

THE METROPOLITAN GOVERNMENT
OF NASHVILLE AND DAVIDSON COUNTY

§ _____
WATER AND SEWER REVENUE REFUNDING BONDS, SERIES 2021B (FEDERALLY
TAXABLE)

REFUNDING ESCROW AGREEMENT

THIS REFUNDING ESCROW AGREEMENT (the "Agreement"), dated as of _____, 2021, is by and between The Metropolitan Government of Nashville and Davidson County (the "Metropolitan Government") and U.S. Bank National Association, as Escrow Agent (the "Escrow Agent").

W I T N E S S E T H:

WHEREAS, the Metropolitan Government has previously authorized and issued its Water and Sewer Revenue Bonds, Series 2013, dated April 25, 2013, maturing on or after July 1, 2024 (the "Refunded Bonds"); and

WHEREAS, the Metropolitan Government has determined that it is in its best interest to refund and refinance the Refunded Bonds by depositing in escrow with the Escrow Agent funds that, with the investment income therefrom, will be sufficient to pay the principal of and interest on the Refunded Bonds to their earliest optional redemption dates; and

WHEREAS, in order to obtain a portion of the funds needed for said deposit, the Metropolitan Government has authorized and issued \$ _____ in aggregate principal amount of Federally Taxable Water and Sewer Revenue Refunding Bonds, Series 2021B (Green Bonds), dated the date hereof (the "Refunding Bonds"); and

WHEREAS, in order to create the escrow hereinabove described, provide for the deposit of Refunding Bond proceeds and the application thereof, and to provide for the payment of the Refunded Bonds as set forth herein, the parties hereto do hereby enter into this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the Metropolitan Government and the Escrow Agent agree as follows:

Unless otherwise defined herein, capitalized terms used herein shall have the meanings ascribed to them in the resolution authorizing the Refunding Bonds (the "Refunding Bond Resolution").

SECTION 1. Escrow Funds. There is hereby created and established a special and irrevocable escrow fund (the "Escrow Fund") to be held in the custody of the Escrow Agent under this Agreement separate and apart from all other funds of the Metropolitan Government or of the Escrow Agent. All monies and Defeasance Securities deposited to the Escrow Fund, together with investment income therefrom, shall be held and applied solely as provided in this Agreement and shall constitute a fund to be held by the Escrow Agent as a part of the escrow and trust created, established and governed by this Agreement. The holders of the Refunded Bonds shall have an express lien on all monies,

Defeasance Securities and other funds deposited in the Escrow Fund until used and applied in accordance with this Agreement.

SECTION 2. Deposit of Monies. There is hereby deposited with the Escrow Agent to the Escrow Fund by or for the benefit of the Metropolitan Government \$_____ of the proceeds of the sale of the Refunding Bonds and \$_____ of other available funds of the Metropolitan Government. The Metropolitan Government hereby represents and warrants that such monies are at least equal to an amount sufficient to purchase the Defeasance Securities set forth in Schedule A hereto and the Defeasance Securities so purchased at their respective maturities, together with the cash deposit, will be sufficient to pay principal of and interest on the Refunded Bonds to their earliest optional redemption date.

SECTION 3. Use and Investment of Monies. The Escrow Agent acknowledges receipt of the monies described in Section 2 and agrees:

(a) to immediately invest \$_____ of such funds in the Defeasance Securities listed on Schedule A hereto and to deposit such Defeasance Securities in the Escrow Fund; and

(b) to hold \$_____ of such funds as cash in a non-interest-bearing account and to wire said amount to the registration and paying agent for the Refunded Bonds to pay principal of and interest on the Refunded Bonds as set forth on Schedule B hereto.

Except as provided in Sections 6 and 8 hereof, the investment income from the Defeasance Securities in the Escrow Fund shall be credited to the Escrow Fund and shall not be reinvested. The Escrow Agent shall have no power or duty to invest any monies held hereunder or to make substitutions of Defeasance Securities held hereunder or to sell, transfer or otherwise dispose of the Defeasance Securities acquired hereunder except as provided herein.

SECTION 4. Payment of Refunded Bonds.

(a) Payment. As the principal of the Defeasance Securities set forth in Schedule A hereto and the investment income and earnings thereon are paid, the Escrow Agent shall, no later than the appropriate interest and principal payment dates for the Refunded Bonds, transfer from the Escrow Fund to the paying agent for the Refunded Bonds amounts sufficient to pay the principal of and interest on the Refunded Bonds at the times, in the amounts and in the manner set forth on Schedule B attached hereto and the resolution authorizing the Refunded Bonds.

(b) Excess Funds. When the Escrow Agent has made all required payments of principal and interest on the Refunded Bonds as hereinabove provided, the Escrow Agent shall transfer any monies or Defeasance Securities then held hereunder to the Metropolitan Government and this Agreement shall terminate.

(c) Termination of Obligations. Upon deposit of the monies set forth in Section 2 hereof with the Escrow Agent pursuant to the provisions of Section 2 hereof and the simultaneous purchase of the Defeasance Securities as provided in Section 3 hereof, the owners of the Refunded Bonds shall cease to be entitled to any lien, benefit or security under the resolutions authorizing the Refunded Bonds, and all covenants, agreements and obligations of the Metropolitan Government to the owners of the Refunded Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

SECTION 5. Performance of Duties. The Escrow Agent agrees to perform the duties set forth herein.

SECTION 6. Reinvestment.

(a) Except as provided in this Section 6 or in Section 8 hereof, the Escrow Agent shall have no power or duty to reinvest any funds held under this Agreement or to sell, transfer or otherwise dispose of the monies or Defeasance Securities held hereunder.

(b) Unless otherwise directed by the Metropolitan Government, any surplus amounts received from principal or interest payments on such Defeasance Securities remaining in the Escrow Fund from time to time and not needed at such time to pay principal and interest due or to become due on the Refunded Bonds, shall be held uninvested in the Escrow Fund until the next principal or interest payment date, at which time such amount shall be applied before any other Escrow Fund monies to the payment of the next ensuing payment on the Refunded Bonds.

SECTION 7. Responsibilities of the Escrow Agent. In the event of the Escrow Agent's failure to account for any of the Defeasance Securities, Substituted Obligations (as defined in Section 8 hereof) or monies received by it, said Defeasance Securities or Substituted Obligations or monies shall be and remain the property of the Metropolitan Government in trust for the holders of the Refunded Bonds, as herein provided, and if for any reason such Defeasance Securities, Substituted Obligations or monies are not applied as herein provided, the Escrow Agent shall be liable to the Metropolitan Government.

The Escrow Agent shall not be liable for the accuracy of the calculations as to the sufficiency of the Defeasance Securities, Substituted Obligations and other monies available for such purpose to pay the Refunded Bonds. So long as the Escrow Agent applies the Defeasance Securities, Substituted Obligations and monies as provided therein, and complies fully with the terms of this Agreement, the Escrow Agent shall not be liable for any deficiencies in the amounts necessary to pay the Refunded Bonds caused by such calculations.

The Escrow Agent shall not be liable to the Metropolitan Government for any act done or step taken or omitted to be taken by it, or for any mistake of fact or law, or anything which it may do or refrain from doing, except for its own gross negligence or willful default in the performance of any obligation imposed upon it hereunder.

The Escrow Agent shall deliver to the Director of Finance a monthly report summarizing all transactions relating to the Escrow Fund.

SECTION 8. Substitution of Defeasance Securities. At the written request of the Metropolitan Government made by the Director of Finance, the Escrow Agent shall have the power to sell, transfer or otherwise dispose of the Defeasance Securities acquired hereunder and to substitute for the Defeasance Securities any direct obligations of, or non-callable, non-prepayable obligations fully guaranteed as to full and timely payment of principal and interest by, the United States of America which are not subject to redemption prior to maturity other than at the option of the holder thereof and which do not consist of investments in mutual funds or unit investment trusts (the "Substituted Obligations"). The Escrow Agent shall either (i) purchase such Substituted Obligations with the proceeds derived from the sale, transfer, disposition or redemption of the Defeasance Securities together with any other funds available for such purpose or (ii) acquire such Substituted Obligations in exchange for the transfer of the Defeasance Securities identified in written instructions of the Director of Finance. The foregoing transactions may be effected only if: (a) an independent certified public accountant shall certify that after such transaction the principal amount of and interest income on the Substituted Obligations will, together with any other monies available for such purpose, be sufficient to pay, excluding reinvestment earnings, as the same become due at maturity or earlier redemption, all principal of and interest on the Refunded Bonds which have not been paid previously; (b) the amounts and dates of the anticipated transfers from

the Escrow Fund to the paying agent for the Refunded Bonds will not be diminished or postponed thereby, which may be evidenced in the report of the independent certified public accountant delivered pursuant to clause (a) hereof; and (c) the Escrow Agent shall receive an unqualified opinion of nationally recognized attorneys on the subject of municipal bonds to the effect that (A) such disposition and substitution or purchase would not cause any of the Refunded Bonds to be an "arbitrage bond" within the meaning of Section 103(c) of the Code in effect on the date of such disposition and substitution and applicable to the Refunded Bonds and (B) such disposition, substitution or purchase is permitted under the terms of the resolutions authorizing the Refunded Bonds. Any cash from the sale of any Defeasance Securities or Substituted Obligations received from the disposition and substitution of obligations pursuant to this Section 8, to the extent such cash will not be required, in accordance with the resolutions authorizing the Refunded Bonds and this Agreement, at any time for the payment when due of the principal of and interest on the Refunded Bonds, shall be paid to the Metropolitan Government, as received by the Escrow Agent free and clear of any trust, lien, pledge or assignment securing the Refunded Bonds or otherwise existing under this Agreement.

SECTION 9. Redemption of Refunded Bonds. The Refunded Bonds shall be redeemed on July 1, 2023. The Escrow Agent is hereby authorized and directed to give notice of a July 1, 2023 redemption to the registration and paying agent of the Refunded Bonds not less than sixty (60) days prior to such redemption date, directing the registration and paying agent for the Refunded Bonds to give notice of redemption in accordance with the resolution authorizing the issuance of the Refunded Bonds. The redemption notice shall be substantially in the form of the notice attached hereto and made a part hereof as Schedule C. The Escrow Agent is hereby authorized and directed to pay the full redemption price of said Refunded Bonds to the registration and paying agent of the Refunded Bonds on or prior to July 1, 2023.

SECTION 10. Amendments. This Agreement is made for the benefit of the Metropolitan Government and the holders from time to time of the Refunded Bonds and it shall not be repealed, revoked, altered or amended without the written consent of all such holders, the Escrow Agent and the Metropolitan Government; provided, however, that the Metropolitan Government and the Escrow Agent may, without the consent of, or notice to, such holders, amend this Agreement or enter into such agreements supplemental to this Agreement as shall not adversely affect the rights of such holders and as shall not be inconsistent with the terms and provisions of this Agreement, for any one or more of the following purposes: (i) to cure any ambiguity or formal defect or omission or to correct any inconsistent provisions in this Agreement; (ii) to grant to, or confer upon, the holders of the Refunded Bonds or the Escrow Agent any additional rights, remedies, powers or authority that may lawfully be granted to, or conferred upon, such holders or the Escrow Agent; (iii) to include under this Agreement additional funds, securities or properties and (iv) to amend, supplement or sever any provision of this Agreement deemed, in the opinion of nationally recognized bond counsel, to be in need of such amendment, supplement or severance in order to protect the tax-exempt status of interest on any of the Refunded Bonds, but only to the extent not detrimental to the holders of the Refunded Bonds. The Escrow Agent shall be entitled to rely conclusively upon an unqualified opinion of nationally-recognized municipal bond attorneys with respect to compliance with this Section 10, including the extent, if any, to which any change, modification, addition or elimination affects the rights of the holders of the Refunded Bonds or that any instrument executed hereunder complies with the conditions and provisions of this Section 10.

SECTION 11. Term. This Agreement shall commence upon its execution and delivery and shall terminate on the later to occur of either (i) the date upon which the Refunded Bonds have been paid in accordance with this Agreement or (ii) the date upon which no unclaimed monies remain on deposit with the Escrow Agent pursuant to Section 4(b) of this Agreement.

SECTION 12. Compensation. The Metropolitan Government shall compensate the Escrow Agent for its services hereunder by paying to the Escrow Agent an annual fee of \$500; provided, however, that under no circumstances shall the Escrow Agent be entitled to any lien whatsoever on any monies or obligations in the Escrow Fund for the payment of fees and expenses for services rendered by the Escrow Agent under this Agreement. The Metropolitan Government shall not be obligated to pay any fees or amounts to the Escrow Agent except as set forth in this Section 12.

SECTION 13. Resignation or Removal of Escrow Agent.

(a) The Escrow Agent may resign by giving notice in writing to the Metropolitan Government, which notice shall be mailed by the Metropolitan Government, or its agent, at the cost and expense of the resigning Escrow Agent, to the holders of the Refunded Bonds by first-class mail, postage prepaid, at the addresses shown on the Bond registration books of the paying agent and registration agent for the Refunded Bonds as of the date of the notice. The Escrow Agent may be removed (1) at the direction of the Metropolitan Government upon any consolidation or merger of the Escrow Agent with any other entity or the transfer or assignment of its duties hereunder to any other entity or the sale or transfer of all or substantially all its trust assets to any other entity, or (2) by (i) filing with the Metropolitan Government of an instrument or instruments executed by the holders of at least 51% in aggregate principal amount of the Refunded Bonds then remaining unpaid, (ii) mailing such notice at least sixty (60) days prior to the effective date of said removal to the holders of the Refunded Bonds as aforesaid, and (iii) the delivery of a copy of the instruments filed with the Metropolitan Government to the Escrow Agent, or (3) by a court of competent jurisdiction for failure to act in accordance with the provisions of the Escrow Agreement upon application by the Metropolitan Government or the holders of 5% in aggregate principal amount of the Refunded Bonds then remaining unpaid.

(b) If the position of Escrow Agent becomes vacant due to resignation or removal of the Escrow Agent or any other reason, a successor Escrow Agent may be appointed by the Metropolitan Government. Notice of such appointment shall be mailed in accordance with the requirements more specifically set forth in clause (2)(ii) of subsection (a) of this Section. Within one (1) year after a vacancy, the holders of a majority in principal amount of the Refunded Bonds then remaining unpaid may, by an instrument or instruments filed with the Metropolitan Government, appoint a successor Escrow Agent who shall supersede any Escrow Agent theretofore appointed by the Metropolitan Government. If no successor Escrow Agent is appointed by the Metropolitan Government or the holders of such Refunded Bonds then remaining unpaid, within forty-five (45) days after any such resignation or removal, the holder of any such Refunded Bond or any retiring Escrow Agent may apply to a court of competent jurisdiction for the appointment of a successor Escrow Agent. The responsibilities of the Escrow Agent under this Escrow Agreement will not be discharged until a new Escrow Agent is appointed and until the cash and investments held under this Escrow Agreement are transferred to the new Escrow Agent.

SECTION 14. No Implied Duties; Reliance on Counsel. The Escrow Agent shall have no implied duties under this Agreement. In the event of any question arising hereunder, the Escrow Agent shall be entitled to rely conclusively on the opinion of nationally recognized municipal bond attorneys which cost shall be borne by the Metropolitan Government.

SECTION 15. Acts and Notices by the Metropolitan Government. Any action or notice permitted by or required of the Metropolitan Government under this Agreement shall be performed or given, as the case may be, by the Director of Finance or his designee unless otherwise specified in this Agreement.

SECTION 16. Severability. If any one or more of the covenants or agreements provided in this Agreement on the part of the Metropolitan Government or the Escrow Agent to be performed should be determined by a court of competent jurisdiction to be contrary to law, such covenants or agreements shall be null and void and shall be deemed separate from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Agreement.

SECTION 17. Counterparts. 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.

SECTION 18. Governing Law. This Agreement shall be construed under the laws of the State of Tennessee.

SECTION 19. Holidays. If the date for making any payment or the last date for performance of any act or the exercising of any right, as provided in this Agreement, shall be a legal holiday or a day on which banking institutions in Nashville, Tennessee, are authorized by law to remain closed, such payment may be made or act performed or right exercised on the next succeeding day not a legal holiday or a day on which such banking institutions are authorized by law to remain closed, with the same force and effect as if done on the nominal date provided in this Agreement, and no interest shall accrue for the period after such nominal date.

SECTION 20. Assignment. This Agreement shall not be assigned by the Escrow Agent or any successor thereto without the prior written consent of the Metropolitan Government.

(signature page follows)

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers and their seals to be hereunto affixed and attested as of the ____ day of _____, 2021.

THE METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON COUNTY

By: _____
John Cooper
Metropolitan Mayor

(SEAL)

ATTESTED:

Elizabeth Waites
Metropolitan Clerk

APPROVED AS TO FORM
AND LEGALITY:

Wallace W. Dietz
Director of Law

U.S. BANK NATIONAL ASSOCIATION,
Escrow Agent

By: _____
Title: Authorized Signatory

SCHEDULE A

TO ESCROW AGREEMENT

**The Metropolitan Government of Nashville
and Davidson County
Defeasance Securities**

Total Cost of Securities: \$ _____
Cash Deposit: \$ _____

SCHEDULE B

TO ESCROW AGREEMENT

**The Metropolitan Government of Nashville
and Davidson County**

Debt Service Schedule of Refunded Bonds

Debt Service Schedule of Water and Sewer Revenue Bonds, Series 2013, dated April 25, 2013, maturing on or after July 1, 2024 to a July 1, 2023 Redemption Date, With Name of the Paying Agent.

<u>Redemption Date</u>	<u>Interest</u>	<u>Principal Redeemed</u>	<u>Total Debt Service</u>
January 1, 2022	\$5,305,800.00		\$5,305,800.00
July 1, 2022	\$5,305,800.00		\$5,305,800.00
January 1, 2023	\$5,305,800.00		\$5,305,800.00
July 1, 2023	\$5,305,800.00	\$225,135,000.00	\$230,440,800.00

Paying Agent: U.S. Bank National Association

SCHEDULE C

**The Metropolitan Government of Nashville
and Davidson County**

Notice of Redemption

**Water and Sewer Revenue Bonds, Series 2013, dated April 25, 2013, maturing on or after
July 1, 2024**

NOTICE IS HEREBY GIVEN that The Metropolitan Government of Nashville and Davidson County (the "Metropolitan Government"), has elected to and does exercise its option to call and redeem on July 1, 2023, all the Metropolitan Government's outstanding Water and Sewer Revenue Bonds, Series 2013, dated April 15, 2013, maturing on or after July 1, 2024 (the "Refunded Bonds"), more fully described as follows:

<u>Principal Amount</u>	<u>CUSIP</u>	<u>Interest Rate</u>	<u>Maturity Date</u>
\$6,845,000	592098L62	5.000%	July 1, 2024
7,195,000	592098L70	5.000	July 1, 2025
7,565,000	592098L88	5.000	July 1, 2026
7,950,000	592098L96	5.000	July 1, 2027
8,280,000	592098M20	3.250	July 1, 2028
8,635,000	592098M38	5.000	July 1, 2029
9,075,000	592098M46	5.000	July 1, 2030
9,540,000	592098M53	5.000	July 1, 2031
10,030,000	592098M61	5.000	July 1, 2032
10,545,000	592098M79	5.000	July 1, 2033
89,450,000	592098N29	5.000	July 1, 2040
50,025,000	592098N37	4.000	July 1, 2043

The owners of the Refunded Bonds are hereby notified to present the same to the principal corporate trust office of U.S. Bank National Association, Nashville, Tennessee, where redemption shall be made at a price of 100% of the par amount thereof, plus accrued interest. The redemption price will become due and payable on July 1, 2023 upon each such Refunded Bond herein called for redemption, and such Refunded Bonds shall not bear interest beyond July 1, 2023.

Important Notice: Withholding of 24% of gross redemption proceeds of any payment made within the United States may be required by Tax Cuts and Jobs Act of 2017, unless the Paying Agent has the correct taxpayer identification number (social security or employer identification number) or exemption certificate of the payee. Please furnish a properly completed W-9 or exemption certificate or equivalent when presenting your securities.

U.S. Bank National Association
Paying Agent and Registration Agent