

## **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.

### **RECITALS**

WHEREAS, Effingham County has jurisdiction over certain real property identified as Tax Parcels: 304-10, 304-11, 304-12, 305-1, 305A-72, 329-41B, 329D-1, 331-3, 331-4, 331-5, 331-13, 331-14, 331-22, and 329-41A01 which reside wholly within the constitutional boundaries of Effingham County, and are further described by the metes and bounds set out in the legal description attached hereto and incorporated herein by reference as Exhibit “A”, (hereinafter, the “Properties”); and

WHEREAS, the Effingham County Industrial Development Authority (hereinafter, “Effingham IDA”) holds title to the following Tax Parcels: 329D-1, 331-3, 331-4, 331-5, 331-13, 331-14; and

WHEREAS, the Effingham County Board of Commissioners (hereinafter, “Effingham BOC”) holds title to portions of the Properties: (i) certain real property by Limited Warranty Deed dated June 6, 2023 and recorded in Deed Book 2852, Pages 427-429, in the records of the Clerk of Effingham County, and comprised of approximately 10.245 acres +/-, identified as Tax Parcel 329-41A01; and (ii) and certain real property by Limited Warranty Deed dated October 21, 2016 and recorded in Deed Book 2374, Pages 882-883 in the records of the Clerk of Effingham County, and comprised of approximately 1 acres +/- identified as Tax Parcel 331-22; and

WHEREAS, Bryan County has reached an agreement for permanent and temporary construction easement rights with the property owners of Tax Parcels: 304-10, 305-1, 329-41B, 329D-1, 331-3, 331-4, 331-5, 331-13, 331-14; and

WHEREAS, the Parties intend to reach an agreement for permanent and temporary construction easement rights for the following Tax Parcels currently owned by Effingham BOC: 329-41A01 and 331-22; and

WHEREAS, Bryan County desires to obtain permanent easements and temporary construction easements on the following Tax Parcels: 304-11, 304-12, and 305A-72 for the purpose of the construction and ongoing maintenance of an 18 inch force main sewer line 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, for the purposes of this Agreement, Effingham agrees that the Project may include additional sewer infrastructure as may be required so long as it runs parallel to the 18 inch force main within the existing boundaries of the permanent and temporary easements of the Properties.

WHEREAS, the Parties agree that should any water infrastructure, or any other non-sewer utility be desired by Bryan County to be placed within the easement area of the Properties, that this Agreement shall be amended, or a new Agreement negotiated, by the Parties for the purpose of addressing the design, construction, and maintenance of the water infrastructure.

WHEREAS, pursuant to Article IX, Section II, Paragraph III of the Constitution of the State of Georgia of 1983 (“Supplementary Powers”), Effingham County has the authority to provide police protection, fire and emergency medical services, to collect fees, perform inspections, approve final plats and issue certificates of occupancy and permits related to the enforcement of building, electrical, plumbing, gas, housing, land disturbance, erosion control, and other similar codes and regulations and to provide stormwater management services for projects that are located within its jurisdictional limits; and

WHEREAS, Effingham County intends to exercise their authority under the Supplementary Powers provision to provide services to the Properties until such time that the provision of services have been agreed to by the Parties by contract as required by Subsection (b)(1) of Article IX, Section II, Paragraph III of the Constitution of the State of Georgia of 1983; and

WHEREAS, Bryan County desires the authority from Effingham County to provide for the inspection and permitting of the Project pursuant to all federal and state laws and regulations ,including the more restrictive of either Effingham or Bryan County’s then-current ordinances and regulations, as may be required for the construction and operation of the Project on the Property; and

WHEREAS, Effingham County and Bryan County agree that Effingham County shall provide all services to the Properties as required by Article IX, Section II, Paragraph III of the Constitution of the State of Georgia of 1983, as amended, that are not otherwise expressly granted to Bryan County as part of this Agreement; and

WHEREAS, pursuant to the provisions of Article IX, Section II, Paragraph III of the Constitution of the State of Georgia of 1983, as amended, and the general, special and local laws of the State of Georgia, Effingham County and Bryan County, by and through their respective government authorities, are each authorized to enter into agreements with each other for the provision of certain public services outside their jurisdictional limits; and

WHEREAS, in order to ensure the orderly, economical and logical provision of certain public services to the Project, the Parties hereto desire to enter into this Agreement to resolve any potential governmental conflicts between Effingham County and Bryan County concerning issuance of development and building permits, inspections, final plats and certificates of occupancy and collection of fees thereof, stormwater utility service, provision of police

protection and fire and emergency medical services to the Properties,

NOW THEREFORE, in consideration of the sum of Ten and No/100ths Dollars (\$10.00), the foregoing recitals and the representations, warranties, covenants and agreements set forth herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound hereby, the Parties hereto hereby agree as follows:

## **TERMS AND CONDITIONS**

### **1. Recitals**

The above Recitals are true, correct, form a material part of this Agreement and are incorporated herein by reference.

### **2. Ownership of Project**

The Parties acknowledge and agree that Bryan County shall own the Project, including all lines, pipes, pumps, buildings, improvements, equipment, and infrastructure related to the Project. The Parties agree that Bryan County shall be fully responsible for any and all costs associated with the installation, maintenance, repair, use, service, and ownership of the Project. The Parties further acknowledge and agree that Effingham County shall have no right, license, or interest in the Project or to use the Project, without Bryan County's express written consent.

### **3. Inspecting and Permitting**

The Parties agree that Bryan County shall have authority for approving, inspecting and permitting the Project, including but not limited to performing all inspections required to build the Project, approving final plats and issuing certificates of occupancy and permits related to the enforcement of building, electrical, plumbing, gas, land disturbance, and erosion control pursuant to the more restrictive of Effingham or Bryan County's then-current ordinances and regulations, including all applicable state and federal laws and regulations. Bryan County shall have final authority to issue a commercial development permit for the Properties and certificates of occupancy, if needed, for the Project.

Upon receipt of a compliance complaint from any citizen, Effingham County reserves the right to inspect the Properties, and further notify Bryan County of any compliance issues as a result of the inspection.

### **4. Police Services**

The Parties agree that Effingham County shall provide police / law enforcement services to the Properties in accordance with its normal standards and practices.

### **5. Fire and Emergency Medical Services**

- a) Effingham County shall provide all fire protection and emergency medical services to the Properties in accordance with its normal standards and practices.
- b) Bryan County grants to Effingham County the rights, of access over and upon, and use of, all roads, paths, and other infrastructure located on the Properties as may be necessary to allow Effingham County vehicles and personnel providing such fire protection and emergency medical services to have access to the portion of the Properties owned by Bryan County.

## **6. Stormwater Services**

Bryan County shall, at its sole cost and expense, design stormwater facilities for the Properties to Bryan County standards. Bryan County shall operate, service, repair and maintain the stormwater facilities constructed on the Property.

## **7. Project Capacity**

The Parties agree that upon the completion and operation of the North Bryan Water Reclamation Facility (“WRF”), Bryan County shall sell available capacity to Effingham County as a wholesale customer upon written request to Bryan County. If at the time of Effingham’s written request, no capacity is available within the Project, Bryan County shall complete modifications, improvements, and/or expansions to the North Bryan WRF necessary to accommodate acceptance for treatment and disposal of sewage at the written request of Effingham and pursuant to a separate sewer service agreement. The sewer service agreement shall also provide for the wholesale rate, provisions for the design, construction, and payment of costs associated with the modifications, improvements, and/or expansions necessary to accommodate Effingham’s request for capacity, any Capital Recovery Fees, and other provisions of services or conditions as necessary.

## **8. Term and Termination**

The term of this Agreement shall begin on upon the date of execution of this Agreement set forth above and shall extend thereafter for a period of fifty (50) years.

## **9. Miscellaneous**

(a) This Agreement and the covenants of the Parties set forth herein are intended to run with the land and, subject to Section 10 hereof, shall be binding upon each of the Parties hereto and any subsequent owner of the Properties. This Agreement may be recorded in the real property records of Effingham County and Bryan County.

(b) Parties hereby agree to all provisions of this Agreement, and waive any claim that either of them may have that any of the provisions set forth herein are unlawful, invalid or beyond the scope of the lawful powers of Effingham County or Bryan County.

(c) This Agreement shall not be binding upon the Parties hereto and shall not be recorded until formal approval is granted by the appropriate authorities of Effingham County and Bryan County.

(d) By its execution hereof, each of the Parties hereto represents and warrants to the other Parties hereto that:

- i. all necessary actions and approvals have been taken or obtained, as the case may be, to authorize, approve and perform this Agreement;
- ii. upon such execution, this Agreement shall be binding on such party, enforceable against such party in accordance with its terms;
- iii. there is no claim, litigation, proceeding or governmental investigation pending or, so far as is known to such party, threatened, against or relating to such party or the transactions contemplated by this Agreement which does or would reasonably be expected to affect materially and adversely the ability of such party to enter into this Agreement and to carry out its obligations as set forth in this Agreement; and
- iv. any and all approvals required to be obtained by such party in connection with the execution, delivery performance of this Agreement have been obtained.

#### **10. Remedies**

(a) In the event of a breach or attempted or threatened breach of the provisions of this instrument, the Parties agree that the remedy at law available to enforce this instrument would in all likelihood be inadequate, and therefore, the provisions of this instrument may be enforced by a mandatory or prohibitory injunction or decree of specific performance upon the application of the party which is enforcing the provision.

(b) The remedies herein are in addition to and not in lieu of any other remedies available under applicable law.

#### **11. Entire Agreement**

This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, discussions, negotiations, and undertakings, whether written or oral, and there are no inducements, representations, warranties or understandings that do not appear within the terms and provisions of this Agreement.

#### **12. Severability**

If any provision of this Agreement is held by a court of competent jurisdiction to be illegal or unenforceable, the remaining provisions shall remain in full force and effect as if the illegal or unenforceable provision had never been contained in this Agreement.

### **13. Successors and Assigns**

The provisions of this Agreement shall be deemed and held to be easements, covenants and restrictions appurtenant to and running with the land, and shall bind and inure to the benefit of the Parties and their successors, successors-in-title and assigns.

### **14. Evidence**

The Parties agree that if Bryan County is sued in subsequent litigation concerning the facilities and appurtenances constructed on the Properties, the Agreement may be introduced into evidence.

### **15. Attorneys' Fees**

Each party shall bear its own costs, expenses and claims to attorneys' fees incurred or arising out of the Agreement.

### **16. Controlling Law, Venue**

This Agreement was made and shall be performed in Effingham County, Georgia and in Bryan County, Georgia, and shall be construed and interpreted under the laws of the State of Georgia. Venue to enforce this Agreement for any dispute arising out of the terms and conditions herein shall be solely in the Superior Court of Effingham County, Georgia, and all defenses to venue are waived.

### **17. Further Assurances**

The Parties will sign any additional papers, documents and other assurances, and take all acts that are reasonably necessary to carry out the intent of this Agreement.

### **18. Construction**

This Agreement has been jointly negotiated and drafted. This Agreement shall be construed as a whole according to its fair meaning. The language of this Agreement shall not be constructed for or against either party.

### **19. Legal Advice**

In entering into this Agreement, the Parties acknowledge that their legal rights are affected by this Agreement and that they have sought and obtained the legal advice of their attorneys. Each Party has made such an investigation of the law and the facts pertaining to this Agreement and of all other matter pertaining thereto as it or they deem necessary. They further represent that the terms of this Agreement have been completely read by them and that all terms are fully understood and voluntarily accepted by them.

**20. Amendment of Agreement**

No provision of this Agreement may be amended, modified or waived unless such amendment, modification or waiver is agreed to in a writing signed by each of the Parties hereto.

**21. Authority**

The signature of a representative of any Party to this Agreement is a warranty that the representative has authority to sign this Agreement and to bind any and all principals to the terms and conditions hereof.

**22. Headings**

The headings of the paragraphs contained herein are intended for reference purposes only and shall not be used to interpret the Terms and Conditions contained herein or the rights granted hereby.

**23. Time**

Time is of the essence with all duties and obligations set forth in this Agreement.

**24. Notice**

For purposes of this Agreement, notices and all other communications provided for herein shall be in writing and shall be deemed to have been given when delivered or mailed by United States registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

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

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

**25. Originals**

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed, sealed and delivered by the Chairman of the Effingham County Board of Commissioners and the

Chairman of the Bryan County Board of Commissioners, each thereunto duly authorized to bind their respective Parties in accordance with the laws of the State of Georgia as of the day and year first above written.



Signed, sealed and delivered in the presence of:

EFFINGHAM COUNTY

\_\_\_\_\_  
Unofficial Witness

By: \_\_\_\_\_  
Wesley Corbitt  
Chairman At Large

\_\_\_\_\_  
Notary Public

Attest: \_\_\_\_\_  
Printed Name:  
Title:

My commission expires:

[NOTARY SEAL]

Signed, sealed and delivered in the presence of:

BRYAN COUNTY

\_\_\_\_\_  
Unofficial Witness

By: \_\_\_\_\_  
Carter Infinger  
Chairman

\_\_\_\_\_  
Notary Public

Attest: \_\_\_\_\_  
Printed Name:  
Title:

My commission expires:

[NOTARY SEAL]

**Exhibit A**

[INSERT LEGAL DESCRIPTIONS HERE]