

**INTERGOVERNMENTAL AGREEMENT BETWEEN EFFINGHAM COUNTY AND
BRYAN COUNTY**

THIS INTERGOVERNMENTAL AGREEMENT, (the “Agreement”) is made this ____ day of _____ 2023 by and between EFFINGHAM COUNTY, a body corporate and politic and a political subdivision of the State of Georgia (hereinafter, “Effingham County”) and BRYAN COUNTY, a body corporate and politic and a political subdivision of the State of Georgia (hereinafter, “Bryan County”). Effingham County and Bryan County are, collectively, the Parties.

WHEREAS, Article IX, Section III, Paragraph 1 of the Constitution of the State of Georgia provides that local governments in the State may contract with one another for any period not exceeding fifty (50) years; and

WHEREAS, pursuant to such authority the Parties desire to enter into a Sewer Service Agreement to provide for sewage treatment capacity for areas currently within Effingham County; and

WHEREAS, Bryan County intends to design, permit, construct, operate and maintain a sewer lift station and force main to collect and convey sewer as part of the Bryan County I-16 Regional Sewer Improvements Project/ I-16 Regional Force Main Improvements PI Number 29088.0000 (hereinafter, the “Project”); and

WHEREAS, it is in the best interest of the citizens of Effingham County and Bryan County that this agreement be consummated and that such commitments be made.

NOW THEREFORE, in consideration of the mutual covenants and agreements, and benefits to the parties, Effingham County and Bryan County agree as follows:

1. **Sewer Conveyance and Treatment Capacity.** Bryan County will make sewer connection points available to Effingham County to allow the conveyance and treatment of wastewater meeting the requirements of all applicable regulatory agencies and as otherwise stated herein. Both parties agree that, Effingham County will own and maintain the sewer conveyance system from the connection points to its customers, and Bryan County will own and maintain the sewer conveyance system from the connection points to its facilities. Bryan County shall construct a sewer metering station at a location mutually agreed to by Effingham County and Bryan County. The initial sewer conveyance system from Effingham County to the connection points, and the initial treatment capacity made available by Bryan County under this Agreement shall be used solely to serve sewer customers located within current (as of the date of this Agreement)

jurisdictional limits of Effingham County. The “**Sewer Delivery Points**” shall be located on both sides of I-16 with one connection point located on Tract 2 as identified on the plat (attached hereto as “Exhibit B”) and the second connection point located within the easement areas acquired by Bryan County on the Effingham County Industrial Development Authority parcels.. All flows from Effingham County’s customers shall be considered part of its 250,000 gallon per day allocation.

Sewer conveyance to Effingham County, and treatment capacity made available by Bryan County shall be based on timing of infrastructure improvements for the Project and related Bryan County reclamation plant within Bryan County’s system, and no later than approval from the Georgia Environmental Protection Division (GA EPD) for placement into operation . As part of this agreement both parties mutually agree to the following:

Following the construction of the Project and the Bryan County reclamation plant, and its approval from the GA EPD to be placed into operation, Bryan County shall make available sewer treatment capacity of 250,000 gallons per day (gpd) to Effingham County upon Effingham County’s written request. The maximum amount of sewer conveyance from Effingham County into Bryan County’s system will not exceed 1,800 gallons per minute (gpm) of peak flow. In no event shall Bryan County be obligated to provide sewer conveyance and treatment capacity in excess of a monthly average of 250,000 gpd.

2. **Meter Calibration Tests and Meter Failure.** Maintenance of the Sewer Meter, including annual calibration, shall be the responsibility of Bryan County.

Bryan County shall calibrate the meter at least once every twelve (12) months or in accordance with manufacturer’s recommendation, whichever is more frequent. Effingham County shall have the right at all times to inspect said meter and to conduct at Effingham County’s expense such tests as may be appropriate. Effingham County may request that additional calibrations of the sewage meter be made, but such requests may be made no more frequently than once in a twelve-month period. The cost of meter calibration tests (requested by Effingham County) shall be paid by Effingham County unless the test determines that the registering error of the meter was greater than 15% in which case the cost shall be paid by Bryan County. If as a result of such requested test, it is determined that a meter had a registering error greater than 15% then bills rendered

subsequent to the latest previous calibration shall be adjusted (up or down as applicable) based on the test results.

Both Bryan County and Effingham County shall have the right, at reasonable times, to inspect said meter and to conduct such tests as may be appropriate so as to assure that it is accurately measuring the sewage discharged. Effingham County shall have the right to have its representative read said meter once within such calendar month, if it so desires, and Bryan County shall have a representative available in order that said meter may be jointly read. It is expressly provided, however, that Bryan County and Effingham County shall have the right to read said meter at such other time or times within each calendar month as may be mutually agreeable. Should the representative of Effingham County fail or refuse to appear at the time agreed upon, then Bryan County's representative may read such meter and the reading so made shall be final, conclusive and binding upon Effingham County. In the event that it should appear during any month that said meter has failed to accurately measure the sewage passing through the same, then and in that event the amount of sewage discharged by Effingham County to Bryan County during such period shall be computed by the most accurate method possible, taking into consideration the average daily amount discharged over the proceeding twelve (12) month period as shown by such meter when properly functioning. However, in any event, Bryan County shall be obligated to have any malfunctioning meter repaired or replaced promptly, and in no event more than thirty (30) days after notice of any malfunction by Effingham County.

3. **Metered Sewage Consumption Charge.** Effingham County shall pay to Bryan County a consumption charge for each 1,000 gallons delivered through the Sewage Meter. The consumption charge shall be stated in terms of dollars per 1000 gallons. The rate at all times shall be a wholesale rate in line with Bryan County's other wholesale customers and mutually agreed upon by the Parties. However, in no case shall the consumptive rate be greater than the rate charged by Bryan County to any of its wholesale customers, including any discounts that may be given by Bryan County to its customers.

Payment shall be made monthly within 30 days of the receipt of the invoice for consumption charges.

4. **Operation and Maintenance and Sewage Transport Facility Responsibilities.** Bryan County shall be responsible for (or responsible for causing) the construction, funding, operation,

maintenance and compliance with applicable law and regulations of the Bryan County sewer system located in Bryan and Effingham Counties upstream from the Sewer Delivery Points.

5. **Sewage Treatment.** Bryan County will accept for treatment domestic strength sanitary sewage delivered by Effingham County to a force main delivery point located in the vicinity of the I-16 (the “Sewage Delivery Point”). Said sewage shall be limited solely to sewage which originated from sewer customers located within current (as of the date of this Agreement) jurisdictional limits of Effingham County.

The delivered sewage shall contain no toxic materials which would interfere with Bryan County’s biological treatment processes, and delivered sewage shall have characteristics which do not exceed the following parameter limits:

<u>Constituent</u>	<u>Maximum Concentration</u> <u>Mg/L</u>
BOD	1,000
COD	1,500
Fat, Oil, and Grease	100
Total Suspended Solids	280
Total Toxic Organics	2.13
Cyanide (total)	0.33
Arsenic	0.15
Cadmium	0.09
Chromium	4.01
Copper	2.81
Lead	0.60
Mercury	0.05
Nickel	1.64
Silver	0.93
Zinc	0.88

Delivered sewage shall contain no toxic material or other characteristics which may interfere with Bryan County’s pumping, transport, or treatment processes whether or not specifically identified above. Effingham County shall be responsible to require any industrial treatment necessary to comply with limitations.

Effingham County shall sample and report each of the above parameters at least once each year to demonstrate compliance.

The maximum amount of acceptable sewage that may be delivered by Effingham County in any month is 250,000 gallons per day. In no event shall Bryan County be obligated to accept in excess of an annual average of 250,000 gallons per day except as otherwise mutually agreed to by the Parties in writing.

6. **Sewer Use Regulations.** Effingham County shall adopt and enforce regulations to prevent the discharge into its sewer system of any materials which by reason of character or quantity would:

Interfere with the operation or efficiency of the sewage transport and treatment systems of Bryan County, or not be susceptible to treatment by the treatment process.

In any way cause a violation of any directive, regulation, or permit of the Environmental Protection Division of the Department of Natural Resources (“EPD”) or the industrial pre- treatment program of the Bryan County or any other regulatory agency.

Constitute a hazard to human or animal life due to toxicity, flammable or explosive characteristics of the pollutant(s).

Effingham County shall notify Bryan County of any violation of the sewer use regulations and take corrective action to stop such violation and minimize the effects of such violation.

7. **Required Future Sewage Treatment Improvements.** In the event that Bryan County is required by any regulatory agency, or by any law, rule, or regulation, within fifteen (15) years of the execution of this agreement, to make improvements to the sewage transport system, to increase the level of treatment, to undertake a capital maintenance project, or make other improvements to (such as disposal of effluent by land application), or change, or eliminate the discharge of, the facility treating sewage delivered by Bryan County so as to increase the capital or operating costs for providing sewage service under this agreement, then the sewer capital cost recovery charge and/or the sewer metered consumption charge shall be equitably adjusted. Said adjustments will be reviewed in detail between both parties.

In the future, following mutual agreement of both parties for Effingham County to transport sewage to the Sewer Delivery Points for Bryan County to accept, transport, and treatment, if Bryan

County is required by any regulatory agency, or by any law, rule, or regulation, to make improvements to the sewage transport system, to increase the level of treatment, to undertake a capital maintenance project, or make other improvements to (such as disposal of effluent by land application), or change, or eliminate the discharge of, the facility treating sewage delivered by Effingham County so as to increase the capital or operating costs for providing sewage service under this agreement, then the sewer capital cost recovery charge and/or the sewer metered consumption charge shall be equitably adjusted. Said adjustments will be reviewed in detail between both parties.

For purposes of this section “capital maintenance” shall mean a renewal or replacement of facilities or equipment costing in excess of \$250,000.

8. **Interest on Overdue Payments and Non-Payment.** Interest at 3% per month shall be charged on the unpaid balance of any amount not paid when due. Said interest shall begin to accrue on the payment due date.

Bryan County will be relieved of its obligation to continue to accept sewage from Effingham County in the event that payments due hereunder remain unpaid in excess of ninety (90) days after the date due. Effingham County shall be provided notice of non-payment and shall have ten (10) days from the date of such notice to make payment before Bryan County is relieved of its obligations.

The foregoing notwithstanding, interest on an overdue unpaid balance shall not accrue during any period required to investigate the accuracy of meter calibrations as provided in Section 2.

9. **Excess Usage.** Excess sewage usage means sewage delivered by either party through the meter station and Sewer Delivery Points, in any month, in excess of the quantities specified in Section 1 of this Agreement, or with characteristics exceeding the maximum concentrations provided in Section 5 of this Agreement. The party receiving sewage at the time of such excess, shall give notice to party discharging the sewage of the occurrence of excess sewage usage. Upon receipt of such notice, the discharging party shall immediately take steps to eliminate such excess sewage usage.

If after 30 days of such notice, excess sewage usage continues to occur, then the sewage receiving party, at its option, may adjust the Sewage Capital Cost Recovery Charge to equitably recover additional costs resulting from of such excess usage and the sewage discharging party shall pay charges at such adjusted rates, and/or the sewage receiving party may install physical devices to limit the quantity of sewage delivered to be within the quantities provided for under this Agreement. In addition, it is agreed that the consumption charge for excess sewage delivered shall be 1.5 times the consumption charges defined in Section 8 hereof.

10. **Provisions of Law.** All generally applicable provisions of law now or hereafter in effect relating to sewer service by Bryan County and/or Effingham County, shall be applicable to this agreement.

11. **Notices.** Any notices required to be given to any party under the terms of this Agreement, shall be forwarded by United States Postal service as follows :

If to Effingham: Effingham County
 Attention: County Manager
 804 S Laurel Street
 Springfield, Georgia 31329

With Copy to: Effingham County
 Attention: County Attorney
 804 S Laurel Street
 Springfield, Georgia 31329

If to Bryan County: Bryan County
 Attention : County Administrator
 51 North Courthouse Street
 Pembroke, Georgia 31321

With Copy to: Bryan County
 Attention: County Attorney
 51 North Courthouse Street
 Pembroke, Georgia 31321

12. **Term.** This Agreement shall be effective for an initial term ending on December 31, 2033. The term of this Agreement shall automatically be extended under the same terms and provisions, or other mutually agreeable terms and provisions, by ten (10) year renewal terms to the extent allowed under Article IX, Section 111, Paragraph 1 of the Constitution of the State of Georgia.

However, the Parties recognize that changing environmental conditions, changing costs, new or changed laws, rules, regulations or orders of the state or federal governments, or other changed circumstances, may make renegotiation of provisions of this Agreement necessary prior to the end of the initial term or any extension term. Therefore, it is agreed that the parties may call for the renegotiation of provisions of this Agreement affected by changed circumstances to achieve an equitable revision.

13. **Adjustments to Sewer Quantities.** The parties hereto may from time to time request adjustments in the quantity of sewage treatment capacity provided in Section 1 and Section 5 hereof for use in Effingham County. However, before any adjustment is effective it must be mutually agreed upon by the parties by written amendment to this Agreement.

14. **Amendments.** No amendment to this Agreement shall be effective unless it is in writing and signed by duly authorized representatives of the Parties hereto.

15. **Counterparts.** This Agreement may be signed in several counterparts, each one of which shall be an original and all of which when taken together will constitute one Agreement between the parties.

16. **Validity and Enforcement.** If any provision of this agreement is held invalid or unenforceable, the validity and enforceability of the remaining provisions of the agreement shall not be affected thereby, unless the provision held invalid is a material element of this agreement.

17. **Waivers.** No delay or failure to exercise a right under this agreement shall impair such right or shall be construed to be a waiver thereof, and any such rights may be exercised from time to time and as often as deemed expedient. Any waiver shall be in writing and signed by the party granting such waiver.

18. **Headings.** The headings of the sections of this agreement have been inserted for convenience of reference only and shall in no way restrict or otherwise modify any of the terms or provisions hereof.

19. **Force Majeure.** Any terrorist act, strike, inclement weather, fire, act of God, or other similar unexpected event (to also include any act or omission of the other party to the

Agreement) which prevents a party hereto claiming *force majeure* from performing its obligations and which act or event is beyond the reasonable control and not arising out of the fault of said party (or its contractors, officers, members, directors, shareholders, subcontractors, representatives and agents, as the case may be), and said party has been unable to overcome such act or event by the exercise of due diligence and reasonable efforts; provided, however, that the party claiming *force majeure* shall promptly notify the other party of the circumstances surrounding the same and the anticipated delay resulting therefrom.

IN WITNESS WHEREOF, the Parties have caused these presents to be executed by their duly authorized officers and their seals affixed as of the day and year first above written.

[SIGNATURES COMMENCE ON THE FOLLOWING PAGE]

Executed in the presence of:

EFFINGHAM COUNTY, GEORGIA

Witness

County Manager

Notary Public

Attest: _____

County Clerk

(Seal)

Executed in the presence of:

BRYAN COUNTY, GEORGIA

Witness

County Administrator

Notary Public

Attest: _____

County Clerk

(Seal)