent shall hold the money held by it hereunder uninvested, and shall not be liable for the payment of any interest on such uninvested

funds. The Escrow Agent, at the written direction of the District and upon receipt of the opinions and certificates described below, shall invest and reinvest in Defeasance Obligations any money remaining from time to time in the Escrow Fund until needed to provide for the payment of the principal or redemption price of and interest on the Defeased Bonds, except as provided by paragraph (5) below. Such money shall be reinvested at the direction of the District in Defeasance Obligations maturing no later than when required to meet an interest or principal payment on the Defeased Bonds, and at such interest rates or yields and for such periods that the District shall direct, provided that the Escrow Agent shall have received (i) a written opinion of a lawyer or a firm of lawyers nationally recognized in the field of municipal finance and satisfactory to the Escrow Agent (an "Opinion of Counsel") to the effect that such reinvestment of such money and the interest rates or yields on such money and substitute Defeasance Obligations will not adversely affect the exclusion of interest on the Series 202[4][5] Bonds and the Defeased Bonds from gross income for federal income tax purposes and (ii) a certification from a nationally recognized verification agent that, immediately following such transaction, the principal of and interest on the Defeasance Obligations in the Escrow Fund when due and paid will, without reinvestment, together with any other money or securities held in the Escrow Fund for such purpose, be sufficient to pay the principal of, redemption premium, if any, and interest on the Defeased Bonds when due.

- 5. The District may withdraw from the Escrow Fund at any time money or Defeasance Obligations not then or thereafter needed to pay the principal or redemption price of and interest due or to become due on the Defeased Bonds resulting from any activity described in paragraphs (3) or (4) above or any other action of the District permitted by the Trust Agreement (including that certain of the Defeased Bonds have ceased to be Outstanding by virtue of the fact that such Defeased Bonds have been acquired by the Escrow Agent or the Trustee at the direction of the District) or this Agreement; the District shall provide to the Trustee a certification from a nationally recognized verification agent that after any such withdrawal the principal of and interest on the money and securities on deposit in the Escrow Fund, together with other money or securities held in the Escrow Fund for such purpose, shall be sufficient to pay without reinvestment, when due, the principal or redemption price of and interest on the Defeased Bonds.
- 6. The District hereby represents, warrants and certifies to the Escrow Agent that the Escrow Securities deposited in the Escrow Fund are and shall be Defeasance Obligations and that the Escrow Securities mature at such times and in such amounts such that, based solely upon calculations and certifications made to it by _______, verification agent, the maturing principal of and the interest on the Escrow Securities and the cash in the amount of \$_____ not applied to the purchase of the Escrow Securities (the "Cash Amount"), collectively, will be sufficient to pay when due the principal or redemption price, if applicable, of and interest due and to become due on the Defeased Bonds, on and prior to the redemption date or maturity date thereof, as the case may be, provided that amounts received from the Escrow Securities and not needed to pay amounts due on the Defeased Bonds, on the date received shall be held uninvested until applied to pay amounts due on the Defeased Bonds, or reinvested as provided in paragraph (4), all in accordance with and in satisfaction of the provisions of the Trust Agreement and this Agreement.
- 7. The District hereby irrevocably designates the Defeased Bonds maturing on ____1, 202_, for redemption on the date set forth in **Exhibit A** hereto. The form of the notice of defeasance and redemption required to be mailed pursuant to the requirements of the Trust Agreement is attached hereto as **Appendix A**, and the District hereby irrevocably instructs the

Trustee to deliver such notice at the time and in the manner required by the Trust Agreement. The District directs the Escrow Agent, and the Escrow Agent agrees, to cause the notice of defeasance and redemption to be sent to The Electronic Municipal Market Access system administered by the Municipal Securities Rulemaking Board ("EMMA") within five (5) days after the date of this Agreement, such notice to be substantially in the form set forth in **Appendix A**.

- 8. The District irrevocably covenants that it will take, or cause to be taken, all actions necessary to cause the Defeased Bonds scheduled to mature on _____ 1, 202_, to be redeemed on the date set forth in **Exhibit A** hereto, and the Escrow Agent shall have no obligation or liability with respect thereto, except as set forth in this Agreement.
- 9. The deposit of the Escrow Securities and money in the Escrow Fund shall constitute an irrevocable deposit in trust solely for the payment of the Defeased Bonds, and the principal of and interest earnings on such Escrow Securities and money shall be used solely for such purposes, as necessary, subject to paragraphs (4) and (5) hereof.
- 10. Neither the District nor the Escrow Agent shall sell, transfer or otherwise dispose of the Escrow Securities or the funds held uninvested under this Agreement, except as otherwise provided in paragraphs (4) and (5) hereof and except that the Escrow Agent may effect the transfer of such Escrow Securities or funds to a successor escrow agent in accordance with the Trust Agreement relating to the transfer of rights and property to successor trustees.
- 11. Subject to the provisions of paragraphs (4) and (5) hereof, the lien and pledge hereby created shall be irrevocable and the holders of the Defeased Bonds shall have an express lien on all money and Escrow Securities deposited in the Escrow Fund pursuant to paragraphs (3), (4) and (5) hereof and the interest earnings thereon until paid out, used and applied in accordance with this Agreement. Nothing in this Agreement shall be deemed to imply that the Defeased Bonds have been paid or deemed paid by reason of the execution of this Agreement.
- 12. In consideration of the services rendered by the Escrow Agent under this Agreement, the District agrees to and shall pay to the Escrow Agent such fees and expenses as the District and the Escrow Agent shall agree in writing, including all reasonable expenses, charges, counsel fees and other disbursements incurred by the Escrow Agent or by its attorneys, agents and employees in and about the performance of their powers and duties hereunder, from any money of the District lawfully available therefor, and the Escrow Agent shall have no lien, claim, or right of setoff whatsoever upon or against any of the Escrow Securities, Defeasance Obligations, or the funds held uninvested in said Escrow Fund for the payment of such fees and expenses. The District further agrees, to the extent permitted by law, to indemnify and save the Escrow Agent, any successor escrow agent, and its officers, directors, agents, and employees harmless against any extraordinary expenses, services or liabilities that it may incur as a result of entering into this Agreement or that it may incur in the exercise and performance of its powers and duties hereunder and which are not due to the Escrow Agent's willful misconduct or bad faith. If the Escrow Agent shall be subsequently called upon by the District to exercise any discretionary rights or powers that are vested in the Escrow Agent by this Agreement but not expressly mandated by this Agreement, then the Escrow Agent shall be under no obligation to exercise such rights or powers unless such the District shall have offered to the Escrow Agent security or indemnity satisfactory to the Escrow Agent against the costs, expenses and liabilities that might be incurred by it in

compliance with such request or direction. The provisions of this paragraph (12) shall survive the discharge of this Agreement or the earlier resignation or removal of the Escrow Agent.

- 13. The District hereby acknowledges that the rights, duties, immunities and indemnities of the Trustee set out in Article IX of the Trust Agreement, and the obligations of the District in respect thereof shall be applicable to the Trustee in its capacity as Escrow Agent hereunder.
- 14. The Escrow Agent will have no duties or responsibilities to the District 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, gross negligence, willful or intentional misconduct or default in the performance of any obligation imposed on it hereunder.
- 15. The Escrow Agent may consult with legal counsel or other experts concerning its duties hereunder, 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.

The Escrow Agent may conclusively rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties.

The Escrow Agent may perform its duties hereunder by or through attorneys, agents, receivers, or employees. The Escrow Agent shall not be obligated to use or risk its own funds in the performance of its duties hereunder or to pay the principal of, premium, if any, or interest on the Defeased Bonds.

Anything in this Agreement to the contrary notwithstanding, in no event shall the Escrow Agent be liable for special, indirect, punitive or consequential loss or damages of any kind whatsoever (including but not limited to lost profits), even if the Escrow Agent has been advised of the likelihood of such loss or damage and regardless of the form of action.

16. Notices. (a) All notices and communications to the District shall be addressed in writing to:

Steven G. de Mik Deputy General Manager and Chief Financial Officer Hampton Roads Sanitation District 1434 Air Rail Avenue Virginia Beach, Virginia 23455

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

All notices and communications to the Escrow Agent shall be addressed in writing to:

The Bank of New York Mellon Trust Company, N.A., as Escrow Agent
500 Ross Street, 12th Floor
Pittsburgh, Pennsylvania, 15262
Attention: Corporate Trust - Public Finance

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

The Escrow Agent shall have the right to accept and act upon instructions, including funds transfer instructions ("Instructions") given pursuant to this Agreement and delivered using Electronic Means (as defined below); provided, however, that the District shall provide to the Escrow Agent an incumbency certificate listing officers with the authority to provide such Instructions ("Authorized Officers") and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended by the District whenever a person is to be added or deleted from the listing. If the District elects to give the Escrow Agent Instructions using Electronic Means and the Escrow Agent in its discretion elects to act upon such Instructions, the Escrow Agent's understanding of such Instructions shall be deemed controlling. The District understands and agrees that the Escrow Agent cannot determine the identity of the actual sender of such Instructions and that the Escrow Agent shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Escrow Agent have been sent by such Authorized Officer. The District shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Escrow Agent and that the District and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and authentication keys upon receipt by the District. The Escrow Agent shall not be liable for any losses, costs or expenses arising directly or indirectly from the Escrow Agent's reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. The District agrees: (i) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Escrow Agent, including without limitation the risk of the Escrow Agent 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 Escrow Agent 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 Escrow Agent immediately upon learning of any compromise or unauthorized use of the security procedures.

"Electronic Means" shall mean the following communications methods: e-mail, secure electronic transmission containing applicable authorization codes, passwords or authentication keys issued by the Escrow Agent, or another method or system specified by the Escrow Agent as available for use in connection with its services hereunder.

17. The Escrow Agent may resign and thereby become discharged from the trusts hereby created, by written notice mailed to the District by registered or certified mail. Such

resignation shall take effect upon the appointment of a new Escrow Agent hereunder and acceptance of the trusts hereby created. The Escrow Agent shall continue to serve as Escrow Agent until a successor is appointed by the District, and the Escrow Agent may, after 60 days subsequent to its resignation, petition the Circuit Court of the City of Virginia Beach, Virginia, for the appointment of a successor Escrow Agent if one has not yet been appointed.

- 18. This Agreement shall terminate when the Escrow Agent shall have transferred all amounts to be transferred hereunder in accordance with **Exhibit C** hereto.
- 19. This Agreement and the rights and duties of the parties hereunder shall be governed by, and construed in accordance with, the domestic law of the Commonwealth of Virginia without regard to choice of law principles.
- 20. If any one or more of the covenants or agreements provided in this Agreement on the part of the District or the Escrow Agent to be performed should be determined by a court of competent jurisdiction to be contrary to law, each such covenant or agreement shall be deemed and construed to be severable from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Agreement.
- 21. This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have each caused this Agreement to be executed by their duly authorized officers as of the date first above written.

HAMPTON ROADS SANITATION DISTRICT

By:
Steven G. de Mik
Deputy General Manager and Chief Financial
Officer
THE BANK OF NEW YORK MELLON TRUST
COMPANY, N.A.,
as Escrow Agent
By:
Rhonda J. Brannon
Vice President

[Signature Page to Escrow Deposit Agreement]

EXHIBIT A

Defeased Bonds

Wastewater Revenue Bonds, [Refunding] Series 201

Maturity	Principal	Redemption	Redemption	
<u>(1)</u>	Amount	Date	Price	CUSIPs

Defeasance Obligations

Maturity Date	Туре	Interest Rate	Price	Par Amount	Principal Cost	Accrued Interest	Total Cost
		%	100%	\$	\$	\$	\$
Total				\$	\$	\$	\$

Cash Amount = \$____.

EXHIBIT C

Escrow Cash Flows

		Principal	
Payment Date	Interest	Redeemed	Total
/1/202_	\$	\$	\$
Total _	\$	\$	\$

FORM OF NOTICE OF DEFEASANCE AND REDEMPTION

HAMPTON ROADS SANITATION DISTRICT, VIRGINIA
Wastewater Revenue Bonds, [Refunding] Series 201Dated Date: _____, 201_
Maturity or Redemption Date: _____, 202_

		Redemption or	
Maturity (<u>1)</u>	Principal <u>Amount</u>	Maturity <u>Price</u>	<u>CUSIPs</u> *
	\$	100%	409327
		100	409327

NOTICE IS HEREBY GIVEN by Hampton Roads Sanitation District (the "District") to the holders of the Bonds described above (the "Defeased Bonds") that (i) pursuant to the terms of an Escrow Deposit Agreement, dated as of ______, 202_ (the "Escrow Agreement"), between the District and The Bank of New York Mellon Trust Company, N.A., in its capacity as escrow agent (in such capacity, the "Escrow Agent"), Defeasance Obligations and cash in an amount that, together with interest thereon, will provide for the payment in full of the interest on the Defeased Bonds to their maturity or earliest redemption date, as set forth above, and the principal amount of the Defeased Bonds on their redemption or maturity date, as applicable, has been deposited in escrow with the Escrow Agent, and (ii) the Defeased Bonds scheduled to mature on _____ 1, 202_, are hereby called for redemption, and shall be redeemed on the redemption date and at the redemption price (expressed as a percentage of the principal amount of such Bonds) referred to above, together with the interest accrued thereon to the redemption date.

The Bonds will become and be due and payable by wire transfer to The Depository Trust Company, New York, New York, or its nominee, as registered owner of the Bonds. From _____1, 202_, interest on the above-described Bonds will cease to accrue.

[Remainder of Page Intentionally Blank]

Error! Unknown document property name.

^{*} None of the District, the Escrow Agent or the Trustee shall be responsible for the accuracy of the CUSIP numbers provided above. The CUSIP numbers are provided solely for the convenience of the bondholders. This column indicates the CUSIP numbers that were assigned upon the original issuance of the Defeased Bonds and does not reflect subsequent changes, if any.

obtain one at your loca	Number." If you need a copy of the Form W-9, you should be able to ank or IRS Service Center. Please return a correctly completed Form W9 any such withholding.
Dated: 202	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,
	as Trustee under the Trust Agreement and as Escrow Agent

Payers are required to withhold 24% of the amount paid upon redemption to those bondholders who have not returned a correctly completed Form W-9 entitled "Payer's Request for

HRSD Commission Meeting Minutes June 25, 2024 Attachment #5

9. Boat Harbor Transmission Force Main Land Acquisition Acquisition of Real Property and Easement Acquisitions – Suffolk, VA

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (this "Agreement") made this 24th day of June, 2024, by and between the ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF SUFFOLK, VIRGINIA f/k/a THE INDUSTRIAL DEVELOPMENT AUTHORITY FOR THE CITY OF SUFFOLK, VIRGINIA (hereinafter "EDA" or "Seller"), GEE'S GROUP PARTNERS, LLC, a Virginia limited liability company (hereinafter "Gee's"), and the HAMPTON ROADS SANITATION DISTRICT, a political subdivision of the Commonwealth of Virginia (hereinafter "HRSD" or "Purchaser"), their successors and/or assigns. The Seller, Gee's and Purchaser are hereinafter collectively referred to as the "Parties";

RECITALS

- A. Seller is the owner in fee simple of a certain parcel of property approximately 21.162 Acres, known as City of Suffolk Tax Parcel 6*35.
- B. HRSD desires to purchase portions of said parcel of property, shown as HRSD Parcel 1 ("East Well") and HRSD Parcel 2 ("South Well") as shown on Exhibit A, a proposed subdivision plat entitled "SUBDIVISION PLAT OF TAX MAP NO. 6*35 (INST. #200002786) FOR HAMPTON ROADS SANITATION DISTRICT DESIGNATED AS PARCELS 1 (Tax Account No. 306005599) & 2 (Tax Account No. 306005600) NANSEMOND BOROUGH CITY OF SUFFOLK, VIRGINIA August 9, 2024", (hereinafter "the HRSD Plat") a copy of which is attached to this Agreement, and which, along with related easements on the adjoining property, with permanent utility easements, permanent ingress and egress easements, and temporary construction easements (HRSD Parcel 1, HRSD Parcel 2, and the Easements hereinafter defined shall be collectively referred to as the "Property" for the purpose of this Agreement), are described as follows:
 - HRSD PARCEL 1 (EAST WELL) DESCRIPTION. For the purposes of this Agreement, Parcel 1 generally consists of the following: (a) Fee Simple - 24,064 SF or 0.552 acre,
 - HRSD PARCEL 2 (SOUTH WELL) DESCRIPTION. For the purposes of this Agreement, Parcel 2 generally consists of the following: (a) Fee Simple - 32,230 SF or 0.740 acre,
 - EASEMENT DESCRIPTION. For the purposes of this Agreement, the Easements generally consist of the following:

- (a) 35' Permanent HRSD Easement (pipeline) 33,341 SF or 0.765 acre;
- (b) Temporary Construction Easement-1 (pipeline) 13,944 SF or 0.320 acre, and
- (c) Temporary Construction Easement-2 25,088 SF or 0.576 acre, and
- (d) Temporary Construction Easement-3 25,938 SF or 0.595 acre, and
- (e) 30' HRSD Ingress/Egress Easement (I/E-1) 4,374 SF or 0.100 acre, and
- (f) 30' HRSD Ingress/Egress Easement (I/E-2) 16,260 SF or 0.373 acre.

The Temporary Construction Easements will terminate when HRSD's project is complete, the Permanent Utility Easement will be perpetual and nonexclusive, and the Ingress/Egress Easements will be perpetual and nonexclusive.

- C. Seller is willing to sell the Property to HRSD subject to the terms and conditions set forth in this Agreement with the consent of Gee's.
- NOW, THEREFORE, in consideration of the purchase price and the mutual promises contained in this Agreement, the parties agree as follows:
- Parcel 1 is referenced in the Amended and Restated Contract for the Sale of Land dated January 25, 2024, between the Seller and Gee's (hereinafter the "Gee's Contract"). Seller and Gee's agree that this Agreement does the following:
 - Amends the terms of the Gee's Contract and deletes Parcel 1 from the Gee's Contract.
 - Reduces the purchase price enumerated in the Gee's Contract by the acreage now being conveyed to HRSD by this Agreement.

The Parties agree that Parcel 1 is no longer subject to the Gee's Contract given the amendment of the Gee's Contract by this Agreement. Gee's Group no longer has any right to purchase Parcel 1 under the Gee's Contract

Parcel 2 and the Easements are located in the remainder of the residual parcel shown on the HRSD Plat on property currently owned by the EDA and are not subject to the Gee's Contract.

- PARCEL 1, PARCEL 2, AND EASEMENT CONVEYANCE TO HRSD.
 Seller agrees to sell and HRSD agrees to purchase the Property together with all rights and appurtenances thereto and subject to all easements, restrictions, conditions, conveyances of record and constituting constructive notice.
- 4. PROPERTY PURCHASE PRICE. The total purchase price for the Property (including Parcels 1, 2 and Easements) is EIGHT HUNDRED THIRTY-TWO THOUSAND FIVE HUNDRED SIXTY-NINE DOLLARS AND SEVEENTY-ONE CENTS __(\$832,569.71)_. The Purchase Price shall be paid by the Purchaser to the Settlement Agent defined herein (if any) or directly to the Seller by certified check or wired funds at closing.
 - [RESERVED]

CONVEYANCE.

- a. Unless this Agreement is terminated pursuant to its terms or by mutual agreement of the parties, Closing shall occur at the offices of the Settlement Agent selected by HRSD within 60 days of recordation of the final version of the HRSD Plat, also known as: FSB2024-00003, unless extended by the terms of this Agreement or by mutual agreement of the parties.
- b. At the Closing, Seller shall convey title to the Property in fee simple, by special warranty deed, free and clear of any and all liens, mortgages, deeds of trust, security interests, leases, licenses, judgments, or monetary encumbrances of any kind except for the following permitted exceptions: (a) the lien of real estate taxes not yet due and payable; (b) zoning and building restrictions and other laws, ordinances, and regulations of governmental bodies having jurisdiction over the Property; and (c) matters of record affecting title to the Property, as reviewed and approved (or deemed approved) by HRSD in accordance with this Agreement. Except as expressly stated in this Agreement, the Property shall be conveyed in "AS IS" condition.
- c. Title to the Property shall be good and marketable and, if HRSD chooses to obtain title insurance, insurable by a nationally recognized ALTA title insurance company of HRSD's choice. In the event that a title examination discloses defects of title or other matters unsatisfactory to HRSD, HRSD shall notify Seller in writing (an "Objection Notice"), within 45 days of the Effective Date of such title defects or other matters to which

HRSD objects. Seller covenants that it shall cure all monetary encumbrances and all title objections which may be cured by execution of a document requiring the signature of no party other than Seller (including any affidavits which may reasonably be required by the title insurer). Seller may notify HRSD in writing (an "Objection Response"), within ten (10) business days after receiving an Objection Notice if it believes that the Objection Notice makes reference to any title defect or other matter that Seller cannot or elects not to cure. Upon receipt of an Objection Response from Seller, HRSD shall have the option either to (i) terminate this Agreement by notice to Seller given within ten (10) business days of the Objection Response or (ii) accept the defects, exceptions, or other matters referenced in such Objection Response and proceed to Closing hereunder with no reduction of the Purchase Price. Seller shall have the period until the Closing date within which to correct all defects, exceptions or other matters that it is required or elects to cure. Seller shall provide such documents (including evidence of authority), affidavits, and other instruments that may be reasonably required for the issuance of a title insurance policy to HRSD (the "Property Documents").

- d. Possession of the Property will be given to HRSD at Closing, except that HRSD will have access to the Property prior to closing for the purposes specified herein.
- e. Seller agrees to pay prorated real estate taxes and storm water fees and agrees to deliver possession of the Property to HRSD at settlement. HRSD will pay all other fees and taxes charged in connection with preparation and recordation of the deed, including grantor's tax, if any, and, if owed in connection with the transaction.

Seller and HRSD agree that the attorney or title company selected by HRSD shall act as the Settlement Agent (the "Settlement Agent") at HRSD's expense. The Settlement Agent shall prepare the settlement statement, update and record the deed, collect and disburse settlement funds in accordance with this Agreement and the settlement statement, and file any required state and federal tax forms or other certifications.

7. RIGHT OF ENTRY. HRSD and HRSD's authorized representatives may at any reasonable time and after giving reasonable notice to Seller, enter upon the Property prior to closing for the purpose of making inspections, appraisals, surveys, including but not limited to the cutting of survey lines and putting up markers and driving stubs and stakes, site analysis, engineering studies, core sampling for engineering reports, and locating existing rights of way, easements, and utilities. HRSD will exercise this right of entry in such a way so as to not cause damage to the Property.

CONDITIONS AND CONTINGENCIES.

- a. HRSD's obligations are expressly conditioned upon the waiver or satisfaction of each of the following conditions. If any one of the following conditions cannot be met within 60 days after the Effective Date (the Effective Date being defined as the date the contract is endorsed by all Parties), HRSD may unilaterally terminate this Agreement:
 - i. Subject to the title examination, and any Objection Notices and Objection Responses thereto pursuant to Section 3(b), receipt of a satisfactory title commitment with all unacceptable title exceptions, encumbrances, and conditions as deemed by HRSD removed or cured at terms agreed to by the parties.
 - ii. Receipt of a Phase I Environmental Assessment and Report (Phase I Report) conducted and prepared by an environmental engineering and inspection company selected by HRSD at HRSD's expense and such other testing and reports as may be reasonably required by HRSD or recommended in the Phase I Report.
 - iii. Seller's compliance with all of its obligations under this Agreement.
- b. This Agreement is expressly conditioned upon the completion of all title and environmental "due diligence" by HRSD and notification to the Seller in writing of any conditions that are unsatisfactory to HRSD within the 60-day period. In the event HRSD fails to notify the Seller in writing within such 60-day period, any objection to such conditions shall be deemed waived by HRSD and the parties shall proceed to closing; provided, however, in no event shall any mortgage, deed of trust, security agreement or monetary lien against the Property be deemed waived objections and the Seller agrees that the same shall be removed and released as liens on the Property on or before Closing.
- c. Seller, to the extent possible, shall confer with HRSD regarding amendments to remove, release or modify any covenants or restrictions on the Property and, to the extent possible assist HRSD with the amendment, modification, release, or removal of any covenants or restrictions on the Property resulting from prior ownership of the Property

by Tidewater Community College or related entities, including Tidewater Community College Real Estate Foundation, Inc.; This sentence shall survive Closing and not merge with the deed.

d. This Agreement is contingent on the review and approval of the purchase by the Hampton Roads Sanitation District Commission and upon such Commission granting authorization to the General Manager to proceed under the terms of this Agreement, if such review, approval, and/or authorization is required by the policies or procedures of HRSD as determined by HRSD.

ENVIRONMENTAL AND RELATED MATTERS.

- a. As a condition precedent to HRSD's obligation to purchase, HRSD, at HRSD's expense, may have a Phase I Environmental Assessment of the Property performed by a qualified environmental consultant (the Consultant) selected by HRSD and reasonably acceptable to Seller, conducted in accordance with standard commercial practice at the time of the assessment. A copy of the Phase I Environmental Assessment will be made available to Seller, together with copies of any supplemental reports or assessments.
- b. Within 60 days after the Effective Date, if the Consultant recommends soil, water, or structural remediation or further assessment activity after or as a result of performing a Phase I Environmental Assessment or if HRSD otherwise determines, in its reasonable judgment, that further assessment activity (including, but not limited to, a Phase II Environmental Assessment) is desirable, HRSD may at its option:
 - (i) Terminate this Agreement; or
 - (ii) Extend the time for closing for an additional period of sixty (60) days in order to perform any such additional assessment at HRSD's expense; or
 - (iii) Waive the environmental defect and proceed to Closing.
- c. In the event HRSD chooses to perform any additional assessment, such as a Phase II, and determines that the results of such assessment are not satisfactory, then, within five (5) business days prior to the Closing date HRSD may at its option:

- (i) Terminate this Agreement; or
- (ii) Waive the environmental defect and proceed to Closing.
- 10. ACCESS. HRSD shall have the right of nonexclusive ingress to and egress over, across and through the Property, via the temporary and permanent Easements referred to in this Agreement and over such other areas of Parcel 6-35 as approved and consented to by the Parties in writing and such easements shall be either documented in the deed(s) transferring the Property to HRSD or contemporaneously executed and recorded in a document or agreement. HRSD shall exercise such rights in such manner as shall not occasion injury and inconvenience to Seller or Seller's prospective purchasers.

The parties recognize that the remainder property is to be developed and may or may not be further subdivided, and HRSD and Seller wish to agree to cooperate both in the near term and in the future regarding the development of the remainder property and access to the easements.

Regardless, HRSD must pay for or repair any injury to any of Seller's land, structures, roads, fences, other improvements or any injury to the land, structures, roads, fences, or other improvements of any subsequent property owner caused by HRSD, its employees, agents, or contractors in using the rights granted in this paragraph. Parties other than HRSD may be granted rights of access or easements over and across the temporary and permanent easements described herein, subject to approval from both EDA and the HRSD Planning Development Review Team and satisfactory review and approval through HRSD's normal development review process; this sentence and the prior portion of this paragraph shall survive Closing and not merge with the deed.

11. REPRESENTATIONS, WARRANTIES, AND COVENANTS. Seller represents and warrants as of the date of this Agreement and as of the date of Closing that Seller has the right, title, and authority to enter into this Agreement and to perform its obligations hereunder.

Seller further represents and warrants and shall deliver to HRSD at or prior to the Settlement, an Affidavit prepared by HRSD evidencing the following facts:

- Other than this Agreement, there are no other contracts for sale or options involving the Property now in effect other than Gee's Contract;
- To the best of Seller's knowledge, no other party has any right, title or interest in the Property;

- There are no unrecorded leases, options, licenses, or easements existing in connection with the Property to which the Seller is a party;
- d. There are no adverse government notifications or proceedings and there is no pending or threatened litigation or any other potentially adverse claims affecting the Property to which the Seller has knowledge.
- e. <u>Foreign Status.</u> Seller is not a foreign corporation, person or entity and is a "United States Corporations, Person or Entity" as such terms is defined in Section 1445 and in Section 7701 (a)(30) of the Internal Revenue Code of 1986, as amended (the "Code") and shall deliver to HRSD at or prior to the Settlement an Affidavit prepared by HRSD evidencing such fact and such other documents as may be required under the Code.
- f. From and after the date of this Agreement, Seller shall not transfer any interest in, or grant any easements or enter into any contractual agreement or understanding, written or oral, with respect to the Property or any portion thereof or make any changes at all that require recordation and therefore modifications to title, without the prior written consent of HRSD and Gee's, which consent shall not be unreasonably withheld.
- The Seller warrants that to the best of his knowledge, and except as g. provided in the Property Documents or other environmental reports provided to Buyer hereunder, there are no wetlands or hazardous wastes, which would prevent HRSD's intended use of the land. To the best of the Seller's knowledge: (1) none of the property has been excavated (except for standard grading related to site development); (ii) no hazardous materials, toxic chemicals, or similar substances, as defined by 42 U.S.C. §1251, et seg. or 42 U.S.C. §6901, et seg. or 42 U.S.C. §9601, et seg., or 33 U.S.C. §1317(1), or 15 U.S.C. §2606(f), or 49 U.S.C. §1801, et seq., or regulations adopted pursuant thereto, or any similar provision of any applicable state, Federal, or local law (collectively "Hazardous Materials"), are stored or used on or under or otherwise were or are in existence or were in any way dealt with on or under the Property; and (iii) no owner or occupant of the Property has received any notice from any governmental agency with regard to such Hazardous Materials.
- h. Purchaser represents and warrants as of the date of HRSD Commission approval of this Agreement and as of the date of Closing that: Purchaser

has the right, title, and authority to enter into this Agreement and to perform its obligations hereunder.

12. NOTICES. All notices to the parties hereto will be delivered by hand, via certified mail return receipt requested, via Federal Express or a comparable overnight mail service, or via facsimile (provided that an original copy of the transmission shall be mailed by Federal Express or a comparable overnight mail service) and all be deemed effective upon delivery if by hand and upon confirmation of receipt if by other means, to the following address until the address is changed by notice in writing to the other party:

HRSD: Jay Bernas, P.E.

General Manager P.O. Box 5911

Virginia Beach, Virginia 23471-0911

Copy to: D. Rossen S. Greene, Esq.

PENDER & COWARD, P.C.

117 Market Street Suffolk, Virginia 23434

Seller: Kevin Hughes, Deputy City Manager

City of Suffolk

442 W Washington Street

Suffolk, VA 23434

Copy to: Darius K. Davenport, Esq.

Crenshaw, Ware & Martin, PLC 150 W. Main Street, Suite 1923

Norfolk, VA 23510

Gee's: Gee's Group Partners, LLC

ATTN: David M. Gianascoli 600 Lynnhaven Parkway

Suite 200

Virginia Beach, VA 23452

13. [RESERVED].

- 14. SURVIVAL. The provisions contained in this Agreement will be true as of the date of this Agreement and as of the date of Closing. Seller acknowledges that HRSD has, in entering into this Agreement, relied upon Seller's representations, covenants, and warranties, and Seller agrees that those representations, covenants, and warranties will survive settlement and will not merge into any deed or further agreement.
- 15. PRORATIONS. All rents, interest, taxes, insurance premiums, utility bills, and fuel oil, if any, will be prorated as of the date of Closing.
- 16. RISK OF LOSS. All risk of loss or damage to the Property by fire, windstorm, casualty, or other cause is assumed by Seller until Closing. In the event of substantial loss or damage to the Property before Closing, HRSD will have the option of either:
 - a. Terminating this Agreement, or
 - Affirming this Agreement and proceeding to Closing.
- 17. BROKERS. Seller and HRSD both represent and warrant to the other that it has not hired, engaged, or consulted with any broker or agent in regard to this transaction. Each party agrees to hold harmless the other from any and all costs, expenses, or damages resulting from any claim for brokerage fees or other similar forms of compensation made by any real estate broker or other person or entity with whom a party has dealt, and who is not expressly named herein.
- 18. CONDEMNATION. Seller covenants and warrants that Seller has not heretofore received any notice of any condemnation proceeding or other proceeding in the nature of eminent domain in connection with the Property. If prior to Settlement any such proceeding is commenced or any change is made, or proposed to be made, to the current means of ingress and egress to the Property or to the roads or driveways adjoining the Property, or to change such ingress or egress or to change the grade thereof, Seller agrees immediately to notify HRSD thereof. HRSD then shall have the right, at HRSD's option, to terminate this Agreement by giving written notice to Seller within thirty (30) days after receipt of such notice.

19. DEFAULT AND REMEDIES.

a. If the sale and purchase contemplated by this Agreement is not consummated because of Seller's or HRSD's default, the nondefaulting party may elect to:

- (i) Terminate this Agreement;
- (ii) Seek and obtain specific performance of this Agreement; or
- (iii) Pursue all other rights or remedies available at law or in equity, including an action for damages.
- b. If either Seller or HRSD brings any action or proceeding for the enforcement of its rights under this Agreement, then the prevailing party will be entitled to recover any expenses incurred in connection with such action or proceeding.
- c. These remedies are cumulative and non-exclusive and may be pursued at the option of the non-defaulting party without a requirement of election of remedies.
- 20. ENTIRE AGREEMENT. This Agreement contains the entire agreement of the parties and will supersede the terms and conditions of all prior written and oral agreements, if any, concerning the matters it covers. The parties acknowledge that with the exception of Gee's Contract, there are no oral agreements, understandings, representations, or warranties that supplement or explain the terms and conditions contained in this Agreement. This Agreement may not be modified except by an agreement in writing signed by the parties.
- 21. WAIVER. Failure to insist upon strict compliance with any of the terms, covenants, or conditions hereof will not be deemed a waiver of the term, covenant, or condition, nor will any waiver or relinquishment of any right or power at any one time or more times be deemed a waiver or relinquishment of the right or power at any other time or times.
- 22. SEVERABILITY. This Agreement will be construed in its entirety and will not be divisible, except that the invalidity or unenforceability of any provision hereof will in no way affect the validity or enforceability of any other provision.
- 23. CAPTIONS. Captions are used in this Agreement for convenience only and will not be used to interpret this Agreement or any part of it.
- 24. GOVERNING LAW. This Agreement is to be construed in accordance with the laws of the Commonwealth of Virginia.

- 25. CHOICE OF FORUM/JURISDICTION. The parties hereby consent to the jurisdiction and venue of the courts of the Commonwealth of Virginia, specifically to the courts of the City of Suffolk, Virginia, and to the jurisdiction and venue of the United States District Court for the Eastern District of Virginia in connection with any action, suit, or proceeding arising out of or relating to this Agreement and further waive and agree not to assert in any action, suit, or proceeding brought in the City of Suffolk, Virginia, or the Eastern District of Virginia that the parties are not personally subject to the jurisdiction of these courts, that the action, suit, or proceeding is brought in an inconvenient forum or that venue is improper.
- 26. WAIVER OF TRIAL BY JURY. THE PARTIES WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM BROUGHT BY EITHER PARTY AGAINST THE OTHER ON ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT OR ANY RELATED AGREEMENTS OR INSTRUMENTS AND THE ENFORCEMENT THEREOF, INCLUDING ANY CLAIM OF INJURY OR DAMAGE TO ANY PARTY OR THE PROPERTY OF ANY PARTY.
- 27. SUCCESSOR/ASSIGNMENT. This Agreement will be binding upon and the obligations and benefits hereof will accrue to the Parties hereto, their heirs, personal representatives, successors, and assigns. If this Agreement is assigned by HRSD with Seller's consent, HRSD will nevertheless remain fully liable for its performance.
- 28. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each will be considered an original, and together they will constitute one Agreement.
- FACSIMILE SIGNATURES. Facsimile signatures will be considered original signatures for the purpose of execution and enforcement of the rights delineated in this Agreement.
- 30. ETHICS IN PUBLIC CONTRACTING. By executing this Agreement, the undersigned Seller or its representative, and the representative of HRSD, certify that the prices agreed to in this Agreement were arrived at without collusion or fraud and that they have not offered or received any payment, kickbacks or other inducement from any other party to this Agreement or its agent or employee in connection with this Agreement, and that they have not conferred on any public employee having 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 disclosed in this Agreement.

(Remainder of page intentionally left blank - Signature Pages to follow)

IN WITNESS WHEREOF, the Seller has caused this Agreement to be signed on its behalf.

SELLER:

SELLER.		
ECONOMIC DEVELOPMENT AUTHORIT	TY OF THE CITY OF SUFFOLK	
By: Mary L. Anyder Name: Mary L. Snyder Its:	_	
COMMONWEALTH OF VIRGINIA CITY OF Suffolk, to-wit:		
Octobia 31, 2008, do hereby certify	Development Authority of the City rchase and Sale Agreement, has	as
Given under my hand this 10 day	y of october ,	2024.
Uhin Notary Pi	ublic N. Idlatta	
My Commission Expires: October 3	31, 2028	A Al
Registration Number: 8/0545/	REGORM MY COMMONAL REGORM	OTARY
	TH C	DE Vinning

IN WITNESS WHEREOF, the Hampton Roads Sanitation District Commission has caused this Agreement to be signed on its behalf by its General Manager in accordance with authorization granted at its regular meeting held on June 25, 2024. This Agreement is expressly subject to approval by the HRSD Commission

HAMPTON ROADS SANITATION DISTRICT

By:

General Manager

COMMONWEALTH OF VIRGINIA CITY OF VIRGINIA BEACH, to-wit:

The foregoing Purchase and Sale Agreement was acknowledged before me this day of October. , 2024, by Jay Bernas, P.E., General Manager, Hampton

Roads Sanitation District.

My Commission Expires:

Registration No.: 783708

KAREN CHRISTINE RUSSO-SCARANO NOTARY PUBLIC REG. #7837081 COMMONWEALTH OF VIRGINIA COMMISSION EXPIRES APRIL 30, 2027

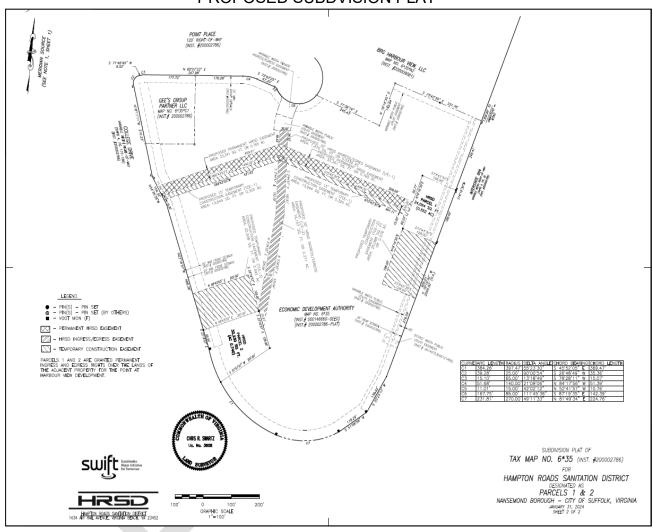
IN WITNESS WHEREOF, Gee's has caused this Agreement to be signed on its behalf.

7.5.1-4.6	
	GEE'S GROUP PARTNERS, LLC
	By: On /
	Name: David M Cocangsco
	Title: Managing Member
COMMONWEALTH OF VIRGINIA CITY OF	, to-wit:
day of October Yanaging Partner, of GEE'S GR	ale Agreement was acknowledged before me this, 2024, by <u>Ouvid Girmascoli</u> , the OUP PARTNERS, LLC, a Virginia limited liability firms that by virtue of their position they have the GEE'S GROUP PARTNERS, LLC.
Note	ary Public
My Commission Expires: 10/31/20	027
Registration No.: 8054371	

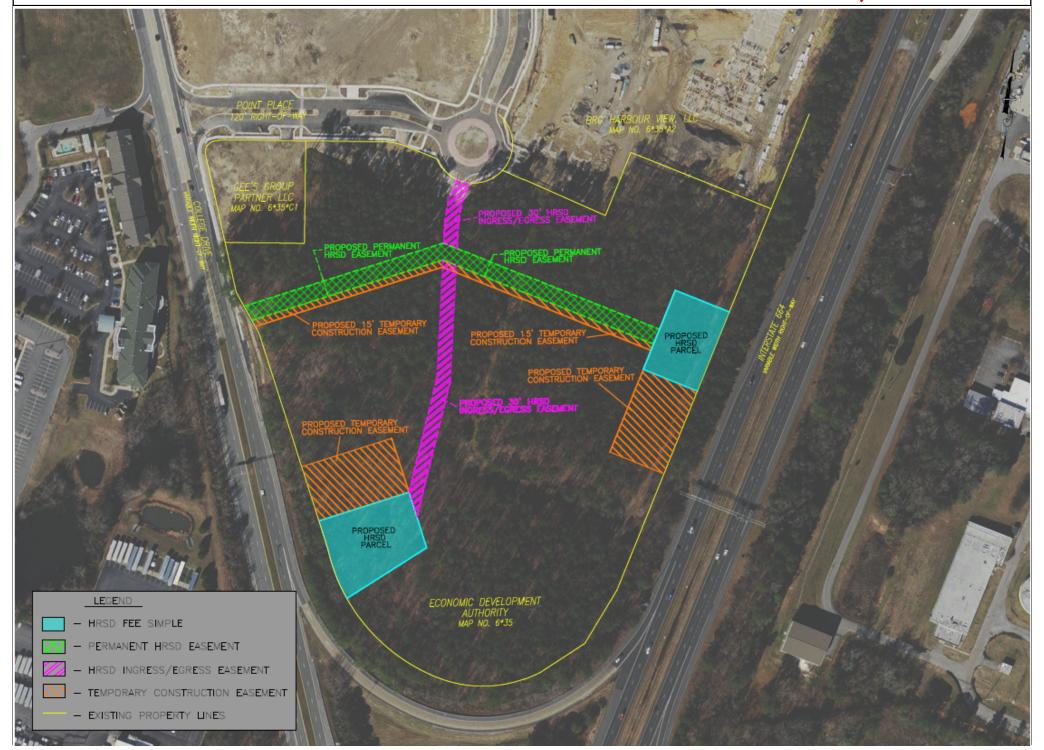
KATHLEEN MICHELLE HARP NOTARY PUBLIC REGISTRATION # 8054371 COMMONWEALTH OF VIRGINIA MY COMMISSION EXPIRES OCTOBER 31, 2027

EXHIBIT A PROPOSED SUBDIVISION PLAT THE PROPERTY SHOWN ON THIS PLAT W COMMUNITY COLLEGE REAL ESTATE FOUN DEVELOPMENT AUTHORITY OF THE OITY O NOUSTRAL DEVELOPMENT AUTHORITY FOR (GRANTE) BY DEED OATD JULY 17, 20 NOTARY PUBLIC NO. STATE OF ___ SIGNED: GNEN UNDER MY HAND THIS OWNER: ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF SUFFOLK, VIRGINIA f/k/a THE INDUSTRIAL DEVELOPMENT AUTHORITY FOR THE CITY OF SUFFOLK, VIRGINIA THE SUBDINISION OF PROPERTY, AS IT APPEARS ON THIS PLAT, IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED OWNER(S). ADDRESAD, DO HERERY CERTEY THAT THE ADDRESAD, WAS EAST (WAS(S) ARE SISTED TO THE FORECOME WHENEY WAS(S) ARE SISTED TO THE FORECOME WHENEY WAS(S) ARE PRINTED NAME: LOCATION MAP SCALE 1-1000 욢 Ħ E BY ME AT THE DIRECTION RELY WITHIN THE IT STEEL PINS, AS SHOWN BEEN PLACED AND THEIR DETAILS MEET THE 1-82 OF THE MIRGINIA HRSD PERMANENT EASEMENT INCLUDES THE PRIMITEGE OF INGRESS/EGRESS RIGHTS PARCELS 1 AND 2 ARE GRANTED PERMANENT INCRESS AND EGRESS RIGHTS OVER THE LANDS OF THE ADJACENT PROPERTY FOR THE POINT AT HARBOUR VIEW BEVELOPMENT. THIS SUBDINION IS REDARD IN ACCESSANCE WITH TILE OF DIMON DATED MARCH 22, 2023, PROVIDED BY HELLAN PLYKRELL, COX & ANDERSON, A PROFESSIONAL CORPORATION, ATTORNERS AT LAW, AND UPDATED ON AUGUST 29, 2023 BY LAWREN'S TILE OF SOUTHEASTERN VINDINAL LLC: TOTAL AREA OF SUBDIVISION IS 921, 821 SQUARE FEET OR 21.162 ACRES. THE INTENT OF THIS SUBDIVISION PLAT CREATING PARCELS 1 AND 2 IS FOR HAMPTON ROADS PROPOSED MANAGED AQUIPER RECHARGE WELLS IN CONNECTION WITH SWIFT. THE MEDIUM SOURCE OF THIS FLAT IS DESIGN ON THE VIRGINA STATE PLANE COORDINATE WITH SOURCE AND THE LIBERT COORDINATE WALLESS SHOWN ARE EXPRESSED IN U.S. SLEPPEY PART THE COTT OF SLEPPLY SOURCE CONTROL REPORTS USED TO ESTABLISH THE COORDINATE VALUES SHOWN HEREON WERE STATIONS 113 and 114. THE PROPERTY SHOWN HEREON APPEARS TO PALL WITHIN FLOOD ZONE X (AREAS DETENMED TO BE OUTSIDE THE 0.2% MANUAL CHANGE FLOODFAME) AS SOALED FROM PEDIDAL REPORTED AMAREMENT MANUAL CHANGE FLOODFAME) AS SOALED FROM PEDIDAL REPORTED AREAS (A.2.1%), 2015. WHO COMMONITY MANUEUE STOTOSODONE, EPPETITE OF REALISTIFS 1, 2, 2015. NO. NAP 0.765 HRSD INGRESS/EGRESS EASEMENT (I/E-1) THE UNDERSOND) DERIFIES THAT THIS SUBDIVISION, AS IT APPEARS ON THIS PLAT CONFIDENCE TO THE APPLICABLE REGULATIONS RELATION TO THE SUBDIVISION OF LAND AND SUBDIVIDED ON MIT CENTEY AS ITS ACCORDINGLY APPROVAL, THE UNDERSOND DO MIT CENTEY AS ITS THE STREETS, BOUNDARIES OR OTHER UNDS SHOWN ON THIS THE CORRECTINESS OF THE STREETS, BOUNDARIES OR OTHER UNDS SHOWN ON THIS 0.0339 HRSD INGRESS/EGRESS EASEMENT (I/E-2) 16,157 0.371 13,944 TEMPORARY CONSTRUCTION EASEMENT (TCE-1) 0.320 TEMPORARY CONSTRUCTION EASEMENT (TCE-1) 13,944 0.320 25,938 TEMPORARY CONSTRUCTION EASEMENT (TCE-3) HAMPTON ROADS SANITATION DISTRICT DESIGNATED AS PARCELS 1 & 2 NANSEMOND BOROUGH — CITY OF SUFFOLK, VIRGINIA NANSEMOND BOROUGH — CITY OF SUFFOLK, VIRGINIA SWEET 17, 2024 SWEET 17, 2024 TAX MAP NO. 6*35 (INST. #200002786) 0.595 HRSD INGRESS/EGRESS EASEMENT AREAS (I/E-1 THRU I/E-2) 17,632 0.405 TEMP. CONSTRUCTION EASEMENT AREAS (TCE-1 THRU TCE-3) 64,970

EXHIBIT A, CONTINUED PROPOSED SUBDVISION PLAT



TAX PARCEL 6*35, SUFFOLK



HRSD Commission Meeting Minutes June 25, 2024 Attachment #6

15. Commission Governance Guidelines

The Commission is charged with managing and controlling the functions and affairs of Hampton Roads Sanitation District (HRSD). HRSD's operations are accomplished by its employees under the supervision of the General Manager/CEO.

These governance guidelines are intended to support the Commission in its oversight role, which is set forth in the Acts of Assembly 1960, as amended (the Enabling Act). Some additional Commission responsibilities are specified in HRSD's Trust Agreements or required by federal or state laws.

The Commission and HRSD's management recognize that the interests of HRSD are advanced by responsibly addressing the concerns of constituencies, including employees, customers and the communities in which HRSD provides services. The Commission will review these Guidelines regularly in its continuing effort to achieve this goal.

SECTION 1. ROLE AND FUNCTION OF THE COMMISSION

A. Composition

- 1. The Commission consists of eight members appointed by the Governor of Virginia to four-year terms.
- 2. At the time of their appointment and throughout their term of appointment, Commissioners must reside in the territory within the District from which they were appointed. Moving from this territory terminates that Commissioner's appointment.
- 3. Unless otherwise terminated in accordance with the Enabling Act, a Commissioner's term continues until the successor is appointed. Any person appointed to fill a vacancy shall serve for the unexpired term.
- 4. Commissioners are eligible for reappointment without limitation to the number of terms. Members may be suspended or removed at the Governor's pleasure.
- 5. Commissioners receive no salary but are compensated for travel and expenses associated with meeting attendance or while otherwise engaged in the discharge of their duties at the rate paid to members of the Commonwealth Transportation Board.
- 6. Each Commissioner shall be covered by a public official's liability policy paid for by HRSD.

B. Commissioner Principles

- 1. Commissioners are expected to devote as much time and attention as necessary to discharge their duties. This includes attending monthly Commission meetings and the meetings of any committees on which they may serve. Commissioners should notify the Commission Secretary whenever they are unable to attend a scheduled meeting. Commissioners may participate remotely in accordance with the Remote Participation Policy. Commissioners must notify the Chair of their desire to participate remotely prior to the meeting. Commissioners also may be asked to participate in special events and to represent HRSD at public meetings.
- 2. Commissioners shall be mindful of the best interest of the HRSD service area at large as opposed to those of the localities in which they reside.
- 3. Individual Commissioners may serve as liaisons to officials in the communities in which they reside or other localities within HRSD's service area.
- 4. Commissioners are expected to recuse themselves from discussion and abstain from voting on matters in which they may have a personal or professional conflict, and to announce the recusal or abstention in advance.

C. Structure

- 1. The Commission shall annually elect one of its members as Chair and another as Vice-Chair.
- 2. The Commission's advisory committees are (1) Finance and (2) Operations and Nominations (O&N). These committees report to the Commission as needed. The Commission may elect to form a new standing or special committee or to disband an existing committee. The Commission Chair annually appoints the members and chairs of these committees. Committees are composed of three Commissioners and two are required for a quorum. All Commissioners are invited to participate in Committee meetings.
- 3. Committee meetings shall be scheduled as needed. The Commission Chair shall be an ex-officio member of all committees, with voice and vote. However, the Commission Chair shall not be counted in determining the number required for a Committee quorum or in determining whether or not a quorum is present.

- a. The Finance Committee shall:
 - Review the financial forecast, annual operating and capital budgets, and rate schedules and report to the Commission prior to adoption
 - Select both internal and external auditors
 - Review the work plan and receive reports from the internal auditor
 - Ensure the audit of the financial statements is completed and receive the audit report from the external auditor
 - Receive the Annual Comprehensive Financial Report; and
 - Review other financial related matters as may be referred to the Finance Committee by the Commission Chair.
- b. The O&N Committee shall:
 - Nominate officers for consideration annually and
 - Review Commission policies as required or directed by the Commission, including, but not limited to:
 - (1) Commission Governance Guidelines
 - (2) Ethics Policy
 - (3) Virginia Freedom of Information Act Policy
 - (4) Remote Participation Policy

D. Operation

- 1. The Commission has the authority to adopt bylaws and to make rules and regulations for the management of its affairs and the conduct of its business.
- Unless otherwise announced, the Commission meets on the fourth Tuesday of each month January through November and on the third Tuesday of December. Special meetings are held when necessary. The General Manager/CEO sets the meeting agendas with advice from the Division Chiefs and the Chair. Agendas, with any relevant accompanying information or reports, are distributed to the Commissioners prior to meetings for review. When circumstances require, items may be added to the agenda after it has been distributed.
- 3. Four members shall constitute a quorum and the affirmative vote of four members shall be necessary for any action taken by the Commission. No vacancy in the membership of the Commission shall impair the right of a quorum to exercise all the rights and perform all the duties of the Commission.
- 4. The rules contained in the current edition of *Rosenberg's Rules of Order* shall govern the Commission in all cases to which they are applicable and in which

they are not inconsistent with state law or any special rules of order the Commission may adopt.

- 5. All meetings of the Commission, including Committee Meetings and Workshops, are public meetings and shall be held in conformance with the Virginia Freedom of Information Act. Remote participation in meetings shall be in accordance with the Remote Participation policy.
- 6. Workshops shall be scheduled as needed to allow informal dialogue on a topic or narrow range of topics. Appropriate staff shall be available to brief and facilitate as well as provide subject matter expertise. No official actions shall be taken during workshops.

E. Enabling Act Authorizations

The Acts of Assembly authorize and empower the Commission to perform a variety of specified acts by means of its own officers, agents and employees or by contracts with any persons. Some of the most significant authorizations are:

- 1. To construct, improve, extend, enlarge, reconstruct, maintain, equip, repair and operate a sewage disposal system or systems, with or without associated water systems.
- 2. To issue revenue bonds, notes or other obligations.
- 3. To fix and collect rates, fees and other charges for HRSD services and facilities.
- 4. To acquire land, structures, property, rights, rights-of-way, easements, and other property interests by purchase, lease, grant or the exercise of the right of eminent domain in connection with sewage disposal systems or associated water systems.
- 5. To employ, at its discretion, consulting engineers, attorneys, accountants, construction and financial experts, managers and other such officers, employees and agents as may be necessary, and to fix their compensation.
- 6. To sue and to be sued.
- 7. To prevent any person, jurisdiction or corporation from discharging into District waters any sewage, industrial wastes or other refuse that would pollute these waters.

- 8. To seek civil penalties or civil charges against owners in violation of pretreatment standards in permits or other requirements of HRSD's approved industrial waste control program.
- 9. To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and execution of its powers.
- 10. The Commission does not have the power to mortgage, pledge, encumber or otherwise dispose of any part of the sewerage system or associated water systems except that which may no longer be necessary or useful for the Commission's purposes.

SECTION 2. HRSD MANAGEMENT AND THE COMMISSION

Newly appointed Commissioners will receive a briefing from the General Manager/CEO and Division Chiefs regarding matters related to HRSD's mission and core services. At a minimum, Commissioners are briefed on Commission adopted policies, operations, financial matters and strategic directions. The Commission Secretary will provide information related to the Virginia Freedom of Information Act and Commission membership. In addition, new Commissioners may tour HRSD facilities as their schedules permit and be introduced to the chief elected officials of their localities as appropriate and practical to facilitate effective working relationships.

Commissioners have complete access to the General Manager/CEO and the Deputy General Manager, who each may refer them to Division Chiefs or other appropriate resources for assistance. The Secretary and Assistant Secretary of the Commission shall assist Commissioners with matters related to scheduling, expense reimbursement, access to information and meeting attendance.

A. Staff Relations

- 1. The Commission appoints a General Manager/CEO, who serves at the pleasure of the Commission. As the chief executive officer, the Commission delegates day-to-day operations to the General Manager/CEO within the broad framework of Commission established policies, budget and strategies. The Commission shall review the General Manager/CEO's performance and set compensation at least annually.
- 2. The Commission appoints a Secretary, Assistant Secretary and a Treasurer who serve in these roles at the pleasure of the Commission. These appointments are made from existing staff positions. The Commission fixes their compensation

through the annual budget process as these positions are in the HRSD position classification and compensation system.

- 3. The Commission periodically reviews and assesses the compensation paid to all HRSD employees as part of the annual budget process.
- 4. The Commission has delegated to the General Manager/CEO the responsibility to establish and maintain appropriate human resource policies.

B. Financial Oversight

- 1. The Commission approves HRSD's Financial Policy.
- 2. The Commission approves the Annual Operating and Capital Budgets, Capital Improvement Program (CIP), Financial Forecast and Rate Schedules. HRSD's CIP is the result of significant work by all the departments in evaluating and recommending Capital Improvement Projects that ensure regulatory compliance, provide for adequate infrastructure reinvestment and meet the future growth needs of Hamptons Roads.
- 3. The Finance Committee meets as required to perform their financial oversight duties, including overseeing its auditors, and reports to the Commission regarding these activities.

C. Signatory Authorization

Documents requiring the signature of HRSD shall be signed by such officer or officers as the Commission may from time to time designate. If signature is authorized by a vote of the Commission, the authorization should also include the identification of the officer, or officers permitted to sign the approved document on behalf of HRSD. The General Manager/CEO and the Deputy General Manager/CFO are authorized to sign on behalf of HRSD in the ordinary course of business any and all documents not requiring specific Commission approval. Additionally, the Commission has authorized the General Manager/CEO to delegate formal signatory authority to Senior Management and their staff as necessary for the effective operations of HRSD.

The Commission Secretary shall maintain a record of all specific signatory authorizations.

SECTION 3. COMMISSION MEETINGS

A. Commission Meeting Agenda

- The Commission shall approve policies that govern HRSD business processes, significant financial practices, or service to localities except for those policies specifically delegated to the General Manager/CEO.
- 2. The Commission Meeting agenda shall be structured to ensure efficient and effective use of Commissioner's time and expertise.
- 3. The Commission Meeting agenda shall be prepared by the General Manager/CEO and distributed to the Commission typically five calendar days prior to the meeting date. Public notice of the meeting and posting of the agenda shall be in accordance with the Virginia Freedom of Information Act (§ 2.2-3700 et. Seq. of the Code of Virginia). The General Manager/CEO shall review the agenda with the Commission Chair prior to the meeting.
- 4. The Commission Meeting agenda is comprised of Regular Agenda, Consent Agenda and Informational Items.
 - Regular Agenda Items each require an individual vote by the Commission.
 - Consent Agenda Items generally reflect more routine business items and are grouped and may be voted on by the Commission in a singular vote. Consent Agenda items shall be limited to items meeting the requirements for Commission approval as detailed herein but not typically warranting a full briefing due to the nature of the action or previous communication with the Commission. Any item may be moved from the Consent Agenda to the Full Agenda when determined by the General Manager/CEO or any Commission member to be significant or warrant a discussion.
 - Informational Items are for information purposes and do not require an action of the Commission.

B. Commission Meeting Format

ltem	Regular Agenda	Consent Agenda	No Action Required/ Informational/ Recognition
Agreements*	 Design or Construction >\$50,000 Real property - Permanent use of Real property - Temporary use of >1 year HRSD Assets use of >\$200,000 Multiple years and >\$200,000 Obligates financial or personnel resources >\$200,000 Cost Sharing or Reimbursement Agreements > \$200,000 Intellectual Property Rights, Royalties and Licenses Service Area Expansion Sewer Service Agreements Transfer of Assets to other entity Transfer of Assets to HRSD 		
Agreements – Grants or contributions of value (Receipt and Award)*	>\$200,000	<\$200,000 if required by granting agency	
Agreements – Nutrient Trading Agreements*	>\$200,000 per year		
Agreements – Purchasing* Contract Awards Purchase Orders Task Orders		>\$200,000 or initial award when future awards are expected to exceed \$200,000	
Change Orders		>25% of original contract value or \$50,000	
Alternative Project Delivery Methods	 Use of Delivery Method Comprehensive Agreement Guaranteed Maximum Price Stipulated Price Vendor Proposal Compensation \$200,000 (Approval and Payment) 		
Audit Reports and Updates			✓
Awards and Recognition Earned or Granted			✓

ltem	Regular Agenda	Consent Agenda	No Action Required/ Informational/ Recognition
Budget	 Operating Budget Capital Budget Capital Improvement Program – 10-year program without authorization of specific projects Financial Forecast Rate Schedule 		
Capital Improvement Project –	New CIP	Additional	
Non-Regulatory	 Initial Appropriation Additional Appropriation ≥\$1,000,000 Reduction in Scope and/or Appropriation >25% 	Appropriation <\$1,000,000	
Capital Improvement Project – Regulatory	 New CIP Initial Appropriation ≥\$10,000,000 Additional Appropriation ≥\$10,000,000 Reduction in Scope and/or Appropriation >25% 	Initial or Additional Appropriation <\$10,000,000	
Debarment of a Vendor	✓		
Emergency Declaration			✓
Monthly Reports			✓
Personnel	Selection of General Manager/CEO, Secretary, Treasurer		 Employee length of service >20 years Employee promotion New employee
Policies – New, Modified, Amended or Reissued	✓		
Real Property	 Public Hearing for Acquisition by Condemnation or other means Easement Acquisition, Dedication or Disposition >\$50,000 	Vacation of Easement	
Real Property – Sale, Lease or Conveyance of HRSD property	✓		
Regulations	 HRSD Enforcement Response Plan HRSD Industrial Wastewater Discharge Regulations 		
Rejection of Bids	>\$200,000		
Selection of Commission	Auditors		
Consultants	Legal Counsel		

SECTION 4. ANNUAL CALENDAR OF COMMISSION TOPICS

Topic	Schedule	Frequency
EPA Consent Decree Update and Public Meeting	January	Annually
Capital Improvement Program Update	January	Quarterly
Evaluate General Manager/CEO's Performance	January	Annually
Commission Work Session to review Budget	February	Annually
Finance Committee Meeting to review CIP	March	Annually
Commission Work Session to review Budget	March	Annually
Capital Improvement Program Update	April	Quarterly
Finance Committee Meeting to review Budget	April	Annually
Receive Finance Committee report on Budget	April	Annually
Appoint Operations & Nominations (O&N) Committee	May	Annually
Approve Annual Operating and Capital Budgets, Capital Improvement	May	Annually
Program, Financial Forecast and Rate Schedules		
O&N Committee Meeting after Regular Meeting	May	Annually
O&N Committee Meeting before Regular Meeting	June	Annually
Election of Officers	June	Annually
Appoint Finance Committee	June-July	Annually
Capital Improvement Program Update	July	Quarterly
Commission Work Session – Ethics, FOIA and Governance Guidelines	August	Annually
Training		
Water Technology and Research Update	August	Annually
Finance Committee Meeting to Review Annual Comprehensive	October	Annually
Financial Report (ACFR)		
Capital Improvement Program Update	October	Quarterly
Diversity Procurement Report	October	Annually
Accept Finance Committee's Report on ACFR	October	Annually

^{*} Addendums or other changes where the Commission has authorized the General Manager/CEO to execute same, substantially as presented, together with such changes, modifications and deletions as the General Manager/CEO may deem necessary will not be presented for Commission approval unless recommended by legal counsel.

SECTION 5. ADVISORY ROLE OF FORMER COMMISSIONERS

So as not to lose the benefit of the insights gained during their years of service, former Commissioners may be asked to serve in an advisory role following the end of their term. Equipment required to facilitate communications with the General Manager/CEO and Commission officers may be provided to those serving in an advisory role.

Approved:

Stephen C. Rodriquez Commission Chair

Date

Attest:

Jennifer L. Cascio

Commission Secretary

Date

Commission Seal

HRSD Commission Meeting Minutes June 25, 2024 Attachment #7

16. Ethics Policy



Adopted: October 27, 2015 Revised: June 25, 2024 Page 1 of 5

1.0 Purpose and Need

As a public body, gaining and keeping the trust of the public is paramount. HRSD Commissioners and employees are committed to maintaining high ethical standards in every aspect of their business as members of a public body. As a political subdivision of the Commonwealth, HRSD Commissioners and employees are committed to complying with all applicable laws and regulations governing ethics and conflicts of interest. This policy is applicable to all HRSD Commissioners and employees.

2.0 Definitions

Conflict of Interest – A situation in which a person is in a position to derive personal benefit from actions or decisions made in their official capacity.

Gift – Any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having a monetary value. It includes services as well as gifts of transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance or reimbursement after the expense has been incurred.

Not a Gift – For the purposes of this policy the following are not considered gifts:

- Gifts with a value of less than \$20
- Offer of a ticket, coupon, admission or pass if such item is **not** used
- Honorary degrees
- Food or beverage consumed, and mementos received at an event at which an individual is performing official duties or is a speaker
- Registration or attendance fees (not travel costs) at an event at which individual is a speaker or event coordinator
- Unsolicited awards of appreciation or recognition (plaque, trophy, wall or desk memento)
- Gifts from relatives or Personal Friends
- A devise or an inheritance
- Travel paid for by the United States government or any of its territories, or any state or political subdivision of such state
- Travel, meals and activities directly associated with and paid for by a professional association that HRSD pays dues to on behalf of the agency or individual as part of their official duties
- Scholarships awarded competitively
- Travel related to an official meeting of HRSD; and
- Travel, lodging, meals, activities and logo clothing and related similar items associated with recruitment activities for permanent employment outside of HRSD while employed in an intern position



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HRSD Commissioner – A non-salaried citizen member of the HRSD Commission.

Immediate Family – Includes spouse, children, parents, brothers and sisters, and any other person living in the same household as the employee. (*Code of Virginia*, § 2.2-4368).

Intern Positions – On-the-job experience for high school students, college and university students, or post-graduate adults, hired on a part-time seasonal or part-time temporary basis.

Official Responsibility - Administrative or operating authority, whether intermediate or final, to initiate, approve, disapprove or otherwise affect a procurement transaction, or any claim resulting therefrom.

Pecuniary Interest Arising from the Procurement - A personal interest in a contract as defined in the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.).

Personal Friend – An individual whose relationship with an HRSD employee or HRSD Commissioner pre-dates employment/appointment with HRSD and the relationship has a history of gift exchange or with whom a personal relationship developed totally unrelated to the employee's or HRSD Commissioner's position with HRSD.

Procurement Transaction - All functions that pertain to the obtaining of any goods, services or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

Public employee - Any person employed by a public body, including elected officials or appointed members of governing bodies.

Widely Attended Event – An event to which at least 25 persons have been invited or there is a reasonable expectation that at least 25 persons will attend the event and the event is open to individuals (i) who are members of a public, civic, charitable or professional organization, (ii) who are from a particular industry or profession, or (iii) who represent persons interested in a particular issue. Golf outings are never considered a widely attended event or a part of a widely attended event.



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3.0 **Guiding Principles**

All HRSD employees having official responsibility for Procurement Transactions shall conduct business in a fair and impartial manner with the avoidance of any impropriety or appearance of impropriety. Transactions relating to the expenditure of public funds require the highest degree of public trust.

Except as may be specifically allowed by the *Code of Virginia* § 2.2-3112, subdivisions B 1, 2, and 3, no HRSD employee having official responsibility for a Procurement Transaction shall participate in that transaction on behalf of HRSD when the employee knows that:

- The employee is contemporaneously employed by a bidder, offeror, or contractor involved in the Procurement Transaction; or,
- The employee, the employee's partner, or any member of the employee's immediate family holds a position with a bidder, offeror, or contractor such as an officer, director, trustee, partner or the like, or is employed in a capacity involving personal and substantial participation in the Procurement Transaction, or owns or controls an interest of more than five percent; or
- The employee, the employee's partner, or any member of the employee's immediate family has a pecuniary interest arising from the Procurement Transaction; or
- The employee, the employee's partner, or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment with a bidder, offeror, or contractor.

No HRSD employee having administrative or operating authority, whether intermediate or final, to initiate, approve, disapprove, or otherwise affect a Procurement Transaction, or any claim resulting there from:

- Shall solicit, demand, accept, or agree to accept from a bidder, offeror, contractor, or subcontractor any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal or minimal value present or promised, unless consideration of substantially equal or greater value is exchanged; (Code of Virginia, § 2.2-4371)
- Shall accept employment from any bidder, offeror, or contractor with whom the employee dealt in an official capacity concerning Procurement Transactions for a period of one year from the cessation of employment by HRSD unless the employee or former employee provides written



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notification to HRSD prior to commencement of employment by that bidder, offeror, or contractor. (*Code of Virginia*, § 2.2-4370)

HRSD Commissioners and employees shall conduct themselves beyond reproach. Improprieties or the appearance of improprieties will not be tolerated. The following prohibitions apply to HRSD Commissioners, employees and their Immediate Families:

- Soliciting, accepting or receiving any single Gift with a value in excess of \$100 or any combination of Gifts with an aggregate value in excess of \$100 within any calendar year from any entity or person seeking to contract with HRSD. Gifts with a value of less than \$20 are not subject to aggregation for purposes of this prohibition.
- Having a Personal Interest in or benefiting from any contract with HRSD other than the employee's own employment contract. Where such interest pre-exists, it shall be disclosed and the HRSD Commissioner or employee shall refrain from voting on or acting on behalf of HRSD in any manner in relation to the contract.
- Participating in a transaction with HRSD where the employee has a
 Personal Interest in or may benefit from the transaction. Such interest
 shall be disclosed and the HRSD Commissioner or employee shall refrain
 from voting on or acting on behalf of HRSD in any manner in relation to
 the transaction.
- For a period of 12 months post-employment or appointment, HRSD
 Commissioners and Employees at the Director Level or above are
 prohibited from engaging in transactions for compensation with HRSD. All
 other former employees must provide a written notification to HRSD prior
 to any such engagement.

Food, beverages, mementos, entertainment or the cost of admission may be accepted when such a Gift is accepted or received while in attendance at a Widely Attended Event and is associated with the event.

No person shall be in violation of this policy if the Gift is not used by such person and the Gift is returned to the sender or delivered to a charitable organization within a reasonable period of time.

4.0 Procedures

This policy shall be communicated and provided to all HRSD Commissioners and employees upon commencement of appointment/employment and an



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acknowledgement of such shall be retained permanently in each employee's personnel file [Enterprise Resource Planning (ERP) System]. HRSD Commissioners' acknowledgements shall be retained by the Commission Secretary.

HRSD Commissioners or employees who have a Personal Interest in a company doing business with HRSD, or believe they have any other conflict requiring disclosure, shall disclose those interests immediately upon discovery of the personal interest in a company doing business with HRSD or other potential conflict. The Conflict of Interest Disclosure Form will include name and address of company doing business with HRSD, name and position of person at the company, as well as start and end date of the conflict.

HRSD Commissioners or employees who receive Gifts at widely attended events that exceed \$100 in value shall disclose those gifts within 60 days of receiving a gift. The Gift Disclosure Form will include the name of the company/vendor giving the gift, estimated value and date received.

Employee disclosure forms will be available in the ERP system. HRSD Commissioner disclosure forms shall be obtained through, filed with and retained by the Commission Secretary. All disclosure forms may be reviewed by legal counsel.

Training on the Ethics Policy shall be provided to all HRSD employees on a biannual basis with records of attendance maintained in the ERP system. Training on the Ethics Policy will be provided to HRSD Commissioners at time of appointment and periodically thereafter.

5.0 Responsibility and Authority

This policy shall be reviewed annually by the Operations and Nominations Committee and revised as required to conform to current law and regulations.

Approved:

Attest:

Stephen C. Rodriguez

Commission Chair

Date

1/

Jennifer/L. Casció

Commission Secretary

Commission Seal

6/25/2024 Date

HRSD Commission Meeting Minutes June 25, 2024 Attachment #8

17. Procurement Policy



Adopted: December 16, 2014 Revised: June 25, 2024 Page 1 of 7

1.0 **Purpose and Need**

All procurement shall be in accordance with the Code of Virginia §2.2-4300, the Virginia Public Procurement Act (VPPA), as supplemented herein.

2.0 **Guiding Principles**

- 1. HRSD is committed to competitive procurement practices that are accountable to our ratepayers and the public, ethical, impartial, professional, transparent and fully in accordance with applicable law.
- 2. The Director of Procurement is responsible for the purchase, rent, lease, or otherwise acquiring goods, professional and non-professional services, and certain construction services. In addition, the Director of Procurement is responsible for control and disposal of excess, obsolete, and salvageable materials and equipment.
 - The Director of Procurement shall establish procedures consistent with this policy and may designate other HRSD staff to act on his/her behalf.
- 3. The Chief Engineer is responsible for procurement of professional and non-professional services related to the study, design, construction, real estate and property acquisition associated with capital improvement projects or facility projects.
 - The Chief Engineer shall establish procedures consistent with this policy and may designate other HRSD staff to act on his/her behalf.
- 4. Except for small purchases (less than \$10,000) and certain easement acquisitions, no employee has the authority to enter into any purchase agreement or contract except the Director of Procurement or the Chief Engineer or such other employee as may be designated by the General Manager/Chief Executive Officer.
- 5. Fair market value shall be the basis of all real estate acquisitions with appropriate compensation for related restoration and/or inconvenience.

 Additional costs, in accordance with applicable state law, shall be included as required in procurement through eminent domain procedures.



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3.0 **Definitions**

Agreement/Contract. An understanding, in writing, between two or more competent parties, under which one party agrees to certain performance as defined in the agreement and the second party agrees to compensation for the performance rendered in accordance with the conditions of the agreement.

Fair Market Value. The price for an item upon which purchaser and supplier agree in an open market when both are fully acquainted with market conditions.

Total Value. Cost of all related procurement actions, even across fiscal years, that are known at the time of the procurement action including delivery, assembly, start-up, warranty, etc. Each procurement action must be able to meet the business objective individually, without the need for additional procurement actions.

4.0 **Procedures**

- 1. Generally, competition shall be sought for all procurement with the following exceptions:
 - a. Purchase of goods or services other than professional services where the Total Value will not exceed \$10,000. Related purchases shall not be divided into separate actions to meet this threshold.
 - b. Sole Source Purchase of goods or services where there is only one source practicably available. The requesting division shall provide a written determination supporting the sole source to the Director of Procurement for approval. The HRSD Commission must approve all sole sources above \$200,000 for specific vendor and specific application.
 - c. Emergency Where emergency actions are required to protect public safety, public health, HRSD employees or property or the environment, a contract can be awarded without competition upon a written emergency declaration, approved by the General Manager/Chief Executive Officer. Competition should be sought if possible with emergency contracts even if typical procurement procedures cannot be fully followed.
 - d. Real Property Where acquisition or lease is required in support of HRSD facilities.



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- 2. In accordance with § 2.2-4303 G. competitive sealed bids or competitive negotiation is not required for purchase of goods and services other than professional services where the **total value of the procurement will not exceed \$10,000**. The following procedure shall be followed:
 - a. A minimum of one quote is required. When possible, multiple quotes should be obtained. Use of small businesses and businesses owned by women, minorities, and service-disabled veterans is encouraged for all procurement actions whenever possible.
 - b. Purchase is normally made using an HRSD ProCard.
 - c. Purchase may be made by any HRSD employee granted purchasing authority by their division chief.
 - d. Basis of award shall be a determination that the stated need will be met, and the price is fair and reasonable.
- In accordance with § 2.2-4303 G. competitive sealed bids or competitive negotiation is not required for purchase of goods and services other than professional services where the total value of the procurement will be greater than \$10,000 and not to exceed \$200,000. The following procedure shall be followed:
 - a. Purchases shall be initiated by the submission of a requisition to Procurement or Engineering.
 - b. An unsealed (informal) quote shall be solicited by Procurement or Engineering from three sources in response to an Invitation for Bid (IFB) or Request for Proposal (RFP).
 - c. Basis of award shall be lowest responsive and responsible bidder, offeror or best value as determined by criteria included in the IFB or RFP.
- 4. In accordance with § 2.2-4303 G. competitive negotiation is not required for purchase of **professional services where the total value of the procurement will not exceed \$80,000**. The following procedure shall be followed:
 - a. Purchases shall be initiated by the submission of a requisition to Procurement or Engineering.



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- b. An unsealed (informal) quote shall be solicited by Procurement or Engineering from three sources in response to an IFB or RFP.
- c. Basis of award shall be lowest responsive and responsible offeror or best value as determined by criteria included in the IFB or RFP.
- 5. In accordance with §2.2-4308, design-build or construction management contracts shall be in accordance with <u>Appendix A</u> of this policy.
- 6. In accordance with §2.2-4310 B, HRSD promotes the use of small businesses and businesses owned by women, minorities, servicedisabled veterans, and employment services organizations in procurement transactions in accordance with Appendix B of this policy.
- 7. In accordance with §2.2-4316, comments concerning specifications or other provisions in IFB or RFP must be submitted and received in accordance with the procedures specified in the IFB or RFP for comment submittal.
- 8. In accordance with §2.2-4318, if the bid from the lowest responsive, responsible bidder exceeds available funds, negotiations may be entered with the apparent low bidder to obtain a contract price within available funds in accordance with Appendix C of this policy.
- In accordance with §2.2-4321, contractors may be debarred from contracting for particular types of supplies, services, insurance or construction, for specified periods of time in accordance with <u>Appendix D</u> of this policy.
- 10. In accordance with §2.2-4330 C, bids may be withdrawn due to error for other than construction contracts in accordance with Appendix E of this policy.
- 11. In accordance with §56-575.3:1, a project under the Public-Private Education Facilities and Infrastructure Act shall be in accordance with Appendix F of this policy.
- 12. Acquisition of easements (temporary or permanent) may be made by the Chief Engineer (or his/her designee) up to \$50,000.



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5.0 **Approvals**

The following actions specifically require the approval of the HRSD Commission before executing unless executed under an approved emergency declaration:

- 1. **Agreements**. Contracts or purchase orders where the total value is projected to exceed \$200,000.
- 2. **Sole Source Procurement.** Initial sole source determination for specific vendor, items(s) and location(s) where the Total Value is projected to exceed \$200,000 (§2.2-4303E).
- 3. **Modifications to Agreements (Task Orders).** Where the Total Value is projected to exceed \$200,000.
- 4. **Cooperative Procurement.** Where the Total Value of HRSD's participation is projected to exceed **\$200,000** (§2.2-4304).
- 5. **Change Orders (§2.2-4309).** Where the Total Value exceeds **25 percent** of the original contract award or **\$50,000** whichever is greater.
- 6. **Rejection of all Bids.** Where the Total Value is projected to exceed **\$200,000** (§2.2-4319).
- 7. **Design-Build or Construction Management Agreements.** (§2.2-4306).
- 8. **Design-Build Proposal Compensation.** Where the Total Value is projected to exceed \$200,000.
- 9. **Debarment.** (§2.2-4321).
- 10. **Determination of Non-responsibility.** (§2.2-4359).

11. Real Property

- a. Acquisition by condemnation in accordance with the Code of Virginia §15.2
- b. Acquisitions by purchase, lease, grant or conveyance
- c. Sale, lease or permanent encumbrance of HRSD property



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- d. Easements or Right of Entry Agreements (temporary or permanent) with value in excess of \$50,000
- e. Vacation of existing easement(s)
- 12. **Intellectual Property.** All Intellectual Property Rights Agreements and Royalty Distribution Agreements.
- 13. **Agreements with other Entities.** Agreements which include any of the following criteria:
 - a. Design or construction of infrastructure with a constructed value in excess of \$50,000
 - b. Provides use of real property for temporary (greater than one year) or permanent use
 - c. Provide use of assets valued at more than \$200,000
 - d. Provides a service or other benefit that spans multiple years and greater than \$200,000
 - e. Obligates significant financial or personnel resources (\$200,000 or more)

6.0 **Ethics**

HRSD employees involved in the procurement process are expected to maintain high ethical standards. In addition to HRSD's Standards of Conduct and HRSD's Ethics Policy, the following State laws apply:

- 1. Virginia Public Procurement Act (VPPA); (§2.2-4300)
- 2. Ethics in Public Contracting (§2.2-4367)
- 3. Virginia Governmental Frauds Act (§18.2-498.1) and Articles 2 (§18.2-438) and 3 (§18.2-446) of Chapter 10 of Title 18.2.
- 4. State and Local Government Conflict of Interests Act (§ 2.2-3100)



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7.0 Responsibility and Authority

This policy was developed in accordance with HRSD's Enabling Act and the Code of Virginia. Any changes this policy shall be made in writing and approved by the HRSD Commission.

HRSD's General Manager/Chief Executive Officer and the Director of Procurement are the designated administrators of this policy. The Director of Procurement shall have the day-to-day responsibility and authority for implementing the provisions of this policy.

Approved:

Stephen Rodriguez Commission Chair

Date

Attest:

Jennifer L. Cascio

Commission Secretary

Date

Commission Seal



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1.0 Purpose and Need

Design-build and construction management contracting methods provide opportunity for HRSD to contract for specific projects where traditional design-bid-build may not be in the best interest of HRSD. These non-traditional procurement methods shall only be used in accordance with this policy.

2.0 **Procedures**

While the competitive sealed bid process remains the preferred method of construction procurement for HRSD, a contract for construction on a design-build fixed price or on a construction management basis may be used, provided a written determination made in advance is approved by the Commission which sets forth that competitive sealed bidding is either not practicable or not fiscally advantageous.

Criteria for Use of Design-Build Contracts – Design-Build contracts are intended to minimize the project risk and to reduce the delivery schedule by overlapping the design phase and construction phase of a project.

Criteria for Use of Construction Management Contracts – Construction Management contracts may be approved for use on projects where the project complexity will benefit from the early selection of a construction manager or when value engineering and/or constructability analysis is desirable. Construction management may be utilized on projects where the project cost is expected to be less than the project cost threshold established in the procedures adopted by the Secretary of Administration for utilizing construction management contracts, provided that (i) the project is a complex project and (ii) the project procurement method is approved by the Commission. The written approval of the Commission shall be maintained in the procurement file.

2.1. Procedure for Design-Build or Construction Management Contracts

2.1.1. **General.** The Chief Engineer shall prepare a report documenting in writing that for a specific construction project; (i) a Design-Build or Construction Management contract is more advantageous than a competitive sealed bid construction contract; (ii) why there is a benefit to HRSD by using a Design-Build or Construction Management contract; and (iii) why competitive sealed bidding is not practical or fiscally advantageous; and (iv) these justifications shall be stated in the Request for Qualifications. This report shall be submitted to the General Manager/Chief Executive Officer for approval.



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- 2.1.2. Design-Build construction projects involve retaining a party that provides both professional design and construction services. Construction Management projects involve retaining a firm to coordinate and administer contracts for construction services and may also include, if provided in the contract, the direct furnishing of construction services. Design-Build services shall be procured using a two-step competitive negotiation process which shall consider both technical capabilities and price for the services required for the project. Construction Management services shall be awarded and initiated no later than the completion of the Schematic Phase of design.
- 2.1.3. **Design-Build and Construction Management Firms**. The Director of Engineering shall obtain qualified Design-Build and Construction Management firms to provide needed services. A list of firms shall be accumulated through solicitation and other methods. The list of firms shall include small, women-owned, minority-owned or service-disabled veteranowned businesses
- 2.1.4. Request for Qualification (RFQ). A RFQ shall be prepared for each project and approved by the Chief Engineer. The RFQ shall state the criteria and goals of the project, the time and place for receipt of qualifications, the factors to be used in evaluating qualifications, the contractual terms and conditions, any unique capabilities or qualifications required of the proposer and any project specific requirements for the particular project. The RFQ shall normally consist of the following sections unless modified by the Chief Engineer:

Cover Sheet

- I. Introduction and/or Background
- II. Instructions to Proposers
- III. Scope of Work
- IV. Tentative Procurement Schedule
- V. Attachments
- 2.1.5. Public Notice. A Public Notice of the RFQ shall be posted, at least ten (10) business days prior to receipt of proposals for design-build or construction management services on the HRSD Internet website. For Construction management services, the Public Notice shall also be published on the Commonwealth of Virginia's central electronic procurement website, known as eVA, at least thirty (30) days prior to the date set for receipt of qualification proposals. The Public Notice shall be sent directly to firms that have



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requested to be notified of work and may be sent to those firms believed to be qualified to perform the work. The Public Notice shall also be sent directly to organizations promoting small, women-owned, minority-owned and service-disabled veteran-owned businesses and to similar businesses that have requested to be notified and/or are believed to be qualified to perform the work. An affidavit shall be placed in the project file certifying the advertising date and method.

- 2.1.6. Contacts by Proposers. Proposers may contact only the HRSD representative designated in the RFQ related to questions pertaining to the project. Responses to these questions which are relevant to the work will be documented and addenda will be issued to all proposers who have requested a copy of the RFQ.
- 2.1.7. **Selection Committee.** A Selection Committee shall evaluate the Statements of Qualifications (SOQ) and short-list proposers for further consideration. The Selection Committee shall consist of at least three (3) qualified HRSD staff members appointed by the Chief Engineer. The members of the Selection Committee shall have experience relevant to the project, with backgrounds in such areas as design, construction, contracts, project management and operations/maintenance.
- 2.1.8. **Statements of Qualifications.** The Selection Committee shall request a SOQ from any firm desiring consideration. The SOQ shall provide the information requested in the RFQ. Firms submitting a SOQ shall provide the electronic document by the date and time listed in the RFQ.
- 2.1.9. Pre-Proposal Conference. A pre-proposal conference may be held for complex or large projects to ensure clarity, review potential problems with the Scope of Work and answer questions related to the project. Attendance at the pre-proposal conference may be optional or mandatory as specified in the RFQ. If attendance is mandatory, SOQ's shall be considered only from those firms who attended the conference and met the requirements listed in the RFQ related to the pre-proposal conference.
- 2.1.10. **Opening of Statement of Qualifications.** The Chief Engineer or his/her designee shall document receipt of the SOQ's at the specified time and place. SOQ's not received at the specified time will not be considered.
- 2.1.11. **Changes to the RFQ.** The Selection Committee shall determine whether any changes to the RFQ should be made to clarify errors, omissions or



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ambiguities or to incorporate project improvements or additional details. If such changes are required, an addendum shall be issued.

- 2.1.12. Evaluation of Statement of Qualifications (Short-List Step). The Selection Committee shall evaluate each SOQ. The Selection Committee may waive minor informalities in a SOQ but shall eliminate from further consideration any proposer determined to be non-responsive or deemed not fully qualified, responsible or suitable. Prior construction management or design-build experience shall not be required as a prerequisite for consideration or award of a contract. However, in the selection of a contractor, the selection committee may consider the experience of each contractor on comparable projects. The Selection Committee shall then select (short-list) two (2) or more responsive proposers based on the SOQ submitted in response to the RFQ. The Selection Committee either individually or as a group at any point in the evaluation may contact some or all references recommended by the proposer. The Selection Committee may use the information gained during the reference checks in the evaluation. The Selection Committee may ask questions or request additional information from any proposer.
- 2.1.13. Request for Proposals (RFP). A RFP shall be prepared for each project and approved by the Chief Engineer. The RFP shall provide further details not described in the RFQ and shall include the factors to be used in evaluating each proposal. For Design-Build contracts, the RFP shall include details regarding the project quality and performance requirements, conceptual design documents and information regarding the proposer's Contract Cost Limit (CCL) to determine the best value in response to the RFP. For Construction Management contracts, the RFP shall define the allowable level of direct construction involvement by the proposer, describe details regarding the proposer's CCL and define the pre-design, design, bid and construction phase services required. The Construction Management firm will procure the subcontractors services by publicly advertising and competitive sealed bidding to the maximum extent practicable. Documentation shall be placed in the file detailing the reasons any work is not procured by publicly advertised competitive sealed bidding. The RFP process shall include a separate technical proposal evaluation stage and a price proposal evaluation stage.
- 2.1.14. **Technical Proposals.** The Selection Committee shall initially request a technical proposal from those firms that were short-listed. The technical proposals shall provide the information requested in the RFP. Firms



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submitting a technical proposal shall provide the electronic document by the date and time listed in the RFP.

- 2.1.15. Opening of Technical Proposals. The Chief Engineer or his/her designee shall document receipt of the technical proposals at the specified time and place. Technical proposals not received at the specified time will not be considered.
- 2.1.16. Preliminary Evaluation of Technical Proposals. The Selection Committee shall review each technical proposal to first determine whether the proposals are responsive to the requirements of the RFP. The Selection Committee shall then evaluate and document (score) the technical proposal from the short-listed proposers based on an evaluation plan specified in the RFP. The Selection Committee shall keep confidential a preliminary ranking of the technical proposals. The Selection Committee may cancel or reject any and all technical proposals. The Chief Engineer shall prepare a report documenting the reasons for the cancellation or rejection. The Selection Committee may waive informalities in the technical proposals.
- 2.1.17. Conferences During Preliminary Evaluation. The Selection Committee may hold a question and answer conference with any or all proposers to clarify or verify the contents of a technical proposal. The conference may be in person or by telephone. Each proposer shall be allotted the same fixed amount of time for any conference held as part of the selection. Proposers shall be encouraged to elaborate on their qualifications, proposed services, relevant experience and details of the technical proposal for the project. Proprietary information from competing proposers shall not be disclosed to the public or to competitors.
- 2.1.18. Changes to the RFP. Based upon a review of the technical proposal and discussions with each short-listed proposer, the Selection Committee shall determine whether any changes to the RFP should be made to clarify errors, omissions or ambiguities or to incorporate project improvements or additional details. If such changes are required, an addendum shall be provided to each proposer. If addenda are issued by the Selection Committee, proposers will be given an opportunity to revise their technical proposals.
- 2.1.19. **Final Evaluation of Technical Proposals.** At the conclusion of the technical proposal evaluation stage, the Selection Committee will meet to discuss each proposer. After the discussion is completed, each team member will be given an opportunity to adjust their score. The Selection



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Committee shall document and keep confidential a final ranking of the technical proposals. This documentation shall occur before any price proposals are received by HRSD.

- 2.1.20. Price Proposals. The Selection Committee shall request a price proposal from those firms short-listed during the price proposal evaluation stage. The price proposal shall provide the information requested in the RFP including any and all addendums. The price proposal will include a (CCL) based on the project scope of work and other information provided in the RFP and any subsequent changes to the RFP. Firms submitting a price proposal shall provide the requested information by the date and time listed in the RFP. For Construction Management contracts, price shall be a critical basis for award of the contract. Unless approved by the Commission in advance of issuance of the Public Notice, the price component for selection of a Construction Management firm shall be a significant portion of the weighted score.
- 2.1.21. Opening of Price Proposals. The Chief Engineer or his/her designee shall open and document receipt of the price proposals at the specified time and place. Price proposals not received at the specified time will not be considered.
- 2.1.22. **Evaluation of Price Proposals.** The Selection Committee shall review each price proposal to determine whether the proposals are responsive to the requirements of the RFP and any and all addenda. The Selection Committee shall document and keep confidential the results of each price proposal.
- 2.1.23. Final Evaluation and Recommendation to Award a Contract. The Selection Committee Chair shall tabulate the technical and price proposal scores as listed in the RFP to determine the recommended firm. The Selection Committee shall prepare a report documenting the process, summarizing the results and recommending the design-build or construction management firm for award to the Chief Engineer. Upon concurrence with the recommendation of the Selection Committee, the Chief Engineer or his/her designee shall negotiate a contract with the recommended firm. Otherwise, the Chief Engineer or his/her designee shall formally terminate negotiations with the proposer ranked first and shall negotiate with the proposer ranked second, and so on, until a satisfactory agreement can be negotiated. The Chief Engineer shall inform the General Manager/Chief Executive Officer of the results of the negotiation. The General Manager/Chief Executive Officer shall receive Commission approval of award



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to the recommended firm. The Commission may cancel or reject any and all proposals.

- 2.1.24. Award of Design-Build or Construction Management Contract. Upon approval by the Commission, the Chief Engineer shall forward all contract, bond and insurance forms to the selected firm for signature. The contract shall be prepared using the standard HRSD format approved by the Chief Engineer and reviewed by the HRSD attorney.
- 2.1.25. Inspection of Proposals. Any proposer may inspect the proposal documents after opening of the price proposals but prior to award of the contract. All records, subject to public disclosure under the Virginia Freedom of Information Act, shall be open to public inspection only after award of the contract.
- 2.1.26. Emergency Procurement. A contract for design-build or construction management services may be negotiated and awarded without competitive negotiation if the General Manager/Chief Executive Officer determines there is an emergency. The procurement of these services will be made using as much competition as practical under the circumstances. The Chief Engineer shall submit a report documenting the basis of the emergency and the selection of the particular firm. The Chief Engineer shall prepare a notice stating the contract is being awarded on an emergency basis and identifying what is being procured, the firm selected and the date the contract was or will be awarded. The notice shall be placed on the HRSD Internet website on the day HRSD awards or announces its decision to award, whichever comes first or as soon thereafter as practical.
- 2.1.27. Proposal Compensation. Proposal Compensation on designated Design-Build procurement efforts, short-listed firms that are not selected but have fully complied with all aspects of the RFQ and RFP may be provided proposal compensation (stipend) under certain conditions. The value of the proposal compensation will be determined on a case-by-case basis. Commission approval shall be required when the recommended amount exceeds \$200,000 for any single payment.

Contracting



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2.2. Procedure for Changes to Design-Build or Construction Management Contracts

All changes to the Contract shall be by a formal Change Order as mutually agreed to by the firm and HRSD. The method of making such changes and any limits shall be in accordance with the Contract Documents. Change Orders shall be negotiated by HRSD staff and such actions reported to the Chief Engineer with recommendations for approval. Change Orders exceeding \$50,000 or 25% of the original contract amount, whichever is greater, shall be submitted to the Commission for approval prior to authorization. All Change Orders shall be executed by the firm and the Chief Engineer or his/her designee.

Extra work by the firm may be authorized by a written Work Change Directive within limits of authorization provided above with later inclusion in the Contract by formal Change Order.

In case of disputes as to the value of extra work, HRSD, within the limits of authorization provided above, may issue a directive in accordance with the Contract Documents to proceed with the work so as to not impede the progress and cause unnecessary delay and expense to the parties involved. The directive shall acknowledge the dispute by the firm, and the dispute shall be resolved at a later date.

2.3. Procedure for Progress Payments

Progress payments shall be paid in accordance with the Contract Documents. Requests for progress payments shall be prepared by the firm and approved by HRSD staff and the Chief Engineer. Requests for progress payments shall generally be submitted to HRSD on a monthly basis with payments by HRSD to the firm within the period of time specified in the Contract Documents.

Progress payments shall be based on unit prices, schedules of values, and other agreed-upon specified basis. Each progress payment shall represent the amount of completed work and materials on site to be incorporated into the work as accepted and approved, less the specified retainage and less previous payments. Payment for materials on site shall be in accordance with the Contract Documents.



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Progress payments may be reduced or withheld in accordance with the Contract Documents. Retainage may be reduced or increased in accordance with the Contract Documents.

2.4. Procedure for Final Payments

Final acceptance, payment, and release of claims shall be in accordance with the Contract Documents. Requests for final payments shall be prepared by the firm, certified and approved by HRSD staff and approved by the Chief Engineer.

3.0 Responsibility and Authority

Under the direction of the Chief Engineer, shall be responsible for overall development, management and implementation of this policy.

COMMISSION ADOPTED POLICY Procurement Policy – Appendix B Participation of SWaM



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1.0 Purpose and Need

This policy is in accordance with §2.2-4310 B to facilitate the participation of small businesses and businesses owned by women, minorities, service-disabled veterans, and employment services organizations in HRSD procurement transactions.

HRSD is committed to ensuring fair consideration of all contractors and suppliers in its day-to-day purchase or lease of goods and services. HRSD recognizes that working with a wide range of contractors and suppliers provides an open, competitive and diverse business environment.

HRSD recognizes its responsibilities to the communities that it serves and the society in which it conducts business. The inclusion of small, women-owned, minority-owned, service-disabled veteran-owned, and employment services organizations (SWaM) businesses must be a function of our normal, day-to-day purchasing activities. No potential contractor or supplier will be precluded from consideration on the basis of race, religion, color, sex, sexual orientation, gender identity, national origin, age, disability, status as a service-disabled veteran, or any other basis prohibited by state law relating to discrimination in employment. (Code of Virginia, § 2.2-4310A).

Therefore, HRSD's policy is to actively solicit and encourage SWaM businesses to participate in procurement opportunities through equally fair and open competition for all contracts. Every employee who is involved in procurement decisions for the purchase of goods or services is charged with making giving every consideration to using qualified SWaM businesses in a manner that is consistent with state and federal laws and regulations. Further, each of HRSD's contractors and suppliers are encouraged to provide for the participation of SWaM businesses through partnerships, joint ventures, subcontracts and other contractual opportunities.

HRSD shall not accept a bad business deal or a lower quality contractor, supplier, product or service in order to achieve greater participation of SWaM businesses in HRSD procurement.

As an integral part of the company-wide culture, HRSD does not discriminate because of race, religion, color, sex, sexual orientation, gender identity, national origin, age, disability, status as a service-disabled veteran, or any other basis prohibited by law. Additionally, in procuring goods or services or in making disbursements, HRSD shall not (i) discriminate against a faith-based organization on the basis of the organization's religious character or (ii) impose conditions that

COMMISSION ADOPTED POLICY Procurement Policy – Appendix B Participation of SWaM



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(a) restrict the religious character of the faith-based organization, except, in accordance with Virginia Code §2.2-4343.1(F), that no funds shall be expended on contracts for religious worship, instruction, or proselytizing, or (b) impair, diminish, or discourage the exercise of religious freedom by the recipients of such goods, services, or disbursements.

2.0 Procedures

The Procurement Department shall:

- 1. Ensure SWaM businesses have the maximum practicable opportunity in procurement and contractual activities
- 2. Apprise potential SWaM businesses of HRSD's procurement activities
- 3. Identify SWaM businesses for HRSD solicitations
- 4. Promote the use of SWaM contractors through formal and informal training classes
- 5. Maintain diversity procurement data of contracts and subcontracts awarded to SWaM businesses
- 6. Monitor, evaluate, and report on the utilization of SWaM contractors at least annually to the HRSD Commission
- 7. Include qualified businesses selected from the HRSD centralized contractor/supplier database, the Virginia Department of Small Business and Supplier Diversity (Code of Virginia, § 2.2-4310), consistent with this policy whenever soliciting quotes or qualifications

All employees with purchasing responsibility or who are involved in procurement decisions for goods and services shall give every consideration to using qualified SWaM contractors/suppliers and consult with the Procurement Department as required to identify SWaM contractors/suppliers.

Certified Minority Business Enterprise (MBE). No contractor/supplier shall be considered a Small Business Enterprise, a Minority-Owned Business Enterprise, a Women-Owned Business Enterprise or a Service-Disabled Veteran-Owned Business Enterprise unless certified as such by the Virginia Department of Small Business and Supplier Diversity.

COMMISSION ADOPTED POLICY Procurement Policy – Appendix B Participation of SWaM



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3.0 Responsibility and Authority

Under the direction of the Director of Finance, the Director of Procurement, as well as the Chief Engineer, shall be responsible for overall development, management and implementation of this policy.

COMMISSION ADOPTED POLICY Procurement Policy – Appendix C Negotiation with Lowest Responsible Bidder



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1.0 **Purpose and Need**

If the bid from the lowest responsive, responsible bidder exceeds available funds, HRSD may negotiate with the apparent low bidder to obtain a contract price within available funds in accordance with this policy.

2.0 **Procedures**

Unless all bids are cancelled or rejected, HRSD reserves the right to negotiate with the lowest responsive, responsible bidder to obtain a contract price within the funds available. The term "available funds" shall mean those funds which were budgeted by the requested HRSD division for the contract prior to the issuance of the written Invitation for Bids. The procurement record in the Procurement Department shall include documentation of the "available funds" prior to the issuance of the IFB.

Negotiations with the lowest responsive, responsible bidder may include both modifications of the bid price and the Scope of Work/Specifications to be performed.

HRSD shall initiate such negotiations by written notice to the lowest responsive, responsible bidder that its bid exceeds the available funds and that HRSD wishes to negotiate a lower contract price. The times, places, and manner of negotiating shall be agreed to by HRSD and the lowest responsive, responsible bidder.

If a mutually acceptable price cannot be negotiated, all bids shall be rejected. A new IFB cannot be issued without HRSD modifying the scope or specification to match the available funds. Shopping for bids shall not be permitted.

3.0 Responsibility and Authority

Under the direction of the Chief Financial Officer, the Director of Procurement, as well as the Chief Engineer, shall be responsible for overall development, management and implementation of this policy.

COMMISSION ADOPTED POLICY Procurement Policy – Appendix D Debarment



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1.0 **Purpose and Need**

To ensure HRSD receives the best value with all procurement actions, contractors that fail to meet HRSD standards may be debarred and prevented from being awarded work from HRSD for a specified period of time. Debarment is a serious action and shall only be pursued when continued use of a particular contractor threatens HRSD's ability to meet regulatory requirements, requires inordinate levels of inspection, administration or supervision, poses a legal, financial or reputational risk to HRSD or a locality partner or the contractor has previously demonstrated the inability to meet HRSD schedules or quality requirements, provides poor references or is in active litigation related to HRSD work or similar projects.

2.0 **Procedures**

The Director of Procurement or Chief Engineer shall regularly evaluate prospective contractors to determine eligibility for contracting for particular types of supplies, services, insurance or construction.

If a determination is made that a prospective contractor should not be eligible, the Director of Procurement or Chief Engineer shall submit a written report notifying the contractor of the proposed debarment and specified period of time, disclosing factual support for the contractor's unsatisfactory performance and/or other reasons for the proposed debarment, and allowing the contractor an opportunity to inspect any documents relating to the proposed debarment within five (5) business days after receipt of notification and to submit rebuttal information within ten (10) business days after receipt of notification.

The Director of Procurement or Chief Engineer shall revise the report as appropriate within five (5) business days after receipt of rebuttal information and submit the revised report to the contractor and the General Manager/Chief Executive Officer.

The General Manager/Chief Executive Officer shall submit the revised report and recommended action to the HRSD attorney for review and to the Commission for action. The Director of Procurement or Chief Engineer shall notify the contractor of the Commission's final determination including, if debarred, the basis of the debarment and the term of the debarment.

3.0 Responsibility and Authority

Under the direction of the Chief Financial Officer, the Director of Procurement, as well as the Chief Engineer, shall be responsible for overall development, management and implementation of this policy.

COMMISSION ADOPTED POLICY Procurement Policy – Appendix E Withdrawal of Bids



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1.0 **Purpose and Need**

Occasionally a bidder requests to withdraw a bid due to a mistake. It is not in HRSD's best interest to force a bidder to perform if the bidder actually made an error in their bid preparation. However, in a competitive bid environment, bidders cannot be allowed to withdraw bids without just cause as this practice can undermine the integrity of the bidding process. HRSD shall follow these procedures to protect the integrity of the bidding process when considering a request to withdraw a bid.

2.0 **Procedures**

For bids on construction projects, withdrawal procedures shall be in accordance with §2.2-4330 where the bidder shall give notice in writing of his claim of right to withdraw his bid within two business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice.

For bids other than construction bids, the same withdrawal procedures shall be followed.

The Director of Procurement or the Chief Engineer will review the request to withdraw and make a determination based on the evidence provided in accordance with §2.2-4330.

3.0 **Responsibility and Authority**

Under the direction of the Chief Financial Officer, the Director of Procurement, as well as the Chief Engineer, shall be responsible for overall development, management and implementation of this policy.

COMMISSION ADOPTED POLICY Procurement Policy – Appendix F PPEA



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1.0 Purpose and Need

This policy is intended to encourage competition and guide the procurement of projects under Public-Private Education Facilities and Infrastructure Act.

2.0 Procedures

General. Prior to developing or operating the qualifying project, the selected private entity shall enter into a comprehensive agreement with HRSD. Prior to entering a comprehensive agreement, an interim agreement may be entered into that permits a private entity to perform compensable activities related to the project. Any interim or comprehensive agreement shall define the rights and obligations of HRSD and the private entity with regard to the project. The interim and comprehensive agreements and any amendments thereto must be approved by the HRSD Commission.

Interim Agreement Terms. Prior to or in connection with the negotiation of the comprehensive agreement, HRSD may enter into an interim agreement with the private entity proposing the development or operation of the qualifying project. The scope of an interim agreement may include, but is not limited to:

- 1. Project planning and development;
- 2. Design and engineering;
- 3. Environmental analysis and mitigation;
- 4. Survey;
- 5. Ascertaining the availability of financing for the proposed facility through financial and revenue analysis;
- 6. Establishing a process and timing of the negotiation of the comprehensive agreement; and
- 7. Any other provisions related to any aspect of the development or operation of a qualifying project that the parties may deem appropriate prior to the execution of a comprehensive agreement.

Comprehensive Agreement Terms. Prior to developing or operating the qualifying project, the selected private entity shall enter into a comprehensive

COMMISSION ADOPTED POLICY Procurement Policy – Appendix F PPEA



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agreement with HRSD. The comprehensive agreement shall define the rights and obligations of HRSD and the private entity with regard to the project.

As provided by the PPEA, the terms of the comprehensive agreement shall include, but not be limited to:

- 1. The delivery of maintenance, performance, and payment bonds or letters of credit in connection with any acquisition, design, construction, improvement, renovation, expansion, equipping, maintenance, or operation of the qualifying project, in the forms and amounts satisfactory to HRSD and in compliance with § 2.2-4337 for those components of the qualifying project that involve construction;
- 2. The review and approval of plans and specifications for the qualifying project by HRSD;
- 3. The rights of HRSD to inspect the qualifying project to ensure compliance with the comprehensive agreement;
- 4. The maintenance of a policy or policies of liability insurance or self-insurance reasonably sufficient to insure coverage of the project and the tort liability to the public and employees and to enable the continued operation of the qualifying project;
- 5. The monitoring of the practices of the private entity by HRSD to ensure proper maintenance, safety, use, and management of the qualifying project;
- 6. The terms under which the private entity will reimburse HRSD for services provided;
- 7. The policy and procedures that will govern the rights and responsibilities of HRSD and the private entity in the event that the comprehensive agreement is terminated or there is a material default by the private entity including the conditions governing assumption of the duties and responsibilities of the private entity by HRSD and the transfer or purchase of property or other interests of the private entity by HRSD;
- 8. The terms under which the private entity will file appropriate financial statements on a periodic basis;

COMMISSION ADOPTED POLICY Procurement Policy – Appendix F PPEA



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- 9. The mechanism by which user fees, lease payments, or service payments, if any, may be established from time to time upon agreement of the parties. Any payments or fees shall be the same for persons using the facility under like conditions and that will not materially discourage use of the qualifying project;
 - a. A copy of any service contract shall be filed with HRSD;
 - A schedule of the current user fees or lease payments shall be made available by the private entity to any member of the public upon request;
 - c. Classifications according to reasonable categories for assessment of user fees may be made.
- 10. The terms and conditions under which HRSD will contribute financial resources, if any, for the qualifying project;
- 11. The terms and conditions under which existing site conditions will be assessed and addressed, including identification of the responsible party for conducting the assessment and taking necessary remedial action;
- 12. The terms and conditions under which HRSD will be required to pay money to the private entity and the amount of any such payments for the project;
- 13. Other requirements of the PPEA or other applicable law; and
- 14. Such other terms and conditions as HRSD determines serve the public purpose of the PPEA.

Notice and Posting requirements. In addition to the posting requirements of Virginia Code §56-575.17(A)(2), HRSD shall advertise for a public hearing to discuss proposals it has received prior to execution of the negotiated interim or comprehensive agreements. Such hearing may occur at a regularly scheduled meeting of the Board. Such notice shall be at least 30 days prior to the public hearing. Public comments may be submitted to HRSD at any time during the notice period and prior to the public hearing. After the public hearing and the end of the public comment period, no additional posting shall be required based on any public comment received.

COMMISSION ADOPTED POLICY Procurement Policy – Appendix F PPEA



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Once the negotiation phase for the development of an interim or a comprehensive agreement is complete and a decision to award has been made, the proposed agreement shall be posted in the following manner:

- 1. On the HRSD website prior to the execution of the agreement.
- 2. In addition to the posting requirements, a copy of the proposals shall be made available for public inspection. Trade secrets, financial records, or other records of the private entity excluded from disclosure under the provisions of subdivision 11 of §2.2-3705.6 shall not be required to be posted, except as otherwise agreed to by the HRSD and the private entity.
- 3. Any studies and analyses considered by HRSD in its review of a proposal shall be disclosed at some point prior to the execution of an interim or comprehensive agreement.

Once an interim agreement or a comprehensive agreement has been entered into, the HRSD shall make procurement records available for public inspection, upon request.

- 1. Such procurement records shall include documents protected from disclosure during the negotiation phase on the basis that the release of such documents would have an adverse effect on the financial interest or bargaining position of HRSD or the private entity in accordance.
- 2. Such procurement records shall not include:
 - a. trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) or
 - financial records, including balance sheets or financial statements of the private entity that are not generally available to the public through regulatory disclosure or otherwise.

Actual timelines will depend on many factors, including complexity of the project, number of proposals received, staff workload, and Commission meeting schedules.

COMMISSION ADOPTED POLICY Procurement Policy – Appendix F PPEA



Adopted: December 15, 2014 Revised: June 25, 2024 Page 5 of 5

3.0 Responsibility and Authority

Under the direction of the Chief Financial Officer, the Director of Procurement, as well as the Chief Engineer, shall be responsible for overall development, management and implementation of this policy.

HRSD Commission Meeting Minutes June 25, 2024 Attachment #9

18. Remote Participation Policy

Remote Participation



First Adopted: July 28, 2015 Revised: June 25, 2024 Effective: July 1, 2024

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1.0 Purpose and Need

- a. Except as provided in this policy, the HRSD Commission ("Commission") does not conduct any meeting wherein public business is discussed or transacted through telephonic, video, electronic, or other electronic communication means where the Commissioners are not physically assembled. In accordance with the Virginia Freedom of Information Act, § 2.2-3701 et seq. of the Code of Virginia of 1950, as amended (the "Act"). the Commission desires to adopt this policy to reflect (1) when individual Commissioners may participate remotely in public meetings and (2) when all virtual public meetings are allowed.
- b. This policy is intended to apply to Commission meetings, committee, subcommittee or other Commission established public meetings (collectively referred to as "HRSD Public Meetings"). As permitted under VA Code §2.2-3708.3(D), the Commission adopts this policy on behalf of its committees, subcommittees, and any other entity however designated of the Commission that performs delegated functions of the Commission or advises the Commission. This policy shall apply to any committee, subcommittee, or other designated entity's use of individual remote participation and all-virtual public meetings and shall be interpreted to give it such effect.
- c. This policy shall apply to the entire membership of the Commission and without regard to the identity of the Commissioner requesting remote participation or the matters that will be considered or voted on at the HRSD Public Meeting.
- d. The policy shall not prohibit or restrict any individual member of the Commission who is participating in an all-virtual meeting or who is using remote participation from voting on matters before the Commission.

2.0 <u>Definitions</u>

- a. **Caregiver** An adult who provides care for a person with a disability as defined in Va. Code § <u>51.5-40.1</u> and is related by blood, marriage, or adoption to, or is the legally appointed guardian of, the person with a disability for whom they are caring.
- b. **Personal matter** Examples include but are not limited to personal, family or business matters that prevent attendance at the meeting

COMMISSION ADOPTED POLICY *Remote Participation*



Revised: June 25, 2024
First Adopted: July 28, 2015

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location; severe weather conditions or unexpected traffic or travel conditions that prevent travel to the meeting location.

- c. **Physical disability or other medical condition of Commissioner** Examples include but are not limited to temporary hospitalization or confinement to home, contagious illness, or any temporary or permanent physical disability that prevents travel to the meeting location by the Commissioner.
- d. **Medical condition of a family member of a Commissioner** is limited to those situations in which the family member's medical condition requires the Commissioner to provide care for the family member and thus prevents the Commissioner from physically attending the meeting.
- e. **Quorum** Four members of the Commission physically assembled in one location shall constitute a quorum for a Commission Meeting. For purposes of determining whether a quorum is physically assembled, a Commissioner who uses remote participation counts toward the quorum as if they were physically present if the Commissioner is (i) a Caregiver, or (ii) a person with a disability as defined in Va. Code § 51.5-40.1.

3.0 <u>Guiding Principles for Individual Commissioners to Participate Remotely in</u> <u>HRSD Public Meetings when a Quorum is Physically Present</u>

- a. Commissioners shall make every effort to physically attend every meeting of the Commission. However, the Commission desires to adopt this policy to allow for Commissioners to participate remotely in those circumstances recognized under Va. Code § 2.2-3708.3(B) when physical attendance is not reasonably possible.
- b. When a Commissioner participates remotely in an HRSD Public Meeting, the Commissioner shall avoid using a mobile device while driving.

3.1 <u>Procedures for an Individual Commissioner to Participate Remotely in an</u> HRSD Public Meeting

a. In order to permit a Commissioner to participate in an HRSD Public Meeting by electronic means, a quorum must be physically assembled at the noticed meeting location. Arrangements also must be made for the voice of the remote participant to be heard by all persons at the noticed meeting location.

Remote Participation



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b. In advance of a properly noticed HRSD Public Meeting, a Commissioner who is unable to attend shall notify the Chair of the Commission or the Committee one of the following reasons the Commissioner cannot attend:

- (1) the Commissioner has a physical disability or medical condition that prevents the Commissioner from physically attending the meeting;
- (2) the Commissioner is a person with a disability as defined in Va. Code § <u>51.5-40.1</u> and the disability prevents the member's physical attendance;
- (3) a family member of the Commissioner has a medical condition that requires the Commissioner to provide care for the family member and prevents the Commissioner from attending the meeting;
- (4) the Commissioner is a Caregiver who must provide care for a person with a disability at the time the HRSD Public Meeting is being held;
- (5) the Commissioner's principal residence is located more than 60 miles from the meeting location identified in the required notice for the meeting and the Commissioner accordingly desires to participate remotely; or
- (6) the Commissioner has a personal matter which prevents the Commissioner from attending the meeting. The Commissioner shall identify with specificity the nature of the personal reason the Commissioner cannot attend.
 - (a) Remote participation due to a personal matter is limited to three (3) meetings per Commissioner per calendar year out of the twelve (12) required meetings of the Commission held each calendar year.
 - (b) Remote participation in a Committee meeting for personal reasons is limited to two (2) meetings per calendar year.
- c. The specific reason that the Commissioner is unable to attend the meeting and the remote location from which the Commissioner participates will be recorded in the meeting minutes. The remote location does not need to be open to the public and it may be identified in the minutes by a general description.
- d. Individual participation from a remote location must be approved by majority vote of a quorum of the Commissioners physically assembled at the noticed meeting location. If the HRSD Commission votes to disapprove of a Commissioner's participation from a remote location

Remote Participation



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because such participation would violate this policy, such disapproval will be recorded in the minutes with specificity.

4.0 Guiding Principles for All-Virtual HRSD Public Meetings

The Commission desires that whenever possible all HRSD Public Meetings should be conducted in person in accordance with FOIA and all laws and regulations governing open public meetings. However, the Commission recognizes that certain circumstances may arise where it is in the best interest of the Commission that an all-virtual meeting be held. This policy recognizes in accordance with Va. Code § 2.2-3708.2 when all virtual meetings may be held due to a declared emergency. Additionally, the Commission has determined that it would be in its the best interest to adopt a policy pursuant to Va. Code § 2.2-3708.3(D) to allow for all-virtual HRSD Public Meetings in accordance with Va. Code § 2.2-3708.3(C).

4.1 <u>Procedures for All-Virtual HRSD Public Meetings When There is a Declared Emergency</u>

- a. The Commission may meet by electronic communication means without a quorum physically assembled at one location when the Governor has declared a state of emergency in accordance with Va. Code § 44-146.17, or the locality in which the Commission is located has declared a local state of emergency pursuant to Va. Code § 44-146.21, provided:
 - (1) The catastrophic nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location; and
 - (2) The purpose of the meeting is to provide for the continuity of operations of the Commission or the discharge of its lawful purposes, duties, and responsibilities.
- b. If it holds a meeting pursuant to this section, the Commission shall:
 - Give public notice using the best available method given the nature of the emergency contemporaneously with the notice provided Commissioners;
 - (2) Make arrangements for public access to the meeting through electronic communications means, including videoconferencing if already used by the Commission; and





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(3) Provide the public with the opportunity to comment at those meetings when public comment is customarily received.

c. For any meeting conducted pursuant to this section, the nature of the emergency, the fact that the meeting was held by electronic communication means, and the type of electronic communication means by which the meeting was held shall be stated in the minutes of the meeting.

4.2 <u>Procedures for All-Virtual HRSD Public Meetings When There is No</u> Declared Emergency

- a. In order to hold an all-virtual HRSD Public Meeting when there is no declared emergency, the following procedures must be followed:
 - (1) The required meeting notice for the HRSD Public Meeting will indicate that the meeting will be an all-virtual meeting and contain a statement notifying the public that this all-virtual meeting method shall not be changed unless HRSD provides a new meeting notice in accordance with the provisions of Va. Code § 2.2-3707;
 - (2) Public access to the all-virtual public meeting is provided via electronic communication means;
 - (3) The electronic communication means used allows the public to hear respectively all Commissioners participating in the all-virtual public meeting and, when audio-visual technology is available, to see Commissioners as well. When audio-visual technology is available, a Commissioner shall, for purposes of a quorum, be considered absent from any portion of the meeting during which visual communication with the member is voluntarily disconnected or otherwise fails or during which audio communication involuntarily fails;
 - (4) A phone number or other live contact information is provided to alert the Commission if the audio or video transmission of the meeting provided by HRSD fails. HRSD must monitor such designated means of communication during the meeting, and the HRSD Public Meeting, as appropriate, shall take a recess until public access is restored if the transmission fails for the public;
 - (5) A copy of the proposed agenda and all agenda packets and, unless exempt, all materials furnished to the Commissioners for the HRSD Public Meeting is made available to the public in electronic format

Remote Participation



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at the same time that such materials are provided to the Commissioners:

- (6) The public is afforded the opportunity to comment through electronic means, including by way of written comments, at those public meetings when public comment is customarily received;
- (7) No more than two members of the Commission are together in any one remote location unless that remote location is open to the public to physically access it;
- (8) If a closed session is held during an all-virtual public HRSD Public Meeting, transmission of the meeting to the public resumes before the Commissioners vote to certify the closed meeting as required by subsection D of Va. Code § 2.2-3712;
 - (a) Limitation on virtual HRSD Public Meetings.
 - (1) Commission Meetings. The Commission shall not convene an all-virtual public Commission meeting (i) more than six (6) times per calendar year based on a schedule of twelve (12) meetings per calendar year, or 50% of the Commission meetings held per calendar year, whichever is fewer; or (ii) consecutively with another all-virtual HRSD Commission Meeting.
 - (2) Committee or Sub-Committee Meetings.

 Committees or Sub-Committees of the Commission shall not convene an all-virtual public meeting (i) more than 50% of the number of those meetings per calendar year, or (ii) consecutively with another all-virtual public meeting of the Committee or Sub-Committee: and
 - (b) Minutes of all-virtual HRSD Public Meetings held by electronic communication means are taken as required by Va. Code § 2.2-3707 and include the fact that the meeting was held by electronic communication means and the type of electronic communication means by which the meeting was held. If the participation of a Commissioner from a remote location pursuant to this subsection is disapproved because such participation would violate this policy, such disapproval shall be recorded in the minutes with specificity.

Remote Participation



First Adopted:

July 28, 2015

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5.0 Responsibility and Authority

In accordance with Va. Code § 2.2-3708.3(D) this policy must be reviewed and adopted annually. Accordingly, the O&N Committee shall review this policy annually for presentation to and adoption by the Commission.

Approved:

Stephen C. Rodriguez

Commission Chairman

Date

Attest:

Jennifer L. Cascio

Commission Secretary

Commission Seal

HRSD Commission Meeting Minutes June 25, 2024 Attachment #10

24. Informational Items

- a. Management Reports
 - (1) General Manager
 - (2) <u>Communications</u>
 - (3) Engineering
 - (4) Finance
 - (5) <u>Information Technology</u>
 - (6) Operations
 - (7) <u>Talent Management</u>
 - (8) Water Quality
 - (9) Report of Internal Audit Activities
 - (10) Internal Audit Accounts Payable and ProCards
- b. Strategic Measures Summary
- c. <u>Emergency Declaration Atlantic Treatment Plant Odor and Solids</u> <u>Improvements</u>



June 11, 2024

Re: General Manager's Report



Environmental Responsibility

There were 18 odor complaints reported for the Atlantic Treatment Plant. Staff continue to investigate every odor complaint and make repairs as needed. A citizen petition requesting that HRSD fix the odors immediately was sent to the Virginia Beach City Council. We have been working with the Ocean Lakes Civic League to provide updates on the ongoing \$75 million Reliability and Odor Control Improvements (ROCI) capital improvement project. In addition, we have a tour and briefing scheduled for Virginia Beach Vice Mayor Rosemary Wilson on July 1.

On May 2, our contractors successfully horizontally directionally drilled 5,700 feet under the James River channel. This is part of the 31,000-foot force main that will divert flow from Boat Harbor to Nansemond Treatment Plant.

We are happy to report that the northern long-eared bat, which is a threatened and endangered species, is not present in our proposed SWIFT construction zones.

There were multiple events reported this month. Additional details are available in the Air and Effluent Summary in the Water Quality (WQ) monthly report.

Treatment Compliance and System Operations:

- From Fiscal Year (FY) 2024 to date, there have been six Permit Exceedances out of 51,816 Total Possible Exceedances.
- Pounds of Pollutants Removed in FY 2024 to date: 173.9 million pounds.

Water Quality: Enforcement Orders were issued to U.S. Amines in April and May 2024, \$5,000 and \$3,000 respectively, for several technical permit limit exceedance violations and one

administrative violation. More details are provided in the Pretreatment and Pollution Prevention (P3) Program highlights.



Financial Stewardship

We were delighted to see the approved State budget included \$400 million in Water Quality Improvement Fund grants, where HRSD is slated to receive 78% or \$312 million.

PO Box 5911, Virginia Beach, VA 23471-0911 • 757.460.7003

Staff did a great job on the recent refunding and the market was in our favor. The Present Value savings was almost \$3.8 million and we eliminated the Senior Trust agreement. The Subordinate Trust agreement will now be our senior lien. In June, staff will present changes to the Trust Agreement reflecting such changes.

Staff closed on an \$80 million Clean Water Revolving Loan Fund at the end of May. The rate was locked at 2.2% for 20 years, which will save ratepayers \$11 million compared to market rates.



Talent

Staffing continues to remain strong as we are at 96% staffing level with our fiscal year to date turnover at 6.1% with retirements and 3.9% without.

Talent Management has been busy during open enrollment and compensation study briefings. Several meetings have been held to review all changes with staff.

I participated in the following meetings/activities with HRSD personnel:

- 1. Held quarterly staff meeting with Directors and Chiefs.
- 2. Participated in the Small Communities Vision workshop.
- 3. Met with the new Chief of Digital Water.
- 4. Participated in the Renewable Natural Gas interviews.



Community Engagement

Norfolk's City Council unanimously approved the Lambert's Point lease at their May 14 meeting. HRSD installed signs on our property highlighting HRSD's SWIFT program.

In an effort to engage the community surrounding the Atlantic Treatment Plant, we created a Community Odor Task Force. This group includes about a dozen community members that will share input and ideas.

Staff is preparing to transition to a new legislative requirement effective July 1, suspending disconnection activities when the forecasted temperature is 92 degrees or higher within a 24-hour

period of scheduled disconnection.

Work continues on the Town of Smithfield's conversion to Model 3 where the Locality uses HRSD's CC&B software as their billing system.

I participated in the following external meetings/activities:

- 1. Attended the monthly Directors of Utilities meeting.
- 2. Discussed legislative partnering strategy with the Hampton Roads Planning District Commission (HRPDC).
- 3. Met with the HDR Executive team to discuss their performance and industry topics.
- 4. Participated in NACWA's Region 3 Executive dialogue and discussed HRSD's workforce initiatives.
- 5. Attended the quarterly Potomac Aquifer Recharge Oversight Committee (PAROC) meeting.
- 6. Attended the monthly HRPDC meeting as the new PFAS regulations were on the agenda.
- 7. Met with City of Norfolk's Deputy City Manager, Doug Beaver, about Lambert's Point.
- 8. Attended the Chesapeake Bay Foundation's Decision Makers Boat Tour, which included Delegate Simonds, Anthony, Askew and Hernandez and Senator Diggs.
- 9. Attended the Mission H2O Annual Meeting.
- 10. Discussed strategy with Bob McNabb, CEO Peninsula Chamber of Commerce.
- 11. Attended the WEF Innovations conference.



After conducting research, staff plans to purchase a drone that will help with several applications including remote site inspections and surveys.

Building Information Modeling (BIM) is a tool to help manage a built asset. This is becoming an essential tool for asset management and HRSD is becoming an industry leader in this space.

The Small Communities Division and Electrical and Instrumentation are working on a system to allow remote monitoring on the Mathews County Vacuum Sewer System. This will allow staff to efficiently manage this system.

The Surface Pro rollout is continuing to go smoothly and is expected to be completed in July.

I look forward to seeing you in person in Virginia Beach at 9:00 a.m. on Tuesday, June 25, 2024.

Respectfully submitted,

Jay Bernas, P.E. General Manager TO: General Manager

FROM: **Director of Communications**

SUBJECT: Monthly Report for May 2024

DATE: June 11, 2024

Publicity and Promotion A.

- HRSD and Sustainable Water Initiative For Tomorrow (SWIFT) were mentioned or 1. featured in six stories this month. Topics included:
 - a. Climate Change and costs to National Security (references SWIFT)
 - Inflation, supply issues doubles Middlesex Project projected costs b.
 - HRSD bond ratings C.
- 2. Analysis of Media Coverage
 - a. Key results for May

Mentions

Compared to last period

Total Potential News Reach

Compared to last period

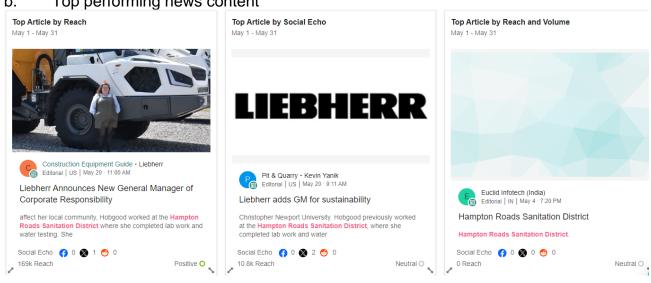
Sentiment

Compared to last period

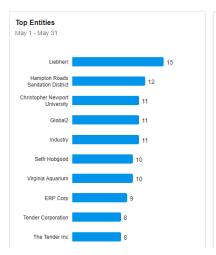
23.5M Previous Value 25.3M



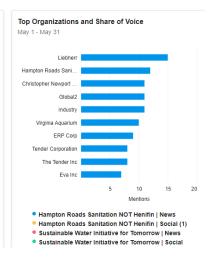
Top performing news content b.



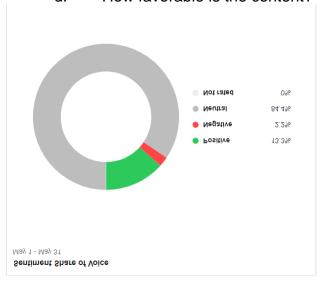
c. Top entities and keywords

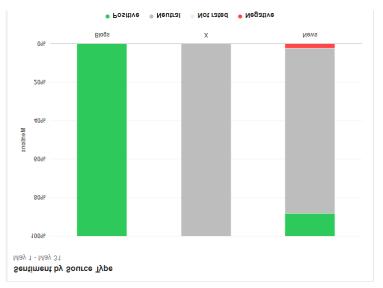




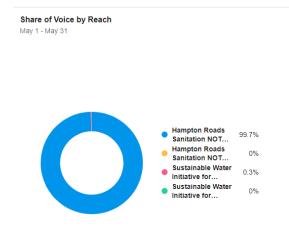


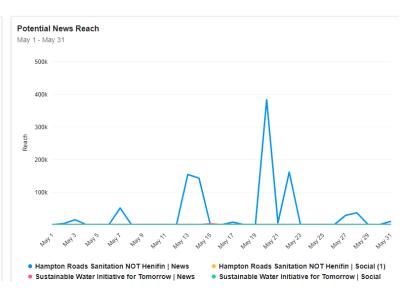
d. How favorable is the content?



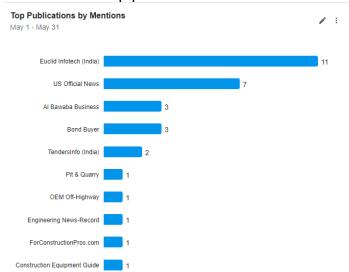


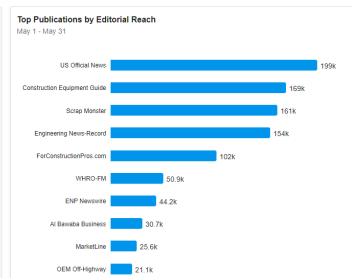
e. What is the potential reach?





f. Top publishers



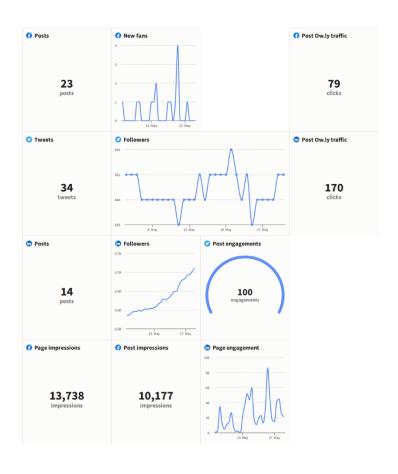




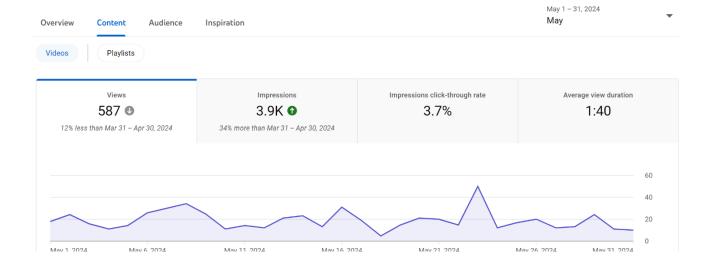
Community Engagement

B. Social Media and Online Engagement

1. Metrics – Facebook, X and LinkedIn

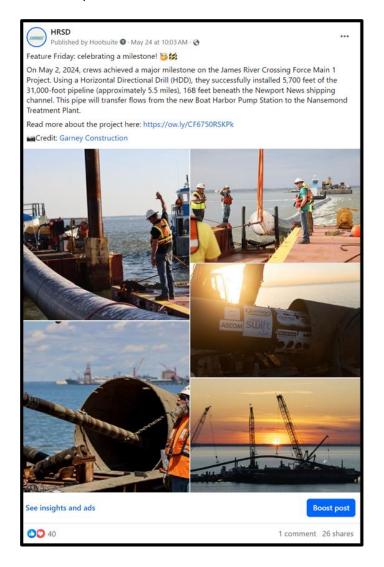


2. YouTube



3. Top posts on Facebook, Twitter, and YouTube

a. Top Facebook post



b. Top Tweet



- c. Top YouTube Videos (based on views in the month)
 - (1) The Wastewater Treatment Process
 - (2) National Infrastructure Week: JRTP
 - (3) HRSD Atlantic Treatment Plant Cambi THP Tour
 - (4) HRSD Employee Testimonials Robert
 - (5) SWIFT Research Center: What Is the Potomac Aquifer
- 4. Website and Social Media Impressions and Visits
 - a. Facebook:
 - (1) 13,738 page impressions
 - (2) 10,177 post impressions reaching 9,510 users.

- (3) Facebook Engagement of 345 (298 reactions, 41 shares, and 6 comments)
- b. X: 1,667 post impressions, 4.0% engagement rate
- c. HRSD.com/SWIFTVA.com: 981 page visits
- d. LinkedIn Impressions:
 - (1) 25,399 page impressions
 - (2) 24,983 post impressions
- e. YouTube: 587 views
- f. Next Door unique impressions: 53,509 post impressions from 16 targeted neighborhood postings and one regionally shared post with 679,232 total residents
- g. Blog Posts (1): On The Scene of a 31,000-ft Pipe Installation Under the James River
- h. Construction Project Page Visits 2,282 total visits (not including direct visits from home page, broken down as follows:
 - (1) 1,968 visits to individual pages
 - (2) 314 to the status page

C. <u>Education and Outreach Activity Highlights</u>

Community Outreach and Education Specialists and HRSD Ambassadors provided and participated in seven different outreach events this month. Community partners included Chesapeake Public Schools, Norfolk City Public Schools, Hampton City Schools, and Mathews County.

Project notices were distributed to 619 customers for nine different projects across the service area this month. The department distributed and posted nine construction or work notices to the HRSD.com Newsroom.

Director and staff met with marketing and education staff at the Virginia Aquarium to identify opportunities for education collaboration through partnered events and potential sites within the museum to establish interactive HRSD learning exhibits that show the value HRSD brings to the region and its direct impact on aquatic life and health.

The Director coordinated a pre-conference SWIFT tour for NACWA Strategic Communications Conference attendees. HRSD staff and Director also finalized panel presentations and other conference details ahead of the June 4-6 event.

D. Internal Communications

Director participated in the following internal meetings and events:

- 1. Atlantic Treatment Plant Community Odor Taskforce planning meetings
- 2. Small Communities Vision workshop
- 3. Focus group participation for HRSD Mentoring Program
- 4. Rebranding meetings
- 5. Compensation Study change management and communications meeting with HRSD Leadership.
- 6. HRSD Security Team meeting
- 7. SWIFT Community Commitment Plan steering committee meeting
- 8. Bi-weekly General Manager (GM) briefings
- Discharge Monitoring Report (DMR), SWIFT Quality Steering Team (QST), and HRSD QST meetings
- 10. Check-in meetings with Deputy General Manager (DGM)
- 11. Monthly collaboration meeting with Director of Talent Management
- 12. Director also conducted biweekly Communications department status meetings and weekly one-on-one check-in meetings.
- 13. Staff participated in 17 project progress and/or construction meetings and communication planning meetings with various project managers, plant staff and external stakeholders.



Talent

The Communications department is currently fully staffed. Professional development activities and pursuits for May included the following:

- South Shore Public Information Specialist was accepted as a member of the next LEAD Williamsburg class
- Community educators participated in Emergency Response Training offered by HRSD safety
- Director attended a webinar, "Essential Ethics Competencies in PR"

Respectfully,

Leila Rice, APR
Director of Communications

TO: General Manager

FROM: Director of Engineering

SUBJECT: Engineering Monthly Report for May 2024

DATE: June 10, 2024



Environmental Responsibility

Due to the size and potential impacts of the SWIFT Program construction efforts, the U.S. Fish & Wildlife Service has required HRSD perform a survey of possible northern long-eared bats in the region. The northern long-eared bat is a threatened and endangered species, and a determination is needed to verify if a population exists within our area of work. A protocol for surveying the bat population was recently approved and subsequent field work determined that this species was not present in the proposed construction zones.

The project necessary to address the damage to an existing force main in Chesapeake has reached a new milestone. The Great Bridge Interceptor Force Main Emergency Replacement project will replace a buried pipe located under the Elizabeth River at the Great Bridge Locks. This pipe was damaged due to a vessel impacting the pipe with an anchoring device known as a spud. Final negotiations are underway for an access agreement with the U.S. Army Corps of Engineers and HRSD. Property acquisition also continues to acquire land necessary to connect the pipe on either side of the river. Construction for this project will begin later this year.



Financial Stewardship

Capital Improvement Program (CIP) spending for the tenth month of FY 2024 was above the planned spending target.

CIP Spending (\$M):

	Current Period	FYTD
Actual	54.24	472.51
Plan	49.60	481.90

The WQIF Grant Agreement for the Eastern Shore Transmission Force Main was approved by the Commission in February, approved by VDEQ in March and payment for this work was received in May. The final grant agreement was for \$4,936,538.



The Engineering Department has had several recent promotions and retirements that affect staffing levels. Open positions include Chief of Design & Construction – South Shore, Project Manager, Engineering Specialist and Contract Specialist. Laura Kirkwood has been selected as the new Chief of Design & Construction – South Shore. Laura has served in several roles in the Engineering Department and her knowledge and experience will be very valuable in this new assignment. Interviews have been held for the Contract Specialist position and this opening should be filled in June. The other two positions will be advertised later this Summer once the new pay scale has been published.

The Asset Management Division is welcoming several new staff members from the Operations Department. These new team members include:

Ray Holmes: Coatings, Concrete, and Structural Superintendent

Calvin Morrisette: Coatings Inspector

Matt Miller: Coatings Inspector

JD Cobb: Condition Assessment Supervisor

Mark Ballew: Condition Assessment Superintendent

We are excited to have these individuals join the Engineering Department and will integrate their skills into the Asset Management Division.



Community Engagement

A significant public information and engagement effort is underway to address odors at the Atlantic Treatment Plant. In addition to our information/outreach efforts, we have formed the Atlantic Treatment Plant Community Odor Task Force. The task force has been asked to assist HRSD with identifying nuisance odors, share input and ideas, and to evaluate long-term solutions for odor control at the Atlantic Treatment Plant. The task force includes about one dozen individuals who reside in the area. A kickoff meeting was held on May 22nd and the group created a mission statement and information about the plant and the proposed project was reviewed. Several tasks and activities are planned over the next few months. This task force is led by a consultant not directly involved with the project.

HRSD continues to participate with the Former Naval Ordinance Depot (FNOD) Restoration Advisory Board (RAB). This group includes individuals who reflect the diverse interests of groups located in the North Suffolk Area (including the Nansemond Treatment Plant). The RAB reviews the progress and participates in dialogue with government decision makers, including the U.S. Army Corps of Engineers (USACE), the Department of the Army, the United States Environmental Protection Agency (USEPA), and the Virginia Department of Environmental Quality (VDEQ) about the environmental restoration activities at FNOD. The RAB solicits input on the restoration process from community members and provides feedback to the USACE on the best ways to disseminate information to the public.



Engineering Department Staff have researched options related to the use of aerial drones. Several beneficial applications have been determined including remote site inspections and surveys. HRSD plans to purchase a drone in the coming year and will be addressing such issues as licensure, insurance and privacy concerns.

Building Information Modeling (BIM) continues to grow in popularity across the country as more public sector organizations find value in the use of this tool. BIM is the holistic process of creating and managing information for a built asset. Based on an intelligent model and enabled by a cloud platform, BIM integrates structured, multi-disciplinary data to produce a digital representation of an asset across its lifecycle, from planning and design to construction and operations. BIM is typically built on CAD information and has numerous benefits including visualization of complex drawings, connection with project costs and schedules, and the ability to link databases to the visual information to assist with operation and maintenance activities once the asset is put into place. HRSD is becoming an industry leader in the use of BIM and the standards we are using have been offered to others as they begin to use BIM.

Bruce W. Husselbee

Bruce W. Husselbee, PhD, P.E., BCEE, DBIA

TO: General Manager

FROM: Director of Finance

SUBJECT: Monthly Report for May 2024

DATE: June 11, 2024



Financial Stewardship

On May 7, staff conducted a successful sale of the Wastewater Revenue Bonds, Refunding Series 2024A (the 2024A Bonds). The bond sale will lower debt service on HRSD's outstanding debt, and create a net present value savings totaling \$3.767 million, or 3.0% of the refunded principal amount. Importantly, the refunding also reduced the risk to HRSD associated with the federal subsidy payments on the bonds that were refunded.

With this refunding, all debt under HRSD's senior lien was fully discharged and canceled. This discharge of the senior lien debt allowed the 2024A Bonds to be sold at a lower interest rate. Staff also anticipate future bond sales in the capital markets will also benefit from this change. The discharge of the senior lien will also help streamline and simplify the ongoing debt compliance and reporting processes.

The bonds were sold via a negotiated sale with Wells Fargo Bank, N.A. as the senior managing underwriter. There was very strong demand for HRSD's bonds, with orders from 32 separate investor accounts. The strong demand allowed HRSD to improve (lower) the interest rate on the 2024A Bonds following the initial order period.

Staff presented a revised Fiscal Year (FY) 2025 Annual Budget and 10-year Capital Improvement Plan to the Commission that incorporated increases in projected state funding from the Water Quality Improvement Fund (WQIF) and savings associated with the bond refunding.

Staff closed on the next Clean Water Revolving Loan Program. This program will provide \$80 million in funding for the capital program.

The accompanying Interim Financial Report indicates that most revenues and expenses are in line with budgetary expectations. Earnings on investments are far exceeding conservative budget estimates. May's monthly yield, year over year, increased from 5.15% to 5.44% and positive market adjustments on long-term investments also contribute to investment earnings.

Past due accounts receivable declined slightly during May 2024, most notably in the 61-90 days bucket.

The Debt Solutions team has been actively conducting an outbound call program, advising customers of pending disconnection, promoting available financial assistance, and reviewing pay plan options. Staff are also reviewing the past due account process flow and exploring collection options for non-severance accounts. Data analysis will be continuous to evaluate best practices and long-term forecasts.

Field staff delivered 3,765 warning door tags and disconnected water service to 1,439 accounts during May 2024.

Staff is preparing to transition to a new legislative requirement effective July 1, suspending disconnection activities when the forecasted temperature is 92 degrees or higher within a 24-hour period of scheduled disconnection.

A. <u>Interim Financial Report</u>

1. Operating Budget for the Period Ended May 31, 2024.

					Current YTD as	D: V=D
					% of Budget	Prior YTD as
		Amended			(92% Budget to	% of Prior
		Budget		Current YTD	Date)	Year Budget
Operating Revenues	_	_	-	_		_
Wastewater	\$	405,832,000	\$	375,482,278	93%	93%
Surcharge		1,600,000		1,399,052	87%	82%
Indirect Discharge		4,400,000		4,203,689	96%	126%
Fees		2,894,000		3,425,692	118%	107%
Municipal Assistance		800,000		1,043,017	130%	74%
Miscellaneous		1,295,000		1,640,314	. 127%	123%
Total Operating Revenue		416,821,000		387,194,042	93%	93%
Non Operating Revenues			_			
Facility Charge		6,095,000		6,453,660	106%	92%
Interest Income		3,000,000		12,295,029	410%	361%
Build America Bond Subsidy		1,954,000		1,953,615	100%	100%
Other		620,000		493,084	80%	450%
Total Non Operating Revenue		11,669,000	_	21,195,388	182%	142%
Total Revenues		428,490,000		408,389,430	95%	94%
Transfers from Reserves		17,120,789		15,694,057	92%	92%
Total Revenues and Transfers	\$	445,610,789	\$	424,083,487	95%	94%
Operating Expenses						
Operating Expenses Personal Services	\$	70,450,193	\$	65,240,081	93%	92%
Fringe Benefits	φ	28,487,963	φ	25,830,740	93% 91%	92% 91%
Fringe Benefits Materials & Supplies		28,487,963 16,073,465		25,830,740 12,096,348	91% 75%	91% 80%
Transportation		2,003,573		1,606,019	75% 80%	75%
Utilities		2,003,573 16,843,498		16,314,295	97%	75% 96%
Chemical Purchases		15,843,498		13,876,186	97% 78%	96% 93%
Contractual Services						
Major Repairs		53,541,285 13,696,912		35,911,072 5,942,670	67% 43%	62% 59%
					43% 41%	59% 38%
Capital Assets		1,258,970		511,685 3,030,516	41% 77%	
Miscellaneous Expense		3,938,563		3,030,516	. 77% 81%	72% 80%
Total Operating Expenses		223,983,419		180,359,612	O 1 70	OU70
Debt Service and Transfers						
Debt Service		76,150,000		73,338,663	96%	95%
Transfer to CIP		145,217,370		133,115,923	92%	100%
Transfer to Risk management		260,000		238,337	92%	92%
Total Debt Service and Transfers		221,627,370		206,692,923	93%	98%
Total Expenses and Transfers	\$	445,610,789	\$	387,052,535	. 87%	89%

2. Notes to Interim Financial Report

The Interim Financial Report summarizes the results of HRSD's operations on a basis of accounting that differs from generally accepted accounting principles. Revenues are recorded on an accrual basis, whereby they are recognized when billed, and expenses are generally recorded on a cash basis. No provision is made for non-cash items such as depreciation and bad debt expense.

This interim report does not reflect financial activity for capital projects contained in HRSD's Capital Improvement Project (CIP).

Transfers represent certain budgetary policy designations as follows:

- a. Transfer to CIP: represents current period's cash and investments that are designated to partially fund HRSD's capital improvement program.
- b. Transfers to Reserves: represents the current period's cash and investments that have been set aside to meet HRSD's cash and investments policy objectives.
- 3. Reserves and Capital Resources (Cash and Investments Activity) for the Period Ended May 31, 2024.

HRSD - RESERVE AND CAPITAL ACTIVITY

May 31, 2024

	General	Res	erve				Сар	ital	
	General	C	ARES - ARPA	Debt Service	Ri	sk Mgmt Reserve	Paygo	D	ebt Proceeds
	Unrestricted		Restricted	Restricted		Unrestricted	Unrestricted		Restricted
Beginning - July 1, 2023	\$ 203,718,301	\$	4,406	\$ 33,830,226	\$	4,539,551	\$ 3,115,384	\$	-
Current Year Sources of Funds									
Current Receipts	421,358,565								
Line of Credit									31,420,145
VRA Draws WIFIA Draws									59,520,175 302,158,146
Transfers In						238,337	133,115,923		302, 130, 140
Sources of Funds	421,358,565		-	-		238,337	133,115,923		393,098,466
Total Funds Available	\$ 625,076,866	\$	4,406	\$ 33,830,226	\$	4,777,888	\$ 136,231,307	\$	393,098,466
Current Year Uses of Funds									
Cash Disbursements	261,992,364						105,503,038		393,098,466
CARES Transfer Out			4,406						
Transfers Out	 133,354,260								
Uses of Funds	 395,346,624		4,406	-		-	105,503,038		393,098,466
End of Period - May 31, 2024	\$ 229,730,242	\$	-	\$ 33,830,226	\$	4,777,888	\$ 30,728,269	\$	-

Unrestricted Funds \$ 265,236,399

4. Capital Improvements Budget and Activity Summary for Active Projects for the Period Ended May 31, 2024.

HRSD - PROJEC	TΑ	NALYSIS						Ma	ay 31, 2024		
Classification/ Treatment Service Area	Α	ppropriated Funds	Expenditures prior to 7/1/2023	Year to		Ex	Total Project penditures	En	cumbrances	A	vailable Funds
Administration	\$	71,284,950	\$ 25,407,455	\$	6,423,034	\$	31,830,489	\$	3,726,704	\$	35,727,757
Army Base		167,458,058	125,866,880		316,546		126,183,426		505,393		40,769,239
Atlantic		238,176,729	81,665,064		9,553,282		91,218,346		14,673,824		132,284,559
Boat Harbor		508,039,124	75,596,057		112,694,913		188,290,970		241,034,570		78,713,584
Ches-Eliz		87,859,516	34,995,850		542,321		35,538,171		1,335,882		50,985,463
Eastern Shore		65,012,749	26,927,768		12,641,017		39,568,785		6,457,342		18,986,622
James River		377,728,708	104,382,910		83,443,416		187,826,326		148,063,385		41,838,997
Middle Peninsula		98,206,116	23,493,172		6,084,639		29,577,811		6,152,443		62,475,862
Nansemond		488,559,100	83,702,138		103,690,429		187,392,567		224,040,142		77,126,391
Surry		60,391,465	41,079,533		3,047,007		44,126,540		8,554,905		7,710,020
VIP		250,660,629	34,150,127		30,086,105		64,236,232		84,177,831		102,246,566
Williamsburg		83,022,019	21,441,839		867,380		22,309,219		5,746,421		54,966,379
York River		117,618,863	21,027,494		23,935,674		44,963,168		42,929,041		29,726,654
General		1,549,688,626	201,364,418		126,279,331		327,643,749		872,345,712		349,699,165
Total	\$	4,163,706,652	\$ 901,100,705	\$	519,605,094	\$	1,420,705,799	\$	1,659,743,595	\$	1,083,257,258

5. Active Capital Grants

Active Capital Grants Activities						
Grant Name	Funder	Project	CIP#	Application Submitted	Amount equested	HRSE Award Amou
American Rescue Plan Act	VDEQ	Eastern Shore Infrastructure Improvements - TFM Phase I (Accomac) James River Treatment Plant	ES010100	11/28/2022	\$ 8,367,000	\$ 4,183,
American Rescue Plan Act	VDEQ	Advanced Nutrient Reduction Improvements	JR013400	10/7/2022	\$ 50,000,000	\$ 36,124,8
American Rescue Plan Act	VDEQ	Nansemond Treatment Plant Advanced Nutrient Reduction Improvements Phase II	NP013820	10/7/2022	\$ 50,000,000	\$ 31,693,2
FY2024 Congressionally Directed Funding, Warner/Kaine, Kiggans	CDF FY24	Eastern Shore Wastewater Improvements, Chincoteague	ES010500	3/7/2023	\$ 9,677,112	\$ 1,250,0
Nater Quality Improvement Fund, Conveyance	VDEQ	Chesapeake-Elizabeth Treatment Plant Conveyance	Multiple	2/7/2023	\$ 100,647,746	\$
Nater Quality Improvement Fund, Conveyance	VDEQ	Eastern Shore TFMPhase 1 and Nassawadox Treatment Plant Conveyance	ES010100, ES010900	5/2/2022	\$ 4,900,000	\$ 4,936,
Nater Quality Improvement Fund, Nutrient Reduction	VDEQ	James River SWIFT - Advanced Nutrient Reduction Improvements	JR013400	3/23/2023	\$ 344,741,547	\$
Nater Quality Improvement Fund, Nutrient Reduction	VDEQ	Boat Harbor Pump Station and Conveyance	Multiple	3/4/2024	\$ 311,286,392	\$
Vater Quality Improvement Fund, Nutrient Reduction	VDEQ	Nansemond Treatment Plant Advanced Nutrient Reduction Improvements Phase II	NP013820, GN016380	3/4/2024	\$ 127,657,505	\$
Building Resilient Infrastructure and Communities (BRIC)	VDEM-FEMA	Dozier's Corner Pump Station and	AT013000, AT015400	2/6/2024	\$ 18,988,629	\$
Y2024 Congressionally Directed funding, Warner/Kaine, Kiggans	CDF FY24	Onancock Treatment Plant Solids Handling Improvements	ES010800	3/21/2024	\$ 6,624,248	\$
climate Pollution Reduction Grant - nplementation	EPA	PdNA Implementation to Reduce GHG	AB011800	4/1/2024	\$ 59,540,142	\$
					\$ 1,092,430,321	\$ 78,188,

6. Debt Management Overview

HRSD - Debt Outstandir	ng (\$000's)								M	ay 31	, 2024		
	Apr 2024		May 2024										
	Principal				Princip	al A	ctivity			Pri	ncipal	l	nterest
	Balance	Во	ond Series 2024	Р	ayments		Draws	C	Capitalized Interest	Ва	lance	Pa	ayments
Fixed Rate													
Senior	\$ 125,400	\$	(125,400)	\$	-	\$	-			\$	-	\$	(2,903)
Subordinate	1,084,435		115,585		-		27,372		243	1,2	27,635		-
Variable Rate													
Subordinate	50,000				-		-				50,000		(153)
Line of Credit	100,000				-		-			1	00,000		(425)
Total	\$ 1,359,835	\$	(9,815)	\$	-	\$	27,372	\$	243	\$ 1,3	377,635	\$	(3,481)

HRSD- Series 2010	6VR Bond Analysis		
	_	HRSD Series	Spread to
	SIFMA Index	2016VR	SIFMA
Maximum	4.71%	4.95%	0.24%
Average	1.23%	0.86%	-0.37%
Minimum	0.01%	0.01%	0.00%
As of 5/31/24	3.36%	3.26%	-0.10%

Since October 20, 2011 HRSD has averaged 86 basis points on Variable Rate Debt

Subsidised Debt Activ	ity				
Source	Funder	Loan Amount	Current Drawn Total	% Remain	Initial Draw Date - Projected
WIFIA Tranche 1	EPA	\$ 225,865,648	\$ 198,733,472	12%	Ongoing
WIFIA Tranche 2	EPA	\$ 476,581,587	\$ 200,037,088	58%	Ongoing
WIFIA Tranche 3	EPA	\$ 346,069,223	\$ -	100%	July 2025
Clean Water Program 2022	DEQ	\$ 100,000,000	\$ 96,831,898	3%	Ongoing
Clean Water Program 2024	DEQ	\$ 80,000,000	\$ 71,168	100%	May 2024

7. Financial Performance Metrics for the Period Ended May 31, 2024.

HRSD - UNRESTRICTED CASH

Can be used for any purpose since it is not earmarked for a specific use and is extremely liquid

		Days Cash on	Adjusted Days
	_	Hand	Cash on Hand
Total Unrestricted Cash	\$ 265,236,399		432
Risk Management Reserve	\$ (4,777,888)	(8)	424
Capital (PAYGO only)	\$ (30,728,269)	(50)	374
Adjusted Days Cash on Hand	\$ 229,730,242		374

Risk Management Reserve as a % of Projected Claims Cost is 25% YTD compared to 25% Policy Minimum Adjusted Days Cash on Hand Policy Minimum is 270-365 days.

HRSD - SOURCES OF FUNDS						Ma	ay 31, 2024	
Primary Source	Beginning Market Value	YTD	YTD	YTD	Ending Market Value	Allocation of	Our die Ourelieu	Current Mo Avg
BOA Corp Disbursement Account	July 1, 2023 30,761,730	Contributions 817,757,098	Withdrawals 808,313,551	Income Earned 1,125,764	May 31, 2024 41,331,041	Funds 18.8%	Credit Quality N/A	Yield 0.55%
VIP Stable NAV Liquidity Pool Total Primary Source	129,511,237 \$ 160.272.967	60,000,000 \$ 877,757.098	20,000,000 \$ 828.313.551	8,485,218 9,610,982	177,996,455 \$ 219.327.496	81.2% 100.0%	AAAm	5.44%

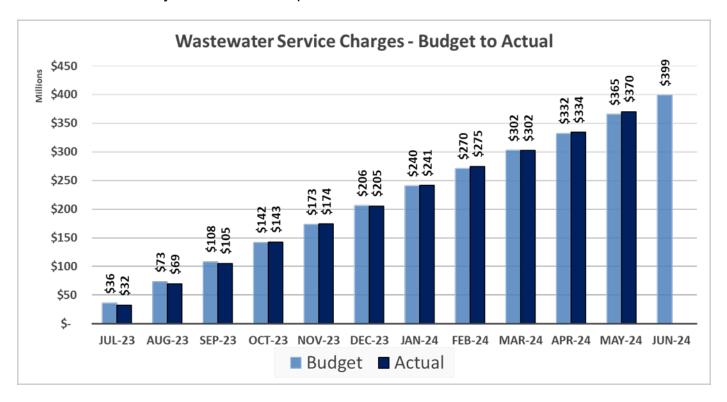
VIP Stable NAV Liquidity Pool performed 0.02% above Va Local Government Investment Pool's (the market benchmark) in the month of May 2024.

Secondary Source	Beginning			YTD	Ending			Yield to
	Market Value	YTD	YTD	Income Earned	Market Value		LTD	Maturity
	July 1, 2023	Contributions	Withdrawals	& Realized G/L	May 31, 2024	Ending Cost	Mkt Adj	at Market
VIP 1-3 Year High Quality Bond Fund	63,074,075	-	11,773	2,199,296	65,518,470	67,076,363	(1,557,893)	4.92%
Total Secondary Source	\$ 63,074,075	\$ -	\$ 11,773	\$ 2,199,296	65,518,470	\$ 67,076,363	\$ (1,557,893)	

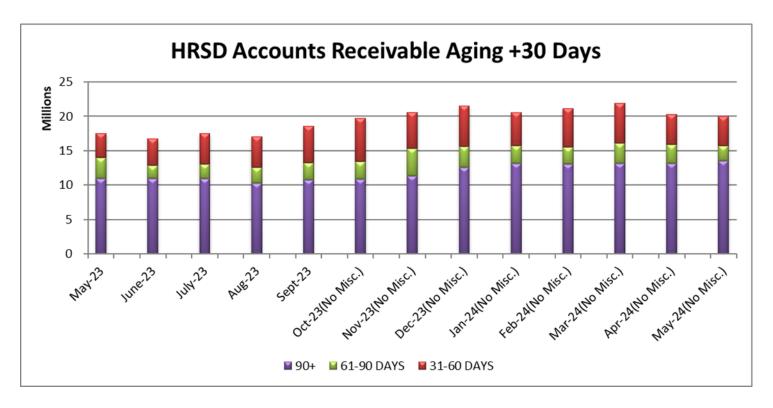
VIP 1-3 Year High Quality Bond Fund performed 0.02% below ICE BofA ML 1-3 yr AAA-AA Corp/Gov Index (the market benchmark) in May 2024.

	Total	Fund Alloc
Total Primary Source	\$ 219,327,496	77.0%
Total Secondary Source	\$ 65,518,470	23.0%
TOTAL SOURCES	\$ 284,845,966	100.0%

8. Summary of Billed Consumption

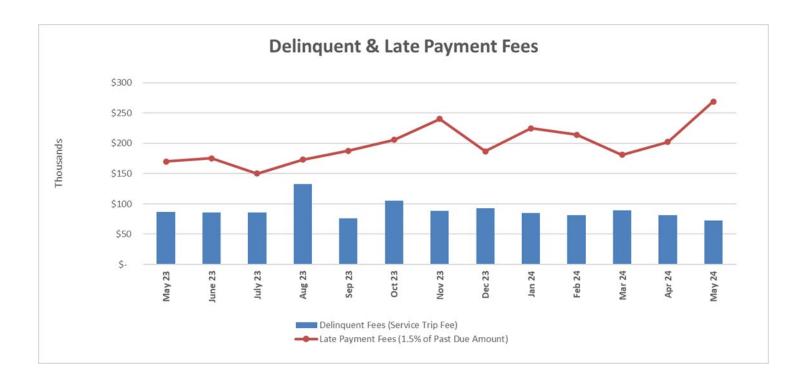


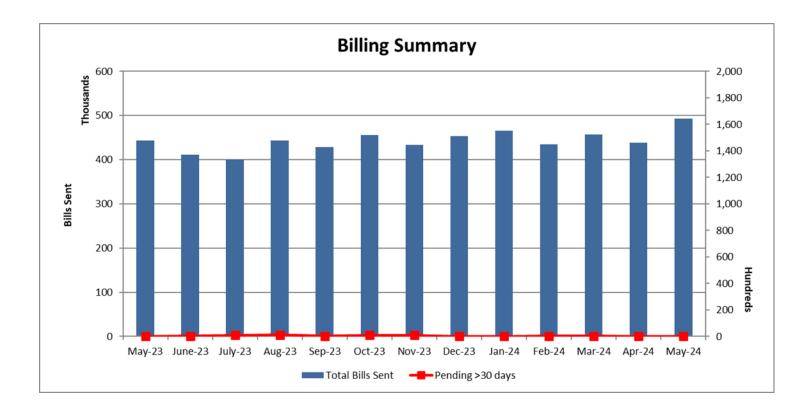
Summary of Billed Consumption (,000s ccf)											
			% Difference	е	% Differe	% Difference					
Month	FY2024 Cumulative Budget Estimate	FY2024 Cumulative Actual	From Budget	Cumulative FY2023 Actual	From FY2023	Cumulative 3 Year Average	From 3 Year Average				
July	4,678	4,504	-3.7%	4,682	-3.8%	4,803	-6.2%				
Aug	9,644	9,432	-2.2%	9,652	-2.3%	9,543	-1.2%				
Sept	14,196	13,965	-1.6%	14,208	-1.7%	14,297	-2.3%				
Oct	18,663	18,854	1.0%	18,680	0.9%	18,863	0.0%				
Nov	22,756	23,004	1.1%	22,777	1.0%	22,307	3.1%				
Dec	27,109	27,127	0.1%	27,133	0.0%	27,430	-1.1%				
Jan	31,641	31,819	0.6%	31,669	0.5%	32,004	-0.6%				
Feb	35,568	36,182	1.7%	35,601	1.6%	35,952	0.6%				
March	39,770	39,826	0.1%	39,807	0.0%	40,351	-1.3%				
Apr	43,694	44,054	0.8%	43,735	0.7%	44,473	-0.9%				
May	48,027	48,760	1.5%	48,072	1.4%	48,548	0.4%				
June	52,500	-	N/A	52,549	N/A	53,329	N/A				

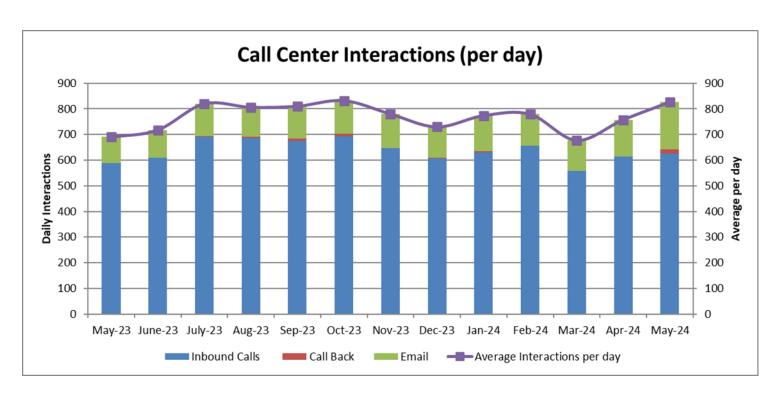


B. <u>Customer Care Center</u>

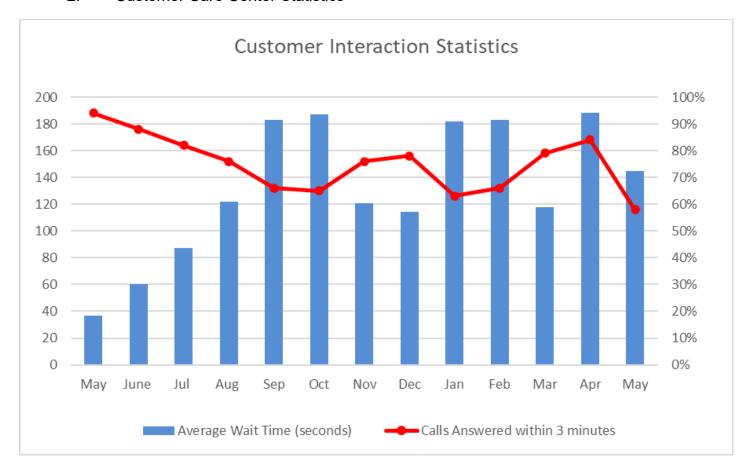
1. Accounts Receivable Overview



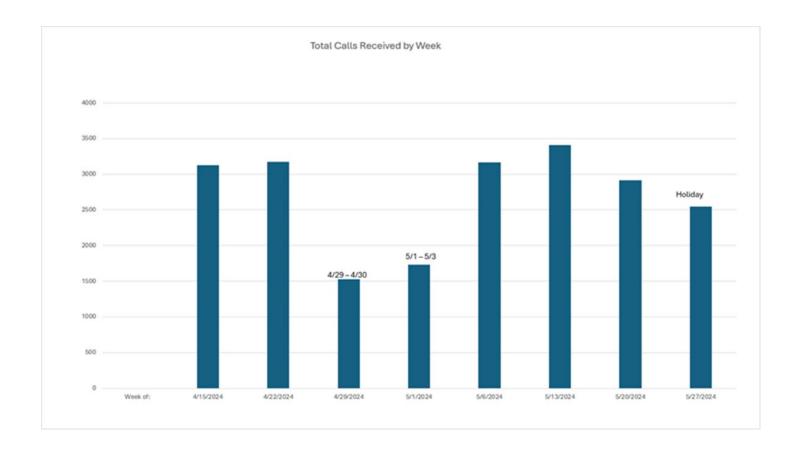




2. Customer Care Center Statistics



Customer Interaction Statistics	May	June	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May
Calls Answered within 3 minutes	94%	88%	82%	76%	66%	65%	76%	78%	63%	66%	79%	84%	58%
Average Wait Time (seconds)	37	60	87	122	183	187	121	114	182	183	118	188	145
Calls Abandoned	4%	5%	7%	8%	11%	12%	10%	9%	13%	12%	10%	8%	15%



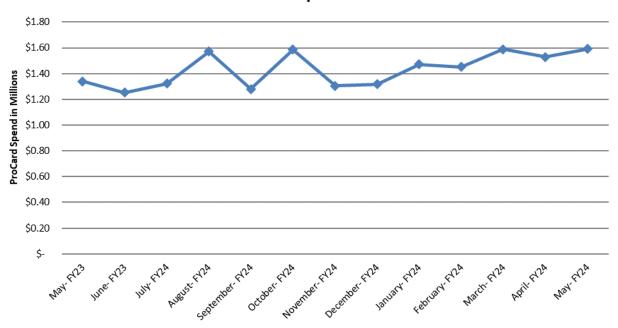
C. <u>Procurement Statistics</u>

Savings	Current Period	FYTD
Competitive Savings ¹	\$68,881	\$2,019,534
Negotiated Savings ²	\$29,733	\$100,330
Salvage Revenues	\$6,249	\$152,644
Corporate VISA Card - Estimated Rebate	\$23,693	\$238,623

¹ Competitive savings are those savings obtained through the informal/formal bidding process. All bids received (except for the lowest responsive/responsible bid) added together and averaged. The average cost is subtracted from the apparent low responsive/responsible bidder.

² Negotiated savings are savings obtained during a Request for Proposal process, or if all bids received exceed the budgeted amount, or if only one bid is received.

ProCard Spend FY24



Respectfully,

Steven G. de Mik

Steven G. de Mik Deputy General Manager/Chief Financial Officer TO: General Manager

FROM: Director of Information Technology

SUBJECT: Information Technology Department (ITD) Report for May 2024

DATE: June 11, 2024



The Surface Pro rollout continues as remaining work centers and stragglers receive their new Surfaces in exchange for their old ones. The rollout is expected to be complete in July.

The IT Help Desk processed 432 work orders and requests for assistance in May, ensuring availability of computing resources to those working locally and remotely.

Staff is working closely with Talent Management, Finance, and relevant thirds parties to ensure the July 1st transition of health coverage providers goes smoothly.

Work on the new customer service portal continues as staff tests user interfaces for online bill presentment, payment, and processing.

Multiple hardware and software upgrades are being performed to ensure HRSD staff continues to benefit from access to current and secure technology. Current platform upgrades include financials, engineering drawings, billing, and asset management, to name a few.



ITD staff is making necessary preparations for the Town of Smithfield's upcoming billing model conversion, while customer care representatives work with Smithfield staff on process and procedure changes associated with becoming a Model 3 jurisdiction (using HRSD's CC&B as their water and wastewater treatment billing system.)

Respectfully,

Don Corrado

TO: General Manager

FROM: Director of Operations

SUBJECT: Operations Monthly Report for May 2024

DATE: June 11, 2024



Community Engagement

Staff participated in several community events as follows:

- North Shore (NS) Interceptor Operations held an in-person meeting with the Town of Smithfield, the City of Suffolk, and Isle of Wight County on Wednesday, May 29 to discuss wastewater operations issues with department staff from these locality members. Topics included current planning/development, organizational and operational initiatives, and on-going coordination of operational issues and projects.
- 2. Mr. Gary Jones, Interceptor Technician with South Shore (SS) Interceptor Operations gave tours of the SS Interceptor Operations shop and storage/equipment yard to students from the Achievable Dream Middle/High School in Virginia Beach on May 9.
- 3. Mr. Buddy Beaman, SS Interceptor Superintendent, and Mr. Gene Rutledge, SS Interceptor Engineer participated in a Career Day for second graders at the Rena B. Wright Primary School in Chesapeake on May 10. They discussed how wastewater is conveyed and treated, why it is important to public health and the environment.
- 4. SS Interceptor Operations held a series of locality collaboration meetings in May with City of Norfolk, Portsmouth, Suffolk, Virginia Beach, and Chesapeake Public Utilities Department Operation's staff.
- 5. On May 20, Nansemond Treatment Plant (NTP) and Sustainable Water Initiative for Tomorrow (SWIFT) research center staff provided a tour for the Water Environment Federation Innovations in Treatment Technologies (WEF ITT) conference attendees.
- 6. Small Communities Division (SCD) staff met with King William County and Middlesex County staff to discuss upcoming CIP's and development review and expansions.



Environmental Responsibility

Treatment and Interceptor System Reportable Items:

There were multiple events reported this month. Additional details are available in the Air and Effluent Summary in the Water Quality monthly report.

Internal Air and Odor Compliance:

There were multiple incidents as follows:

1. There was one reportable event for exhaust sulfides greater than five parts per million (ppm) at the Virginia Initiative Plant (VIP) main scrubber on May 14, caused by chemical feed pump failure.

- 2. There were two total hydrocarbon (THC) permit deviations at the Army Base Treatment Plant (ABTP) in May for failing to record two valid THC readings in one hour. The first was caused by a THC monitor burner failure. The burner was repaired by the Electrical and Instrumentation (E&I) staff. The second one was a calibration error and the THC analyzer was recalibrated.
- 3. Efforts continue at the Atlantic Treatment Plant to rehabilitate the odor control systems. Staff installed a larger hypo feed pumps for odor control station D and extended hypo feed lines to the first stage scrubbers at odor D, aiming to enhance hydrogen sulfide (H2S) control within the odor scrubber system.
 - a. In May, the plant received a total of 18 odor complaints. Two complaints were erroneously routed to ATP Outreach, one was related to odors from internal plumbing, and another reported odor from a distant location. All complaints were investigated however the source of odor was undetermined.
- 4. Boat Harbor Treatment Plant (BHTP) had three MACT 129 deviations that occurred in the month of May. On May 2 the induced draught (ID) fan failed causing a deviation by use of the bypass stack and failure to meet the minimum temperature for that 12-hour block. On May 16 the ID fan failed again with the Variable Frequency Drive (VFD) reading under volt causing a use of the bypass damper. On May 27the ID fan VFD failed again, and the bypass damper failed to open which caused a deviation of temperature and pressure. As a result, the positive draft caused flames to escape around the incinerator hatch doors and cause minor damage to electrical conduits around the incinerator. E&I staff determined the cause of the ID fan failure to be an aging VFD that will be replaced. Plant staff is working with E&I and safety to develop emergency response procedures for this type of event that will be implemented at the other furnace plants.
- 5. Two THC reportable events occurred at BHTP this month. On May 1 after the furnace rotation the flame ionization detector fuel bottle was changed which caused the flame to go out. It was restarted and the THC monitor manually calibrated. On May 21 the THC monitor failed calibration, it was manually calibrated successfully.
- 6. The Williamsburg Treatment Plant (WBTP) had 13 incinerator deviations. Three were for use of the emergency bypass stack caused by the ID disconnecting. One was from a power blip and two were from a power loss during a May 16 area wide power outage. The area wide power outage also caused an interruption of non-potable water (NPW) flow to the incinerator scrubber system resulting in a deviation for less than the minimum 12-hour pressure drop. There were nine deviations for failure of the THC Analyzer to record two valid readings in an hour due to calibration issues. Odor Scrubber train D was down for more than one hour due to an NPW line leak. Incinerator #1 passed MACT 129 required stack testing.
- 7. The York River Treatment Plant (YRTP) had one odor scrubber exception over five ppm while switching scrubber trains. There was also one odor complaint from a nearby resident. The odor source was not identified.

Additional Topics for Compliance

- 1. There were two MACT 129 deviations at VIP for use of the incinerator bypass stack on May 11 and May 27, both due to power anomalies.
- 2. There was one MACT 129 deviation at ABTP in May. On May 12 ABTP had a less than minimum 12-hour average scrubber water flow caused by an incorrect setpoint in Distributed Control System. Setpoint was corrected.
- 3. WBTP staff met with our engineer to review and discuss the nonflammable carbon feed system 30% design. The carbon system will be used when loads from the brewery are reduced to help meet upcoming, stricter effluent phosphorus limits.

- 4. Further inspection of the #3 primary effluent pipe at WBTP was completed following the break that occurred last month. Sections of the pipe at the primary tank and splitter box were found to be in good condition. The plan is to replace corroded sections of pipe and apply coatings were required.
- 5. The main WBTP transformer was replaced by Dominion Energy after a major failure of the transformer. The plant was on generator power for almost two days while Dominion Energy located a new transformer and brought in crews to replace it. NS E&I personnel worked closing with Dominion Energy during installation and helped insure continues power to the plant.
- 6. YRTP was on generator power for multiple days due to failure of a relay which disconnects from utility power and protects plant electrical equipment when there are problems with utility power. NS E&I staff worked with our contractor and Dominion Energy to acquire, install, and test a new relay while insuring continued power to the plant.

Additional Topics for Compliance:

- 1. BHTP: Installation of the 30" and 24" HDPE piping and the service of the 18 MGD Godwin pump was completed in May. The pump and pipe are an essential part of the RWI MCC replacement and will be needed to bypass the influent screw pumps while the new electrical panels are being tied in.
- On May 3, both centrifuges #1 & #2 at NTP were experiencing vibration issues. Staff replaced one of the
 centrifuges with a standby rotating assembly, cleaned both machines and returned one centrifuge to
 operation that day and the other was completed the following week after the gear box repairs were
 completed.
- 3. King William Treatment Plant (KWTP) received approval from the Department of Environmental Quality to use one sample point for effluent monitoring. This allows HRSD to maintain outfall and reuse operations daily without the need for changing sampling requirements, which imposes an added workload on both SCD and Central Environmental Laboratory staff. With this change, we can provide reuse to Nestle/Purina more efficiently. These changes will go into effect on June 1.
- 4. Urbanna Treatment Plant had high Enterococcus values for the first half of May led staff to perform a Microscopy which found a high prevalence of filamentous bacteria. Staff increased wasting in the second half of the month and dedicated more time to emptying the plant digesters. The Enterococcus values towards the end of the month decreased back to normal values and the permit level was met for the month of May.
- 5. Staff participated in the successful completion of cutover testing for the new Ovation Supervisory Control and Data Acquisition (SCADA) System at Jefferson Avenue Pump Station (PS).
- 6. Staff managed the conveyance and treatment of over 142 MG of wastewater this month.



Financial Stewardship

The Operations Project Team completed several projects around the service area and continue to provide substantial cost savings to HRSD.

- 1. Operations staff have been working diligently since April to keep the dewatering trailer running efficiently at Onancock Treatment Plant and pump and haul the WPTP digesters while the dewatering trailer is on the Eastern Shore. This is a significant cost savings to HRSD.
- 2. SCD staff is working with Engineering Planning and Analysis staff to identify projects and future flows for the Central Middlesex and Urbanna Treatment Plants and corresponding collections systems to effectively meet permit at both plants and provide capacity for planned growth in the existing service area. The planned Central Middlesex Force Main project to decommission both plants cost was nearly twice the engineers estimate and cannot be supported in the existing CIP program until at least 2028.

- 3. Central Crossing PS rehabilitation project bid was over twice the engineer's estimate. SCD, NS Engineering, and the Project Team have met several times to evaluate the project and determined that this effort can be accomplished in-house to save HRSD well over \$1 million dollars and complete this project within the current CIP timeline.
- 4. The Machine Shop had 24 projects during the month of May. Some of the more notable projects included three pump rebuilds and a check valve rebuild. Signposts were manufactured for Facility Maintenance and an emergency job from BHTP was completed on a valve operator with damaged threads.



Innovation

- 1. Mr. Jeff Sparks, Chief of Digital Water, will move from the Finance Department to the Water Technology and Research group within Operations. This move aims to provide Jeff and his emerging team with an opportunity to optimize processes and equipment for both treatment plants and interceptor systems. In addition, Jeff will have support from Research Interns and foster collaboration with university partners more effectively. It is anticipated that Jeff will brief the Commission to provide an update on his efforts to transform the Ammonia-Based Aeration Control (ABAC) system at NTP into a hybrid mechanistic/machine learning model-based controller, incorporating a real-time digital twin for kinetic parameters.
- 2. The SCADA program continues to make progress as additional sites were cut on-line and global changes completed. Work is currently under way for the Godwin Advanced Prime Guard program interface to be updated and incorporated into the Emerson Top-End system. A meeting with the Emerson team was held in May to discuss some ongoing concerns with the system design.
- 3. SWIFT has remained offline during the month of May to accommodate corrosion repairs on the ozone contactor. This work should be completed in the first week of June and recharge operations will be resumed in mid-June.
- 4. VIP staff and Water Technology &Research intern Aidan Blair assisted Aqua-Aerobic Systems with the startup of a pilot process for phosphorus and suspended solids removal from plant effluent, to evaluate different processes needed to meet lower phosphorus permit levels.
- 5. At Onancock Treatment Plant, the Automatic Bar Screen Rake was put into service after a year and a half of troubleshooting, replacement of hydraulic components, and electrical repair. It worked well for a week or so and then we ran into a few problems. Continuing to work out the glitches. The successful automatic operation of this device will save over 100 hours of labor a year on confined space entry and manual raking.
- 6. SCD and E&I staff have been working on a system that will allow remote monitoring on the Mathews County Vacuum System. This remote monitoring will aid operations staff in troubleshooting the vacuum system and should help minimize after-hours alarm calls which require staff to respond immediately.



Talent

- 1. There are currently three open positions at NS Interceptor Operations consisting of one Interceptor Assistant position and two Interceptor Technician positions. The Interceptor Assistant position has been filled, with a start date of June 10. Meanwhile, candidates for the Interceptor Technician position are scheduled for interviews in June.
- 2. On May 22, SS Interceptor staff conducted semi-annual Washington District training. Staff were routed through seven training stations teaching them the fundamentals of trenching and shoring, dresser

installation, full circle clamp installation, corporation stop replacement, pipe cutting, pipe restraint installation, and air vent auto bleed cleaning. 40 SS Interceptor Operations and four Eastern Shore staff attended the full day training.

- 3. ABTP interviewed and extended a job offer for the vacant Plant Operator position. The offer was accepted, and we are moving forward in the hiring process.
- 4. There is a vacancy for a Systems Operator at Eastern Shore. Interviews were conducted, a selection was made, and the onboarding process is ongoing.
- 5. Mr. Derek Havunen, Maintenance Operator at WBTP was promoted to Small Communities Systems Foreman.
- 6. Mr. Tyler Burch was interviewed and has accepted the position of Systems Operator and will report to work on June 11.
- 7. On May 22, Mr. Germano Salazar-Benites, SWIFT Treatment Process Engineer, provided a presentation at the WEF ITT conference. The title of the presentation was: "SWIFT's experiences with ozone-biofiltration for municipal indirect reuse".

Respectfully submitted,

Eddie M. Abisaab, PE, PMP, ENV SP Director of Operations

Attachment: MOM Reporting

MOM Reporting Numbers

MOM #	Measure Name	Measure Target	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June
2.7	# of PS Annual PMs Performed (NS)	37	3	3	3	4	3	3	4	4	3	4	0	
2.7	# of PS Annual PMs Performed (SS)	53	4	0	7	5	7	3	5	5	2	7	3	
2.7	# of Backup Generator PMs Performed	4.6	12	7	14	14	10	4	26	10	15	14	7	
2.8	# of FM Air Release Valve PMs Performed (NS)	234	234	199	296	241	109	116	210	207	246	274	117	
2.8	# of FM Air Release Valve PMs Performed (SS)	1,550	154	174	59	569	71	148	141	141	233	255	76	
2.9	# of Linear Feet of Gravity Clean (NS)	2,417	2,808	2,762	3,791	4,969	5,741	4,074	3,429	2,088	300	2,027	1,531	
2.9	# of Linear Feet of Gravity Clean (SS)	2,417	5,994	5,637	7,169	1,610	0	0	1,693	1,693	1,437	825	845	
2.9	# of Linear Feet of Gravity CCTV Inspection	3,300	0	0	0	0	0	0	0	0	0	0	0	

TO: General Manager

FROM: Director of Talent Management

SUBJECT: Talent Management Monthly Report for May 2024

DATE: June 11, 2024



Talent

Staff retention and recruitment remain significant priorities for the Talent Management (TM) Department. Human Resources has one vacant position for a Talent Acquisition Specialist. Interviews are scheduled for next month. Outside of this position, the division is fully staffed.

Human Resources (HR) 875 employees and retirees attended a Benefits Open Enrollment meeting. Meetings were conducted in person and virtually throughout the month of May. HR staff continue to meet weekly with the new benefit carriers to complete the transition and implementation of our benefits starting July 1, 2024.

HR staff distributed job architecture statements to full-time employees and the new job description template for supervisors and managers to begin the update of all job descriptions. This update is expected to take several months. Work continues on the salary statements which will be distributed in June.

HR staff coordinated and participated in two Open House/Career Events at HRSD. Each department was represented along with the UNIFIED council to provide information to external candidates on the variety of careers fields and opportunities at HRSD. 30 job seekers attended the North Shore event, and 53 job seekers attended the South Shore event.

Participation in HRSD's Wellness Program continues to grow. Plan education, wellness related presentations, individual and group coaching, and virtual guided meditation sessions continue.

Learning and Development (L&D): In May, L&D hosted many training events, began assisting work centers with their Strategic Planning Alignment Results in Change (SPARC) Session rollout, and also participated in the first annual Youth Apprenticeship Week. Training has continued for the Leadership and Management Academy (LAMA) '24 Cohort, including group work on their capstone project. L&D has introduced the DiSC assessment as a work group developmental tool and hosted a DiSC workshop by work center request. SPARC Sessions are currently being planned and scheduled and work centers have begun hosting their team building activities. Lastly, apprenticeship staff participated in regional events to celebrate the Youth Apprenticeship Week and L&D hosted students from An Achievable Dream to introduce them to the HRSD Apprenticeship Program.

Safety: Staff conducted required safety trainings and medical monitoring. Weekly, monthly, and quarterly safety inspections, and testing and monitoring were performed at various work centers and construction sites. There were two reported work-related injuries requiring medical attention and three auto/property damage accidents.

The Safety Division celebrated Distractive Driving Awareness Month by the National Safety Council. Safety staff encouraged all HRSD employees to #JustDrive by taking the #JustDrive pledge to avoid distractions behind the wheel. 154 employees participated and were entered into a prize drawing.



Staff provided outreach at career events. This outreach was focused on the variety of career fields represented at HRSD. Information was shared about our open positions, the Apprenticeship Program, how we positively impact the local waterways and our generous benefits. Staff also explained how to apply for a position at HRSD and answered questions about what it's like to work at HRSD.

Respectfully submitted,

Dorissa Pitts-Paige

Director of Talent Management

TO: General Manager

FROM: Director of Water Quality (DWQ)

SUBJECT: Monthly Report for May 2024

DATE: June 12, 2024



Environmental Responsibility

1. <u>HRSD's Regulatory Activities:</u>

- a. Monthly Discharge Monitoring Report (DMR) Summary and Items of Interest: <u>Effluent and Air Emissions Summary</u>.
- b. From Fiscal Year (FY) 2024 to date, there have been six Permit Exceedances out of 51.816 Total Possible Exceedances.
- c. Pounds of Pollutants Removed in FY 2024 to date: 173.9 million pounds.
- d. Negotiations continue on the language included in the draft Boat Harbor VPDES permit.

2. Pretreatment and Pollution Prevention (P3) Program Highlights:

One civil penalty was issued by the P3 Division in May to U.S. Amines – Portsmouth.

Enforcement Orders were issued to U.S. Amines in April and May 2024, \$5,000 and \$3,000 respectively, for several technical permit limit exceedance violations and one administrative violation.

The permittee was issued violations for COD: BOD Ratio exceedances that occurred in December 2023 and for permit limit exceedances of Cyanide, Acenaphthene, 1,2 - Dichloroethane and Naphthalene in January 2024. Additional violations were issued for exceedances of Cyanide that occurred in February. In March 2024, the permittee was issued a violation for a chronic permit limit exceedance of the COD: BOD Ratio, along with an administrative violation for failing to provide 24-hour notification of a self-monitoring violation.

A Show Cause Meeting was held on March 28, 2024. The permittee attributed limit exceedances of Cyanide, Acenaphthene, 1,2 - Dichloroethane and Naphthalene to operational upsets during the diamine campaign. The facility temporarily ceased discharges from their tank containing diamine wastewater to prevent further limit exceedances. COD: BOD violations were attributed to an unusual variability in COD and

BOD concentrations and operational adjustments were made to prevent further occurrences.

The first and second Enforcement Orders were accepted, and the Civil Penalties were paid in full on May 6, 2024. A third Civil Penalty, \$3,000, has been proposed in a NOV issued May 20, 2024, after an additional chronic limit exceedance of Cyanide occurred in April. U.S. Amines consented, in writing, to the \$3,000 penalty in their June 3, 2024, NOV response.

3. <u>Environmental and Regulatory Advocacy</u>

Director participated in the following advocacy and external activities:

- a. Met with DEQ leadership to discuss opportunities for developing a General Permit for the Distribution and Marketing of Exceptional Quality (EQ) Biosolids.
- b. Participated in a panel discussion on groundwater trading for Mission H2O Virginia, a coalition of interested parties focused on water supply issues in the state of Virginia. A groundwater trading program in Virginia could provide a mechanism for monetarily incentivizing strategies that result in an increase in aquifer water supply. The Potomac Aquifer System is highly complex, requiring technical resources to ensure that storage capacity in the aquifer is protected while also making additional water available for economic development.
- c. Co-chaired a meeting of the Chesapeake Bay Program (CBP)'s Wastewater Treatment Workgroup (WWTWG). The WWTWG is evaluating mechanisms for updating wastewater associated loadings into the new Phase 7 Watershed Model. This includes loads associated with Combined Sanitary Overflows and sanitary collection system exfiltration of wastewater.
- d. Updated the Directors of Utilities Committee of the Hampton Roads Planning District Commission on per- and polyfluoroalkyl substances discussions with federal legislative representatives during Water Week. Discussed the need for a collaborative approach to One Water education and outreach to federal and state legislators in late summer or early fall.
- e. Participated in the Board's annual planning meeting for the Virginia Association of Municipal Wastewater Agencies (VAMWA). One of the key initiatives for the coming year includes advocating for an update of Virginia's water reuse regulations.
- f. Participated in a PFAS in Biosolids Workshop convened by the EPA. The goals of the workshop were to gain utility and state regulatory agency perspectives on the challenges associated with the varying biosolids management options with and without PFAS regulatory limits.



Staff supported the generation of high-quality data for use in permitting and environmental management decisions through our Municipal Assistance Program (MAP), which offers services to other municipal and regional authorities throughout the state. HRSD costs for this program are reimbursed by the customer. Below are program highlights for the month.

HRSD provided sampling and analytical services to the following to support monitoring required for their respective Virginia Permit Discharge Elimination System (VPDES) permits:

- 1. The City of Fredericksburg
- 2. The City of Hopewell
- 3. Northumberland County
- 4. Spotsylvania County
- 5. Westmoreland County



- 1. WQ staff hosted a junior from Nansemond Suffolk Academy for three days. The student was given an overview of all aspects of WQ Department work including hands on activities associated with sampling and analysis.
- 2. Celebrated the retirement of Li Zhang, Laboratory Manager, after 23 years of HRSD employment.



Community Engagement

- 1. The Director provided a briefing on HRSD's SWIFT program to the board of the James River Association.
- 2. Staff supported Microbial Source Tracking (MST) investigations in partnership with Hampton Roads localities. This work is required as part of HRSD's Integrated Plan. Sampling and analytical services were provided for the localities and projects identified below:
 - a. City of Chesapeake (Southern Branch)

- b. City of Hampton (New Market Creek)
- c. City of Newport News (Southeast Newport News)
- d. City of Norfolk (Mason Creek)
- e. City of Suffolk (downtown)
- f. City of Virginia Beach (Thalia Creek)
- g. James City County

Respectfully submitted,

Jamie Heisig-Mitchell
Director of Water Quality

EFFLUENT SUMMARY FOR MAY 2024

PLANT	FLOW mgd	% of Design	BOD mg/l	TSS mg/l	FC #/UBI	ENTERO #/UBI	TP mg/l	TP CY Avg	TN mg/l	TN CY Avg	CONTACT TANK EX
ARMY BASE	9.24	51%	3	2.7	2	1	1.9	0.83	4.3	3.8	18
ATLANTIC	43.67	81%	11	11	10	1	NA	NA	NA	NA	13
BOAT HARBOR	11.67	47%	12	5.8	42	4	0.74	0.49	25	19	4
CENT. MIDDLESEX	0.012	46%	<2	1.8	<1	<1	NA	NA	NA	NA	NA
JAMES RIVER	11.44	57%	10	7.0	2	2	0.42	0.67	11	9.7	13
KING WILLIAM	0.102	102%	<2	0.23	NA	1	0.20	0.18	1.8	2.4	NA
NANSEMOND	16.35	55%	4	4.7	2	3	0.47	1.3	3.8	4.0	8
ONANCOCK	0.271	36%	<2	<1.0	1	1	0.074	0.12	2.8	2.6	NA
SUNSET BAY	0.014	36%	<2	<1.0	1	1	NA	NA	NA	NA	0
URBANNA	0.065	65%	6	13	6	13	4.5	1.5	14	11	NA
VIP	27.87	70%	4	2.6	2	<1	0.26	0.31	3.5	3.8	6
WEST POINT	0.423	71%	20	14	1	2	3.2	2.2	16	13	0
WILLIAMSBURG	8.35	37%	7	3.1	2	2	1.2	0.85	4.0	3.0	16
YORK RIVER	12.21	81%	4	1.7	1	1	0.23	0.27	5.7	5.2	15
	141.68	-									

% of Capacity
North Shore 53%
South Shore 68%
Small Communities 50%

DMR - Power BI (powerbigov.us)

AIR EMISSIONS SUMMARY FOR MAY 2024

	No	. of Permit Dev	viations below 1	29 SSI Rule N	Minimum Ope	erating Paramet	ters		Part 50	03e Lir	nits	
	Temp	Venturi(s) PD	Precooler Flow	Spray Flow	Venturi Flow	Tray/PBs Flow	Scrubber	Any	THC	THC	BZ Temp	
	12 hr ave	12 hr ave	12 hr ave	12 hr ave	12 hr ave	12 hr ave	рН	Bypass	Mo. Ave	DC	Daily Ave	
MHI PLANT	(F)	(in. WC)	(GPM)	(GPM)	(GPM)	(GPM)	3 hr ave	Stack Use	(PPM)	(%)	Days >Max	
ARMY BASE	0	1	0	0	0	0	0	0	44	84	0	
BOAT HARBOR	2	2	0	n/a	0	0	0	3	14	74	0	
VIP	0	0	0	n/a	0	0	0	2	25	100	0	
WILLIAMSBURG	0	1	0	n/a	0	0	0	3	16	70	0	

Items of Interest - May 2024

MULTIPLE HEARTH INCINERATION (MHI)

Total Hydrocarbon (THC) monthly averages (not to exceed 100 ppm) were met by all four MHI plants (Army Base, Boat Harbor, Virginia Initiative, and Williamsburg) with a THC continuous emissions monitoring (CEM) valid data captured of greater than 70%.

The MHIs had six (6) deviations from the required 129 SSI rule minimum operating parameters and eight (8) minor bypass events (< 60 minutes).

Army Base's MHI # 1 was successfully tested May 1, 2024. All field-tested pollutants demonstrated compliance. Analytical results are pending for lab required analytes.

VIP's MHI # 2 and Williamsburg's MHI # 1 final stack test reports were submitted to DEQ on May 22 and 31, 2024, respectively. Each facility demonstrated compliance with all required 129 emission limits.

AIR PERMITS and ODOR CONTROL

DEQ issued HRSD Boat Harbor's Title V permit renewal May 15, 2024. The Federal operating permit is good for five years and expires May 14, 2029. All four Title V permits have now been renewed for the continued operation of the MHI's.

There were a total of nineteen (19) odor control complaints during the month of May.

Atlantic Plant received eighteen (18) odor complaints from Ocean Lakes and Lago Mar neighbors. Plant Staff responded to all complaints. Odors from the solids pad, THP system leaks, digesters, and general plant odors. Plant staff took corrective action where possible. Communications followed up and responded to each neighbor's complaint.

York River received one (1) odor complaint from a neighbor on Back Creek Road across the street from the plant. The cause of the May 29th complaint was from the required maintenance performed on the grit tanks. Maintenance was completed May 30 and the complainant notified accordingly. No further complaints have been received.

TREATMENT

DEQ was notified of the following reportable events:

Boat Harbor

On May 15, a leak was found coming from an expansion joint between two secondary clarifiers after placing one in service that afternoon. As of June 4, flow is being captured and returned to the plant process until the joint can be repaired. Approximately 231 gallons of secondary clarifier effluent were released to the grassy area between secondary #1 and #4.

James River

On May 14, a new non-potable water (NPW) line was installed and connected to the existing NPW system. When the valve was opened to charge the new line the older pipe that it was connected to broke releasing 5,000 gallons of NPW to the ground. The new section of NPW piping was secured until the broken pipe was replaced.

Nansemond

On May 15, a discharge hose came off the fitting and sprayed primary scum on the ground. The pump was secured and scum puddled on the ground was pumped into a primary clarifier. Approximately 200 gallons of primary scum were not recovered from the ground and stormwater pond.

On May 16, the sanitary drain pumps failed causing the well level to rise and a Fernco fitting to come off resulting in 300 gallons of sanitary sewer water to soak into the ground. The pumps were reprimed, well level was brought back to a normal level and the Fernco fitting was put back in place. Additional clamps will be added to prevent recurrence of this issue.

On May 16, a NPW line in an excavation site began leaking releasing approximately 100 gallons of NPW to the ground. The NPW isolation valve was closed and line is being repaired by contractors.

SYSTEM

On May 6, the manholes at Hope and Yukon and Hope and Chamberlin overflowed due to issues with a downstream bypass system setup. The manhole downstream is being replaced as part of Hampton Trunk 'K' (CIP BH0149) and the work was expedited due to a recent failure of the manhole structure. A contractor had setup and initiated a bypass system for the manhole replacement, including an alarm system. The bypass system was not operating as designed and the alarming system had been accidentally disabled. Approximately 23,650 gallons of raw wastewater were released to the Chesapeake Bay via storm drain.

SYSTEM/TREATMENT, SMALL COMMUNITIES, AND EASTERN SHORE

Dendron

On May 15 heavy rain associated with a storm inundated the Dendron PS service area. Pump stations were observed to be operating properly. The following raw wastewater overflow events were reported:

- Dendron PS1, 1,500 gallons to Cypress Swamp with a total rainfall of 2.44".
- Dendron PS2, 600 gallons to Cypress Swamp with a total rainfall of 2.44".

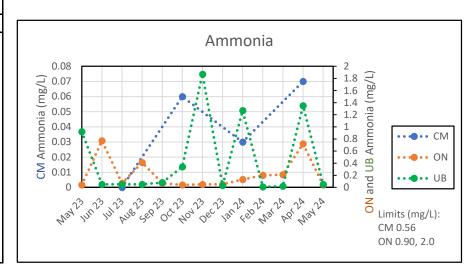
On May 24, a failure occurred at the tee that connects a private grinder pump station to the HRSD force main. The pump station was turned off to isolate the system from the force main and repair the tee. Approximately 300 gallons of raw wastewater were released to the ground to Cypress Swamp.

West Point

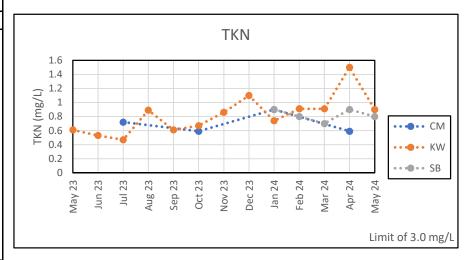
HRSD received a warning letter on May 31, 2024 for the unusual discharge reports submitted during the month of March 2024.

Flow summaries, nutrient data, and rainfall information is located here: DMR - Power BI (powerbigov.us)

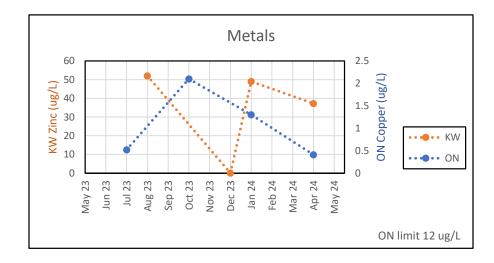
		Ammonia	
	CM	ON	UB
May 23		0.04	0.92
Jun 23		0.77	0.05
Jul 23	<0.02	0.07	0.05
Aug 23		0.41	0.05
Sep 23		0.07	0.08
Oct 23	0.06	0.04	0.34
Nov 23		0.05	1.87
Dec 23		0.05	0.03
Jan 24	0.03	0.13	1.27
Feb 24		0.20	0.01
Mar 24		0.21	0.02
Apr 24	0.07	0.72	1.35
May 24		0.04	0.05



		TKN	
	CM	KW	SB
May 23		0.61	
Jun 23		0.53	
Jul 23	0.72	0.47	
Aug 23		0.89	
Sep 23		0.61	
Oct 23	0.59	0.67	
Nov 23		0.86	
Dec 23		1.1	
Jan 24	0.90	0.74	0.90
Feb 24		0.91	0.80
Mar 24		0.91	0.70
Apr 24	0.59	1.5	0.90
May 24		0.90	0.80



	Zinc	Copper
	KW	ON
May 23		
Jun 23		
Jul 23		0.52
Aug 23	52	
Sep 23		
Oct 23		2.1
Nov 23		
Dec 23	<5.0	
Jan 24	49	1.3
Feb 24		
Mar 24		
Apr 24	37	0.41
May 24		





Hampton Roads Sanitation District Internal Audit Status May 31, 2024



The following Internal Audit Status document has been prepared by SC&H for the HRSD Commission. Below is a summary of projects in process, upcoming projects, and the status of current management action plan monitoring.

I. Projects in Process

Operational Technology Security and Resilience

- Completed Tasks (May 2024)
 - Finalized audit program.
 - Continued to communicate fieldwork document request list/follow-ups and reviewed documentation as obtained.
 - Conducted onsite observation sessions for three (3) plants.
- Upcoming Tasks (June 2024)
 - o Continue to request/obtain documentation and perform testing.
 - o Initiate Manager Review on testing.
 - Begin communicating issues identified.

Design and Construction Estimating

- Completed Tasks (May 2024)
 - o Met with POCs to discuss progress.
 - Received additional project information from POC.
- Upcoming Tasks (June 2024)
 - o Provide sample selection for project comparison.
 - o Continue data analytics on prior year bids received.
 - Meet with external engineering firms.

Accounts Payable and ProCards

- Completed Tasks (May 2024)
 - Received and addressed comments on the draft report.
- Upcoming Tasks (June 2024)
 - Submitted final report (6/4).

Billing, Accounts Receivable, and Aging

- Completed Tasks (May 2024)
 - Conducted entrance meeting and discussed next steps.
- Upcoming Tasks (June 2024)
 - o Obtain and review initial documentation for scoping and planning.
 - Schedule and conduct process walkthroughs.

II. Upcoming Projects

• IT Governance: September 2024

III. Management Action Plan Status



Hampton Roads Sanitation District Internal Audit Status May 31, 2024



SC&H performs on-going management action plan (MAP) monitoring for completed internal audits/projects. SC&H begins MAP follow-up approximately one year following the completion of each audit and periodically follows up until conclusion.

For each recommendation noted in an audit report, SC&H gains an understanding of the steps performed to address the action plan and obtains evidence to confirm implementation, when available.

The following describes the current project monitoring status. This listing does not include audits which were determined by HRSD Management and the Commission to include confidential or sensitive information.

		Recommendations		
Audit / Project	Next Follow-up	Closed	Open	Total
Personally Identifiable Information	June 2024	0	3	3
Safety Division	June 2024	2	1	3
Freedom of Information Act	August 2024	0	1	1
Family Medical Leave Act (FMLA)	June 2024	0	4	4
Succession Planning	June 2024	2	2	4
Closed Audit/Projects (x16)	Closed	127	0	127
	Totals	131	11	142

Hampton Roads Sanitation District Internal Audit Accounts Payable and ProCards



June 4, 2024





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Executive Summary

SC&H conducted an internal audit of Hampton Roads Sanitation District's (HRSD) accounts payable and procurement card (ProCard) processes. These processes are managed and facilitated by HRSD's Accounts Payable Section within the Accounting Division of the Finance Department (Accounts Payable or AP) and HRSD's Procurement Division within the Finance Department (Procurement).

SC&H thanks HRSD's Accounts Payable and Procurement personnel, whose assistance, and availability were vital during the internal audit process.

Objectives

- A. Perform data analysis over the complete disbursements (ProCard, expense reimbursements, PO, and pay requests) transactions to identify usage trends and potential variation from policy, including identifying whether ProCard purchases are also being submitted for personal expense reimbursement by employees.
- B. Evaluate ProCard transactions on a sample basis for compliance with HRSD ProCard policies and procedures and the effectiveness of process controls.
- C. Evaluate the cardholder adjustments, violations monitoring, and tracking processes for compliance with policy and procedures.
- D. Evaluate new cardholders and terminated employees to determine if the ProCard was appropriately activated/deactivated in a timely manner.
- E. Evaluate the Procurement Department ProCard auditing and administration procedures to evaluate whether ProCard transactions are appropriately tested and reconciled.
- F. Evaluate disbursement transactions (PO, non-PO (pay requests), and expense reimbursements) on a sample basis for compliance with HRSD Accounts Payable policies and procedures and the effectiveness of process controls.
- G. Evaluate supplier additions for compliance with HRSD policies and procedures and the effectiveness of process controls.

Internal Audit Process

SC&H conducted the internal audit with the following three-phased approach.

- 1. Planning: Understand processes, evaluate risks/controls, and develop audit program
- 2. Fieldwork: Conduct evaluation procedures to achieve internal audit objectives
- 3. Reporting: Conclude internal audit and report results

SC&H will conduct a 4th phase (Follow Up) at a later time to review management action plans resulting from the internal audit's results.

Summary Results

HRSD operates its accounts payable and ProCard operations in a formalized and structured manner that appear to incorporate effective functions and controls.

Two observations are provided to further strengthen controls and mitigate risks in the following areas. Details are in the "Observations and Recommendations" section of this report.

- 1. Documentation maintenance
- 2. Taxes charged on transactions

Internal Audit Summary

Background

SC&H conducted an internal audit of Hampton Roads Sanitation District's (HRSD) accounts payable and ProCard processes.

HRSD's Accounts Payable Section within with Accounting Division of the Finance Department (Accounts Payable or AP) is responsible for processing payments to vendors for goods/services purchased by HRSD, travel reimbursements, and contract payments.

HRSD's Procurement Division within the Finance Department (Procurement) is responsible for purchasing, renting, leasing, or acquiring goods, professional and non-professional services, and certain construction services for HRSD. In addition to traditional purchasing procedures, Procurement manages HRSD's ProCard program, which provides access to a line of credit for small dollar purchasing to staff throughout HRSD.

Purchase Order Transactions

Purchase orders (POs) are created as a request from employees for the encumbrance of HRSD funds for operational purposes and/or Capital Improvement Projects (CIP). Prior to the generation of a PO, a requisition is submitted by an employee detailing the goods/services to be procured, estimated amount, and the purpose of the purchase. Upon submission, the requisition follows an approval workflow in Oracle, HRSD's financial enterprise resource planning (ERP) software (collectively, Oracle or ERP). Based on the expense department and dollar value, a signing limits table identifies the appropriate person or persons required to approve the requisition. Oracle automatically initiates an "action required" notification to those individuals in the workflow. After a requisition is approved, a Procurement Contract Specialist generates a PO in Oracle. Upon the PO's generation, the purchaser/department can order goods/services and apply them to the PO. The PO is then provided to the Accounts Payable Coordinator who completes the invoice approval process illustrated below.

Expense Report Transactions

Employee reimbursable expenses and ProCard transactions are processed within iExpense, Oracle's module which manages employee expense reimbursements. Each expense is assigned an accounting general ledger (GL) code and upon submission, is approved by a predefined iExpense approval workflow. Upon approving the expense report, Accounts Payable exports expense reports from iExpense into the Oracle accounts payable module (AP module). Corresponding invoices are then created for each expense report and Accounts Payable processes each invoice through the invoice approval process illustrated below.

Non-PO Payment Requests

Non-PO transactions include petty cash, attorney fees, payroll related transactions, and other miscellaneous purchases. Following a purchase, the employee submits a Pay Request form or invoice to Accounts Payable. The Non-PO Payment is entered into Oracle with appropriate documentation for workflow approval, following a similar process as with PO transactions.

Invoice Approval

Accounts Payable inputs an invoice for PO, Non-PO, and expense report payments into the AP module and performs the following:

- 1. Accounts Payable performs a funds check, confirms the account string is valid, and confirms the account does not violate any preset Oracle rules. Once the invoice is validated, the transaction amount is posted to the GL.
- 2. If it is a three-way match PO, receiving support is matched against the provided invoice and the PO.

Disbursements

Once an invoice has completed the validation and approval process, payment is processed based on the invoice date and payment terms preset for each supplier. Accounts Payable processes weekly disbursements but can also process immediate payments as needed. Payment methods are in the form of check, ePayables (a payment method that leverages the credit card system to distribute funds to vendors for a single payment and not as an ACH lump sum), Automated Clearing House (ACH), Paymode-ACH, or wire based on supplier specifications. Payments made through Paymode-ACH are confirmed in the Oracle workflow before Accounts Payable processes the payment.

AP Management performs a high-level review of all weekly disbursements, which includes a review of unusual vendors, significant payment amounts, supporting documentation, and invoice approval. The reviewer initials next to a sample of payments reviewed for the week and initials the Check Register indicating approval of the entire payment. Management review/approval is a two-person review performed by the Accounting Manager, Chief of Accounting, and/or another accounting manager, based on availability.

The Accounts Payable Supervisor reports the weekly cash disbursement amount to the Accounting Manager before the final check run for the week. The Accounting Manager reviews HRSD's Bank of America Corporate Disbursement account to ensure enough funds are available to cover the disbursement. Following confirmation of funds, the Accounting Manager approves the disbursement within Oracle for processing of payment.

Supplier Additions

Supplier additions are received from a supplier requesting to work with HRSD. To sign up as an HRSD supplier, a company/individual must complete the request in the iSupplier portal on the HRSD website, which includes required business documentation and a W-9. Procurement receives, reviews, and approves the supplier based on business needs. Once approved, invoices and payments can be disbursed to the supplier.

ProCards

HRSD ProCards are purchasing tools that allow employees to make small dollar purchases of \$10,000 or less for goods, services, and travel. They are credit cards used for business purposes and billed directly to HRSD for payment. ProCards are issued to employees who have been approved by a Work Center Approver as needing to obtain goods, services, and travel. Compliance with the HRSD ProCard and Procurement Policies are a requirement of having and using a ProCard.

An HRSD employee requests a ProCard within HRSD's SharePoint site by completing the ProCard Application. The application is reviewed and approved by both the Work Center Approver(s) and the Department Director or Chief. The application continues to the ProCard Administrator for review, and

once the application is finalized, the pending Cardholder is assigned the ProCard training as a requirement to obtain and use the ProCard. Once the ProCard Administrator receives notification of the completion of training and evidence that a ProCard quiz was completed, they access the Bank of America website and place an order for the new ProCard. At this point, the ProCard Agreement is signed by the Cardholder and provided to the ProCard Administrator completed. The approved Cardholder will receive the physical card for activation.

Adjustments to a ProCard profile, such as dollar limit and Merchant Category Codes (MCC), are completed in a similar manner. Within SharePoint, the Cardholder submits a ProCard Change Form to the Work Center Approver(s). Once approved, the form is provided to the ProCard Administrator who completes the approved changes in the Bank of America website and signs the ProCard Change Form as evidence of the completed change.

ProCards Violations and Terminations

If a transaction is identified as accidental or inappropriate, it is the responsibility of the Cardholder to first see if the purchase can be utilized by HRSD for business needs. If it can, the transaction information and goods/materials are provided to the department which will be utilizing the purchase, however, the violation is still noted in the Violation Tracker. If it cannot, the cardholder must seek reimbursement from the vendor which, if obtained, is credited back to HRSD through the Bank of America system. If a return cannot be obtained the Cardholder is required to reimburse HRSD. Reimbursements are submitted to the Accounts Receivable Specialist who processes the reimbursement and notifies the ProCard Administrator, detailing the Cardholder name and transaction information. The ProCard Administrator adds the inappropriate transaction and all required transaction information to the Violation Tracker spreadsheet. The Violation Tracker spreadsheet is updated by the ProCard Administrator for tracking accidental personal use, fraud, unapproved purchases, split purchases, card warnings and suspension, and improper approvals. The ProCard Administrator will monitor Cardholders on the tracker, trigger additional cardholder transaction audit procedures, and complete card cancellation or supervisor notification, as necessary.

ProCards Suspension and Terminations

When a Cardholder's employment at HRSD is terminated, the Human Resources Division (HR) within the Talent Management Department receives a notification of the need for an employee status change. The change in employee status is completed in Oracle and HR notifies the ProCard Administrator of the change. The ProCard Administrator closes the cardholder's profile in the Bank of America system and notifies the employee requesting the destruction of the physical card.

When a Cardholder's ProCard requires a temporary change, permanent change, or ProCard suspension, the ProCard Administrator makes the appropriate updates in the Bank of America system for the change(s). The changes are approved by the Department Management and ProCard Administrator prior to completion. The ProCard Administrator then notify notifies the Cardholder of the completed change. If the change was a ProCard suspension due to inappropriate usage, the Cardholder is assigned the ProCard training and quiz that must be completed for reactivation. Once completed, the ProCard Administrator reactivates the profile in the Bank of America system and notifies the Cardholder.

Objectives and Scope

Objectives

The following objectives were established based on the internal audit fieldwork procedures:

- A. Perform data analysis over the complete disbursements (ProCard, expense reimbursements, PO, and pay requests) transactions to identify usage trends and potential variation from policy, including identifying whether ProCard purchases are also being submitted for personal expense reimbursement by employees.
- B. Evaluate ProCard transactions on a sample basis for compliance with HRSD ProCard policies and procedures and the effectiveness of process controls.
- C. Evaluate the cardholder adjustments, violations monitoring, and tracking processes for compliance with policy and procedures.
- D. Evaluate new cardholders and terminated employees to determine if the ProCard was appropriately activated/deactivated in a timely manner.
- E. Evaluate the Procurement Department ProCard auditing and administration procedures to evaluate whether ProCard transactions are appropriately tested and reconciled.
- F. Evaluate disbursement transactions (PO, non-PO (pay requests), and expense reimbursements) on a sample basis for compliance with HRSD Accounts Payable policies and procedures and the effectiveness of process controls.
- G. Evaluate supplier additions for compliance with HRSD policies and procedures and the effectiveness of process controls.

Scope

Internal audit procedures were conducted in 2023 and focused on the policies, procedures, and controls in place at the time of the audit. Documentation and samples selected were examined for the period of July 1, 2021, to August 31, 2023. Reviewed Accounts Payable and ProCard processes are included in the "Methodology and Approach" report Section.

Methodology and Approach

Process Walkthrough and Flowchart Creation

SC&H obtained and reviewed Accounts Payable and ProCard policy and procedural documentation from department contacts during the audit's commencement. SC&H then met with Accounts Payable and ProCard process stakeholders to conduct detailed walkthrough discussions of their processes and procedures, required approvals, process inputs/outputs, and other control points. Based on these discussions and review of the procedural documentation, SC&H created summarized flowcharts to document the processes, including:

Accounts Payable

- 1. New Supplier Set-Up
- 2. Purchase Order Creation (operating expenses only)
- 3. Purchase Order Payment
- 4. Pay Request Non-PO & Misc. Payments
- 5. Expense Reports
- 6. Payment Register Review
- 7. Bank Reconciliation
- 8. Initiating Payments

ProCard

- 1. New Cardholder Application
- 2. Card Issuance
- 3. Card Usage
- 4. Monthly Reconciliation
- 5. Improper Usage
- 6. Card Suspension/Termination
- 7. Card Data Changes

Risk Ranking and Audit Program Creation

Following the documentation of process steps, SC&H developed a risk and control matrix (RCM). The RCM aligns risks with controls to analyze the control environment and ranks the risks on perceived likelihood and impact. Based on the understanding of Accounts Payable and ProCard processes, risks, and related controls, SC&H developed an audit program to achieve the objectives described above. The audit program included detailed steps to address each objective with the goal of verifying the effectiveness of internal controls and identifying opportunities for improvement.

Audit Program Execution

SC&H executed the audit program by completing the following tasks:

- 1. Performed data analytics over disbursement transactions (ProCard, expense reimbursements, PO, and pay requests), including:
 - a. Usage trends
 - b. Duplicate transaction evaluation
- 2. Evaluated transactional activities for compliance with policies and procedures and for the operational effectiveness of process controls, including:
 - a. ProCard transactions
 - b. PO transactions
 - c. Expense reimbursements transactions
 - d. Non-PO and miscellaneous transactions
 - e. Supplier additions
- 3. Evaluated the monitoring and tracking of cardholder violations for compliance with policy.
- 4. Verified cardholder account adjustments were appropriately reviewed and approved per policy.
- 5. Evaluated terminated employee's cardholder accounts were appropriately deactivated in a timely manner.
- 6. Verified that new cardholders were appropriately reviewed and approved.
- 7. Evaluated the ProCard auditing and administration procedures to evaluate whether ProCard transactions are appropriately tested and reconciled.

Summary of Work

HRSD's Accounts Payable and Procurement teams manage a significant amount of information and transactions. The overall accounts payable and ProCards processes appear to be conducted in a formalized, consistent, and structured manner that incorporates compliance with policy and effective functions and controls. Throughout the audit, the team members operated in a professional manner and offered detailed responses to questions and clarifying items.

Two observations are provided to further strengthen controls and mitigate risks in the following areas. Details are in the "Observations and Recommendations" section of this report.

- 1. Documentation maintenance
- 2. Taxes charged on transactions

We appreciate the assistance and cooperation of the management and staff involved in HRSD's Accounts Payable and ProCard functions. Please contact us if you have any questions or comments regarding any of the information contained in the internal audit report.

SC&H Group, Inc.

Matthew Simons, CPA, CIA, CGAP

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Principal

Observations and Recommendations

Observation 1

Summary

Employee cardholder agreement documentation was not maintained. Employee application contained the ProCard Approver agreement instead of the ProCard Cardholder agreement documentation.

Detail

An employee is required to complete a Cardholder Agreement prior to issuance of a ProCard by the ProCard Administrator. This document should be maintained per HRSD ProCard policies and procedures. SC&H requested all required supporting documentation for the creation, activation, and use of a ProCard.

The following was identified during test procedures:

1. 1 of 5 samples: The Cardholder Agreement was not provided to evidence the employee following/completing the required ProCard protocol.

Risks

- 1. ProCards are not appropriately assigned to the correct HRSD staff, resulting in the possibility for inappropriate purchases and financial loss.
- 2. Cardholders are not aware of ProCard use policies and procedures, resulting in inappropriate use of the ProCards.

Recommendation 1

HRSD AP and Procurement should ensure all employees that are approved for a ProCard have completed all required documentation and the support is maintained for tracking and monitoring purposes. Further, AP and Procurement should consider the following to enhance internal review procedures:

- 1. Implement a quality control review process where ProCard supporting documentation entered into Oracle is reviewed.
- 2. Implement a periodic reconciliation process such as reviewing the current employees that have a ProCard and ensure all required documentation is maintained.

Management Action Plan 1

HRSD agrees with the observation. Procurement will conduct a thorough review of all submitted documentation to ensure correct forms are submitted and perform additional periodic reviews of user documentation.

Implementation Date/Period 1

Immediately

Observation 2

Summary

There is no defined threshold for seeking reimbursement for taxes incorrectly charged to HRSD.

Detail

HRSD's ProCard policy states the following: "Sales Tax Exemption: HRSD is exempt from Virginia state sales tax. The tax exempt number is printed on the card below the HRSD logo. The cardholder is responsible for identifying the transaction at the time of the purchase is made as exempt from state sales tax. The Virginia sales tax-exempt number is 10-546001749-001. If required by the supplier, a Sale and Use Tax Certificate of Exemption can be obtained from the Procurement SharePoint page. The sales tax-exempt form is permitted for catered events that further the mission of HRSD (meetings, etc.) but NOT travel related meals. If the transaction is charged sales tax, the cardholder should contact the supplier and get the tax refunded, only if the amount of tax is greater than the cost of the effort needed to obtain the refund."

The current policy statement for when to get is refund appears reasonable, "only if the amount of tax is greater than the cost of the effort needed to obtain the refund", however is subjective in nature and offers the opportunity for inconsistent application.

The following was identified during test procedures:

1. 5 of 60 samples: Taxes were charged to the ProCard transaction, however were not reimbursed to HRSD.

<u>Limited Sampling and Extrapolation Considerations</u>

The above exceptions include testing a limited sample of transactions and samples. HRSD should take into consideration if exceptions were extrapolated across the entire population of transactions and activity. While the full population has not been tested to confirm the exact percentage and value of exceptions, the risk and financial impact to HRSD could be of greater significance.

Risks

1. The decision to seek tax charge refunds could be incorrectly interpreted based on HRSD's intent, which could further lead to inconsistent application and inappropriate tax charges.

Recommendation 2.1

HRSD should consider revising the HRSD ProCard policy to help reduce instances of tax overcharges. For example, HRSD can consider the following.

- 1. Define what "the amount of tax is greater than the cost of the effort needed to obtain the refund" is.
- 2. Implement actions for HRSD to take when employees do not seek reimbursement. For instance, actions may include the following, escalating after multiple instances.
 - a. Notification to the cardholder and/or supervisors.
 - b. Retraining efforts to ensure cardholders have up to date knowledge of current processes for tax exempt purchases and seeking reimbursements.
 - c. Suspension and/or termination of cardholders.

Recommendation 2.2

HRSD should consider revising the ProCard policy to ensure that the language is clear and specific and either 1) avoid subjective terminology like "...greater than the cost of the effort needed to obtain the refund" or 2) document and define what "...greater than the cost of the effort needed to obtain the refund" specifically refers to. HRSD should also consider extending this recommendation to other policies as applicable.

Example Tax Policies

To offer additional background, comparable organization policies were evaluated to understand similar protocol for tax exempt transactions and to drive recommendations for HRSD to consider. The following was identified:

- 1. Water treatment organization: "If you believe that the merchant has incorrectly charged you or there are outstanding issues, you must first contact the merchant and try to resolve it with them. If you are able to resolve the matter directly with the merchant, and the error involved an overcharge, a credit adjustment from the merchant should be requested and will appear on your next statement/expense report. The disputed charge should also be noted in the description field when reconciling your expense report."
- 2. County government 1: "If there is a Sales and Use Tax charge, the Cardholder/Custodian should contact the merchant to request a credit to the card as soon as possible."
- 3. County government 2: "Cardholders will be notified of sales tax infractions as below:
 - First Notice: A courtesy email will be sent to the Cardholder and their Approving Official. Cardholders will have two weeks to obtain a credit for the sales tax.
 - Second Notice: An email will be sent to the Cardholder and their Approving Official stating a credit has not been received. The Cardholder will have one additional week to obtain a credit or reimburse for the sales tax amount.
 - Third Notice: An email will be sent to the Cardholder and their Approving Official that
 the card account has been suspended. Cardholders will still be held accountable for
 obtaining a credit or reimbursement."
- 4. City government: "The City is exempt from sales tax. The cardholder must ensure that the vendor is aware of this and that the sales tax is not added to the transaction. Tax questions should be referred to the City Attorney's Office."

"The Cardholder must use the P-Card for legitimate business purposes of the City only. The P-Card may not be used for services, cash and other categories as included in the List of Blocked Vendors. Misuse of the card will subject the Cardholder to disciplinary action in accordance with the City's Administrative Regulations relating to disciplinary action and/or termination for cause.

Responsibilities shall include... Recheck each transaction (no sales tax [some exceptions apply] and no back-orders) ..."

Management Action Plan 2

HRSD agrees with the observation. Procurement to update the ProCard Policy to include a defined amount of tax that requires the cardholder to seek reimbursement. Set the dollar amount at \$50 per transaction. Cardholder must properly document efforts to seek reimbursement and attach to expense report as supporting documentation. Failure to seek reimbursement will result in non-compliance.

Implementation Date/Period 2

Strategic Measures May 2024

Strategic Planning Measure	Department	Apr-24	May-24	FY-24
Educational and Outreach Events	Communications	27	6	205
Number of Community Partners	Communications	4	9	148
Number of Technical Presentations	All	1	11	86
Revenue vs. Budget	Finance	86%	95%	52%
Wastewater Expenses vs. Budget	Finance	71%	81%	42%
Accounts Receivable (HRSD)	Finance	\$42,855,898	\$41,694,350	\$44,170,678
Aging Accounts Receivable	Finance	31.00%	32.00%	29.33%
Turnover Rate wo Retirements	Talent Management	0.23%	0.12%	4.01%
Turnover Rate w Retirements	Talent Management	0.23%	0.46%	6.48%
Avg Time to Hire	Talent Management	4 months 6 days	3 months 2 days	3 months 12 days
Number of Vacancies	Talent Management	41	42	49
Average number of applicants per position	Talent Management	16.0	7.4	8.8
Percentage of positions filled with internal applicants	Talent Management	33.3%	30.8%	29.6%
Recruitment source Return on Investment	Talent Management	*	*	*
Average time required (days) to onboard new employees, including from initial posting of position to candidates' first day	Talent Management	*	*	*
Customer Call Wait Time (mins)	Jill Morrison	3.13	2.42	2.54
Capacity Related Overflows with Stipulated Penalties (Reported Quarterly)	Water Quality / ENG	0	0	1
Non-Capacity Related Overflows with Stipulated Penalties (Reported Quarterly)	Water Quality / ENG	0	0	1
TONS OF CARBON: Tons of carbon produced per million gallons of wastewater treated Energy consumed (gas (scfm) and electricity (kWh)) per million gallons of wastewater treated.	Operations	*	*	*
GAS CONSUMPTION: Tons of carbon produced per million gallons of wastewater treated Energy consumed (gas (scfm) and electricity (kWh)) per million gallons of wastewater treated.	Operations	*	*	*
ELECTRICITY CONSUMPTION: Tons of carbon produced per million gallons of wastewater treated Energy consumed (gas (scfm) and electricity (kWh)) per million gallons of	Operations			
wastewater treated.	Facility and	*	*	*
Monthly CIP Spending	Engineering	\$54,238,854		\$47,279,282

^{*}Not currently tracking due to constraints collecting the data.

^{**} Inputted Quarterly after EPA Quarterly Report submittal.

^{***}Billing is one month behind

Strategic Measures May 2024

Date	Community Partners	Department
05/01/2024	King William County	Operations
05/01/2024	Lynnhaven River NOW	Operations
05/01/2024	Middlesex County	Operations
05/01/2024	Ocean Lakes High School	Operations
05/01/2024	Ocean Lakes Neighborhood	Operations
05/01/2024	ODU	Operations
05/01/2024	Waste Management	Operations
05/09/2024	B.C. Charles Elementary School	Engineering

Date	Education Outreach	Community Partner	Department
05/07/2024	Tour of ATP to HRSD Engineering Employees		Operations
05/08/2024	Director of Water Quality provided a briefing on HRSD's SWIFT program to the board of the James River Association	James River Association	Water Quality
05/09/2024	Engineering Day	BC Charles Elementary School	Engineering
05/09/2024	Tour of South Shore Interceptor Operations shop	Achievable Dream Middle/High School	Operations
05/10/2024	South Shore Interceptors participated in a Career Day	Wright Primary School	Operations
05/21/2024	Annual ASHE Dinner - Trends in the Construction Industry	Hampton Roads ASHE Chapter	Engineering

Strategic Measures May 2024

Date	Technical Presentations	Presenter	Department
05/09/2024	Invited panel presentation, VWEA Education Seminar	Charles Bott	Operations
05/09/2024	VWEA Education Seminar, "Low DO Nutrient Removal Research at HRSD"	Kester McCullough & Lilian McIntosh	Operations
05/09/2024	VWEA Education Seminar, "A Digital Twin (DT) Nitrification Control Authority Enhancement at a Water Resource Recovery Facility (WRRF)"	Jeff Sparks	Operations
05/22/2024	WEF ITT Conference - "SWIFT's experiences with ozone-biofiltration for municipal indirect reuse"	Germano Salazar-Benites	Operations
05/22/2024	WEF ITT Conference - "Optimizing PFAS Removal in Carbon- Based Advanced Water Treatment for Indirect Potable Reuse"	Chris Waller	Operations
05/22/2024	WEF ITT Conference - "Microbial Adaptation to Low DO Biological Nutrient Removal	Lilian McIntosh	Operations
05/22/2024	WEF ITT Conference - "Novel Methods for Determination of Nitrifier Kinetics During Adaptation to Low DO"	Kester McCullough	Operations
05/22/2024	WEF ITT Conference - "HRSD's Journey to the Full-Scale Implementation of Mainstream Partial Denitrification/Anammox (PdNA) IFAS"	Megan Bachmann	Operations
5/23/2024	WEF ITT Conference - "Full-scale Application of a Reduced- Order Model to Tune Ammonia-Based Aeration Control"	Ali Gagnon	Operations
05/23/2024	WEF ITT Conference - "Optimization of EBPR at Full-Scale: Lowering Costs and Improving Effluent Quality"	Riley Doyle	Operations
05/23/2024	WEF ITT Conference - "Phosphorus Sequestration in Biosolids, Nuisance Struvite Control via Aerobic Digestion and Chemical Addition to TH-AD Digestate, and Downstream Effects"	Caitlyn Harris	Operations

Resource: Eddie Abisaab

AGENDA ITEM 24.c. - June 25, 2024

Subject: Atlantic Treatment Plant Odor and Solids Reliability Improvements

Emergency Declaration

Recommended Action: No action is required.

CIP Project: AT016000

Regulatory Requirement: None

<u>Brief</u>: Nuisance odors from the Atlantic Treatment Plant (ATP) have caused concerns for residents in the neighboring communities. Additionally, increased flows to ATP from the closure of the Chesapeake-Elizabeth Treatment Plant required solids processing upgrades that were identified in the CIP. As a result, HRSD has initiated a series of capital projects aimed at improving process reliability and odor control across the facility. Through these projects, optimization of existing facilities and improvement of peripheral equipment associated with odor control and solids processing have been identified as opportunities to achieve near-term improvements in plant odors and solids processing reliability. These improvements are critical to maximize nearer term odor reductions for the nearby communities. Therefore, it is desired to expedite these improvements to the following facilities and peripheral equipment separately from the ongoing CIP as follows:

Interim Facilities:

- 1. Optimization of Odor Control Systems B and D and possible deployment of a temporary polishing scrubber system.
- 2. Misting of an odor neutralizing agent around the Dewatered Solids Storage Pads

Prepurchase of Equipment to Expedite Work Currently in the CIP

- 1. Replacement of biogas flares with higher efficiency enclosed flares.
- 2. Replacement of failing mechanical equipment associated with a total of twelve (12) draft tube mixers on Digesters 1-4.

Analysis of Cost: The estimated cost of this work is \$17,600,000 and will be funded by the CIP.

This work is in accordance with the Commission Adopted Procurement Policy.