

AMENDMENT TO ESCROW DEPOSIT AGREEMENT

This **AMENDMENT TO ESCROW DEPOSIT AGREEMENT**, dated October __, 2021 (this “Amendment”), is between the County of Guilford, North Carolina (the “County”) and U.S. Bank National Association (collectively, the “Escrow Agent”).

WITNESSETH:

WHEREAS, the County and the Escrow Agent previously entered into an Escrow Deposit Agreement dated as of November 16, 2017 (the “Original Escrow Agreement” and as amended by this Amendment, the “Escrow Agreement”), pursuant to which immediately available funds were deposited into the Escrow Fund and used, in part, to purchase Initial Government Obligations;

WHEREAS, pursuant to the Escrow Agreement, upon the maturity of the Initial Government Obligation stated to mature September 1, 2021, the Escrow Agent was to use the proceeds thereof to purchase, on behalf and for the account of the County, the Rollover Government Obligation;

WHEREAS, on September 1, 2021, the Rollover Government Obligation was unavailable for purchase and remains unavailable for purchase as of the date hereof;

WHEREAS, Section 8 of the Escrow Agreement provides that, at the written direction of the County, the Escrow Agent shall have the power to sell, transfer or otherwise dispose of Government Obligations acquired under the Escrow Agreement and to substitute for such Government Obligations, other direct non-callable obligations of the United States of America or direct non-callable and non-prepayable obligations the full and timely payment of principal of and interest on which is unconditionally guaranteed by the United States of America (collectively the “Substitute Defeasance Obligations”);

WHEREAS, the County and the Escrow Agent have determined to amend the Original Escrow Agreement in order to clarify that the Escrow Agreement may, at the written direction of the County, use the proceeds of Government Obligations that have matured to purchase Substitute Defeasance Obligations;

WHEREAS, all acts and things necessary to constitute this Amendment a valid agreement according to its terms have been done and performed; and

WHEREAS, capitalized terms used herein and not defined shall have the meanings given such terms in the Original Escrow Agreement.

NOW, THEREFORE, in consideration of the premises and of the covenants and undertakings herein expressed, the parties hereto agree as follows:

1. **Amendments.** The Original Escrow Agreement is hereby amended as follows:

(a) Section 7 is hereby deleted in its entirety and the following is substituted therefor:

“The Escrow Agent shall apply the principal and interest received from the Escrow Securities and the Cash Deposit to the payment of the interest on and the redemption price of the Bonds to be Refunded as shown in Appendix B hereto. Any other portions of the principal of or the interest on the Escrow Securities received by the Escrow Agent and not needed at the time for the payment of the Bonds to be Refunded as shown in Appendix B hereto shall remain in trust and, at the written direction of the Finance Director of the County (except as described in Section 2), be invested in United States Treasury Certificates of Indebtedness, Notes and Bonds - State and Local Government Series at a zero (-0-) yield for the benefit of the registered owners of the Bonds to be Refunded until so needed as shown in Appendix B or, if those obligations are not obtainable, may be held in cash uninvested or used to purchase Substitute Defeasance Obligations pursuant to Section 8 hereof. The Escrow Fund shall continue in effect to and including the date upon which the Escrow Agent makes the final payment in an amount sufficient to pay the balance of the principal of and interest and redemption premium, if any, on the Bonds to be Refunded coming due as shown in Appendix B hereto whereupon the Escrow Agent shall, upon the written direction of the Finance Director of the County, deliver to the County or sell or redeem any Escrow Securities remaining in the Escrow Fund and, if those Escrow Securities have been sold or redeemed, shall remit to the County the proceeds thereof, together with all other moneys, if any, then remaining in the Escrow Fund.”

(b) Section 8 is hereby deleted in its entirety and the following is substituted therefor:

“At the written direction of the County and upon compliance with the conditions hereinafter set forth, the Escrow Agent shall have the power to sell, transfer or otherwise dispose of or request the redemption of the Government Obligations acquired hereunder and to substitute for the Government Obligations, or use the proceeds of Government Obligations pursuant to Section 7 hereof to purchase, other direct non-callable obligations of the United States of America or direct non-callable and non-prepayable obligations the full and timely payment of principal of and interest on which is unconditionally guaranteed by the United States of America (collectively the “Substitute Defeasance Obligations”). Investments in mutual funds or unit investment trusts for that purpose are prohibited. The County will not request the Escrow Agent to exercise any of the powers described in the preceding sentence in any manner which, if reasonably expected on the date of issuance thereof, would cause any of the Refunding Bonds or any of the Bonds to be Refunded to be an “arbitrage bond” within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the “Code”), and the regulations thereunder in effect on the date of that request and applicable to obligations issued on the respective issue dates of the Refunding Bonds and the Bonds to be Refunded. The Escrow Agent shall purchase those Substitute Defeasance Obligations with the proceeds derived from the sale, transfer, disposition or redemption of the Government Obligations together with any other funds available for that purpose. The foregoing transactions may be effected only

if: (i) an independent qualified consultant shall certify to the effect that after those transactions are completed the principal of and interest on the Substitute Defeasance Obligations will, together with any remaining Government Obligations and other moneys available for the purpose, be sufficient without further investment to pay, as the same become due at redemption, all principal of and redemption premium, if any, and interest on the Bonds to be Refunded as shown in Appendix B hereto which have not been paid previously; (ii) the amounts and dates of the anticipated transfers from the Escrow Fund for the Bonds to be Refunded will not be diminished or postponed thereby; (iii) the Substitute Defeasance Obligations will be of comparable credit standing to the Government Obligations originally purchased; (iv) notification will be given by the Escrow Agent at the direction of the County to Moody's Investors Service, Inc. ("Moody's"), Standard & Poor's Ratings Services ("S&P") and Fitch, Inc. ("Fitch" and together with Moody's and S&P, the "Rating Agencies"), and any other rating agency that is rating the Bonds to be Refunded or the Refunding Bonds and (v) the Escrow Agent shall receive an unqualified opinion of attorneys nationally recognized on the subject of municipal bonds to the effect that such disposition, substitution or purchase would not cause any of the Refunding Bonds or any of the Bonds to be Refunded to be an "arbitrage bond" within the meaning of Section 148 of the Code and the regulations thereunder in effect on the date of that disposition, substitution or purchase and applicable to obligations issued on the respective issue dates of the Refunding Bonds and the Bonds to be Refunded."

2. **Ratification.** As amended hereby, the Escrow Agreement is in all respects ratified and confirmed and the Escrow Agreement as so amended shall be read, taken and construed as one and the same instrument.

3. **E-Verify.** The Escrow Agent understand that "E-Verify" is a federal program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law in accordance with Section 64-25(5) of the General Statutes of North Carolina, as amended. The Escrow Agent use E-Verify to verify the work authorization of their employees in accordance with Section 64-26(a) of the General Statutes of North Carolina, as amended. Any entity to which any of the Escrow Agent' obligations under the Escrow Agreement are subcontracted shall comply with the requirements of E-Verify.

(SIGNATURES TO FOLLOW)

IN WITNESS WHEREOF, the County and the Escrow Agent have caused this Amendment to be executed by their respective duly authorized officers, all as of the date first above written.

COUNTY OF GUILFORD, NORTH CAROLINA

By: _____
Michael Halford
County Manager

(SIGNATURES CONTINUED ON FOLLOWING PAGE)

[Signature Page to Amendment to Escrow Deposit Agreement between County of Guilford, North Carolina and U.S. Bank National Association]

U.S. BANK NATIONAL ASSOCIATION

By: _____
Shawna Hale
Vice President

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