



Amherst County Board of Supervisors
County Resolution No. 2020-0021-R

For consideration on September 1, 2020

A RESOLUTION, NO. 2020-0021-R

**Resolution of the Board of Supervisors of the County of Amherst, Virginia,
Approving the Execution and Delivery of a Support Agreement with the
Amherst County Service Authority for the Issuance by Such Authority of its
Water and Sewer Revenue Bond**

Approved as to form and legality by the County Attorney

WHEREAS, the Amherst County Service Authority (**the "Authority"**) is a political subdivision of the Commonwealth of Virginia created pursuant to the Virginia Water and Waste Authorities Act, Chapter 51 of Title 15.2 of the Virginia Code (**the "Act"**) by an ordinance duly adopted by the governing body of the County of Amherst, Virginia (**the "County"**), for the purpose of operating a water and sewer system in the County (**the "System"**);

WHEREAS, the Authority has determined there is a need to finance the design, acquisition and construction of improvements to the Authority's Graham Creek Reservoir dam together with associated financing costs of issuance (**together, the "Project"**);

WHEREAS, the Board of the Authority (**the "Authority Board"**) desires to issue a water and sewer system revenue bond (**the "Local Bond"**) to finance the Project;

WHEREAS, the Virginia Resources Authority ("**VRA**"), a public body corporate and political subdivision of the Commonwealth of Virginia, has indicated its willingness to purchase the Local Bond from a portion of the proceeds of its Infrastructure and State Moral Obligation Revenue Bonds (Virginia Pooled Financing Program), anticipated to be issued in November 2020 (**as more particularly defined in the below-defined Local Bond Sale and Financing Agreement, the "VRA Bonds"**) and to provide a portion of the proceeds thereof to the Authority in an amount equal to the purchase price of the Local Bond (**the "Proceeds Requested"**) to finance the Project and pay certain costs of issuance of the Local Bond, in accordance with the terms of a Local Bond Sale and Financing Agreement to be dated as of a date to be specified by VRA, between VRA and the Authority (**the "Local Bond Sale and Financing Agreement"**);

WHEREAS, VRA has indicated that its agreement to purchase the Local Bond will be conditioned upon the County undertaking a non-binding obligation to appropriate, from time to time, moneys to the Authority in connection with payments due on the Local Bond;

WHEREAS, the Board of Supervisors (**the "Board of Supervisors"**) of the County has indicated its support of the financing of the Projects through such a non-binding obligation to appropriate funds in connection with the Local Bond and desires to enter into such a Support Agreement evidencing such obligation in connection with the Local Bond (**the "Support Agreement"**).

BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF AMHERST, VIRGINIA:

I. That:

1. It is determined to be in the best interests of the County and its citizens for the Board of Supervisors to enter into the Support Agreement.
2. It is acknowledged that (i) VRA would not purchase the Local Bond without the security and credit enhancement provided by the Support Agreement and (ii) VRA is treating the Support Agreement as a "local obligation" within the meaning of Section 62.1-199 of the Code of Virginia of 1950, as amended, including amendments thereto taking effect as of July 1, 2011 (**the "Virginia Code"**), which in the event of a nonpayment thereunder authorizes VRA or the trustee for VRA's bonds to file an affidavit with the Governor that such nonpayment has occurred pursuant to Section 62.1-216.1 of the Virginia Code. In purchasing the Local Bond, VRA is further relying on Section 62.1-216.1 of the Virginia Code, providing that if the Governor is satisfied that such nonpayment has occurred, the Governor will immediately make an order directing the Comptroller to withhold all further payment to the County of all funds, or of any part of them, appropriated and payable by the Commonwealth of Virginia to the County for any and all purposes, and the Governor will, while the nonpayment continues, direct in writing the payment of all sums withheld by the Comptroller, or as much of them as is necessary, to VRA, so as to cure, or cure insofar as possible, such nonpayment.
3. In consideration of the Authority's undertakings with respect to the financing of the Projects, the Chair or Vice-Chair of the Board of Supervisors, either of whom may act, is hereby authorized and directed to execute and deliver the Support Agreement, subject to approval as to form by the County Attorney. The Support Agreement shall be in substantially the form presented to this meeting, which is hereby approved, with such completions, omissions, insertions or changes not inconsistent with this resolution as may be approved by the Chair or Vice-Chair of the Board of Supervisors, in their sole discretion, the execution thereof by the Chair or Vice-Chair of the Board of Supervisors to constitute conclusive evidence of his or her approval of such completions, omissions, insertions or changes.
4. The County Administrator is hereby authorized and directed to carry out the obligations imposed by the Support Agreement on the County Administrator, and

to take all proper steps on behalf of the County as may be required, in accordance with the plan of financing set forth above.

5. Nothing contained herein or in the Support Agreement is or shall be deemed to be a lending of the credit of the County to the Authority, VRA or to any holder of the Local Bond or to any other person, and nothing herein contained is or shall be deemed to be a pledge of the faith and credit or the taxing power of the County, nor shall anything contained herein or in the Support Agreement legally bind or obligate the Board of Supervisors to appropriate funds for purposes described in the Support Agreement.
6. All actions previously taken by representatives or agents of the County in furtherance of the plan of financing the Project and issuance of the Local Bond are hereby ratified and approved.

II. That this resolution shall be in force and effect upon adoption.

Adopted this 1st day of September, 2020.



Claudia D. Tucker, Chair
Amherst County Board of Supervisors

The undersigned Clerk of the Board of Supervisors of the County of Amherst, Virginia hereby certifies that the Resolution set forth above was adopted during an open meeting on September 1, 2020, by the Board of Supervisors with the following votes:

Aye: Claudia D. Tucker, Chair
Jennifer R. Moore, Vice-Chair
David W. Pugh, Jr., Supervisor
Tom Martin, Supervisor
L. J. "Jimmy" Ayers III, Supervisor

Nay: None

Abstentions: None

Signed this 1st day of September, 2020.

ATTEST:



Dean C. Rodgers, Clerk
Amherst County Board of Supervisors

**SUPPORT AGREEMENT
AMHERST COUNTY SERVICE AUTHORITY**

This **SUPPORT AGREEMENT** is made as of November 18, 2020, between the **BOARD OF SUPERVISORS OF AMHERST COUNTY, VIRGINIA** (the "Board"), acting as the governing body of Amherst County, Virginia (the "County"), **AMHERST COUNTY SERVICE AUTHORITY** ("ACSA"), and the **VIRGINIA RESOURCES AUTHORITY** ("VRA"), as purchaser of the Local Bond, as hereinafter defined, pursuant to a Financing Agreement, as hereinafter defined.

RECITALS

WHEREAS, ACSA was created by the Board pursuant to the Virginia Water and Waste Authorities Act (Chapter 51, Title 15.2, Code of Virginia of 1950, as amended) and owns and operates the water and wastewater systems in the County (as more particularly defined in the Financing Agreement, the "System"); and

WHEREAS, ACSA has determined that it is in its best interest to issue and sell its Water and Sewer System Revenue Bond, Series 2020, in the original principal amount of \$[] (the "Local Bond") to VRA pursuant to the terms of a Local Bond Sale and Financing Agreement dated as of September 25, 2020 (the "Financing Agreement"), between ACSA and VRA to finance of the design, acquisition, and construction of improvements to the Local Government's Graham Creek Reservoir dam together with associated financing costs of issuance (collectively, the "Project"); and

WHEREAS, the Board adopted on September 1, 2020, a resolution authorizing, among other things, the execution of an agreement providing for a non-binding obligation of the Board to consider certain appropriations in support of the Local Bond and the Project; and

AGREEMENT

NOW, THEREFORE, for and in consideration of the issuance of the Local Bond by the ACSA, the purchase of the Local Bond by VRA and of the mutual covenants herein set forth, the parties hereto agree as follows:

1. Unless otherwise defined, each capitalized term used in this Agreement (this "Agreement") shall have the meaning given it in the Financing Agreement.
2. ACSA shall use its best efforts to issue the Local Bond and to use the proceeds thereof to finance the costs of the Project.
3. No later than May 15 of each year, beginning May 15, 2021, ACSA shall notify the Board of the amount, if any (the "Annual Deficiency Amount") by which ACSA reasonably expects the Revenues to be insufficient to pay (i) the debt service obligations under the Financing Agreement, the Local Bond and the Existing Parity Bonds, (ii) the Operation and Maintenance Expenses, and (iii) any other payments due and owing by ACSA under the

Financing Agreement (the "Additional Payments") in full as and when due during the County's fiscal year beginning the following July 1.

4. The County Administrator of the County (the "County Administrator") shall include the Annual Deficiency Amount in his budget submitted to the Board for the following fiscal year as an amount to be appropriated to or on behalf of ACSA. The County Administrator shall deliver to VRA within 10 days after the adoption of the County's budget for each fiscal year, but not later than July 15 of each year, a certificate stating whether the Board has appropriated to or on behalf of ACSA an amount equal to the Annual Deficiency Amount.

5. If at any time Revenues shall be insufficient to make any of the payments referred to in paragraph 3 hereof, ACSA shall notify the County Administrator and VRA of the amount of such insufficiency and the County Administrator shall request a supplemental appropriation from the Board in the amount necessary to make such payment.

6. The County Administrator shall present each request for appropriation pursuant to paragraph 5 above to the Board, and the Board shall consider such request at the Board's next regularly scheduled meeting at which it is possible to satisfy any applicable notification requirement. Promptly after such meeting, the County Administrator shall notify VRA as to whether the amount so requested was appropriated. If the Board shall fail to make any such appropriation, the County Administrator shall add the amount of such requested appropriation to the Annual Deficiency Amount reported to the County by the County Administrator for the County's next fiscal year.

7. The Board hereby undertakes a non-binding obligation to appropriate such amounts as may be requested from time to time pursuant to paragraphs 4 and 5 above, to the fullest degree and in such manner as is consistent with the Constitution and laws of the Commonwealth of Virginia. The Board, while recognizing that it is not empowered to make any binding commitment to make such appropriations in future fiscal years, hereby states its intent to make such appropriations in future fiscal years, and hereby recommends that future Boards of Supervisors do likewise.

8. The Board and ACSA acknowledge that (i) the Local Bond may be payable from and will be secured by amounts derived pursuant to this Agreement, (ii) VRA would not purchase the Local Bond without the security and credit enhancement provided by this Agreement, and (iii) VRA is treating this Agreement as a "local obligation" within the meaning of Section 62.1-199 of the Code of Virginia of 1950, as amended (the "Virginia Code"), which in the event of a nonpayment hereunder authorizes VRA or the Trustee to file an affidavit with the Governor that such nonpayment has occurred pursuant to Section 62.1-216.1 of the Virginia Code. In purchasing the Local Bond, VRA is further relying on Section 62.1-216.1 of the Virginia Code, which provides that if the Governor is satisfied that the nonpayment has occurred, the Governor will immediately make an order directing the Comptroller to withhold all further payment to the County of all funds, or of any part of them, appropriated and payable by the Commonwealth of Virginia to the County for any and all purposes, and the Governor will, while the nonpayment continues, direct in writing the payment of all sums withheld by the Comptroller, or as much of them as is necessary, to VRA, so as to cure, or cure insofar as possible, such nonpayment.

9. Nothing herein contained is or shall be deemed to be a lending of the credit of the County to ACSA, VRA or to any holder of the Local Bond or to any other person, and nothing herein contained is or shall be deemed to be a pledge of the faith and credit or the taxing power of the County, nor shall anything herein contained legally bind or obligate the Board to appropriate funds for the purposes described herein.

10. Any notices or requests required to be given hereunder shall be deemed given if sent by registered or certified mail, postage prepaid, addressed (i) if to the County, to P.O. Box 390, Amherst, Virginia 24521, Attention: County Administrator, (ii) if to ACSA, to P.O. Box 100, Madison Heights, Virginia 24572-0100, Attention: Director, and (iii) if to VRA, to 1111 East Main Street, Suite 1920, Richmond, Virginia 23219, Attention: Executive Director. Any party may designate any other address for notices or requests by giving notice.

11. It is the intent of the parties hereto that this Agreement shall be governed by the laws of the Commonwealth of Virginia.

12. This Agreement shall remain in full force and effect until the Local Bond and all other amounts payable by ACSA under the Financing Agreement have been paid in full.

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

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have each caused this Agreement to be executed in their respective names as of the date first above written.

**BOARD OF SUPERVISORS OF AMHERST
COUNTY, VIRGINIA**

By: _____
Claudia D. Tucker, Chair

AMHERST COUNTY SERVICE AUTHORITY

By: _____

Title: _____

VIRGINIA RESOURCES AUTHORITY

By: _____
Stephanie L. Hamlett, Executive Director