

DRAFT DATE: 08/23/22

INTERGOVERNMENTAL CONTRACT

by and between

WALTON COUNTY WATER AND SEWERAGE AUTHORITY

and

WALTON COUNTY, GEORGIA

Dated as of October 1, 2022

Relating to the

Walton County Water and Sewerage Authority
Revenue Bonds
(Walton-Hard Labor Creek Reservoir Water Treatment Facility Project), Series 2022

The rights and interest of Walton County Water and Sewerage Authority (the “Authority”) in the revenues and receipts derived from this Intergovernmental Contract have been assigned and pledged under a Bond Resolution, adopted by the Authority on September ____, 2022, as supplemented.

TABLE OF CONTENTS

ARTICLE I DEFINITIONS AND RULES OF CONSTRUCTION3

 Section 1.1. Definitions.....3

 Section 1.2. Rules of Construction.3

ARTICLE II REPRESENTATIONS, WARRANTIES AND AGREEMENTS4

 Section 2.1. Representations, Warranties and Agreements.4

 Section 2.2. Representations, Warranties and Agreements of the County.5

ARTICLE III ISSUANCE OF SERIES 2022 BONDS; APPLICATION OF SERIES
2022 BONDS PROCEEDS; COMMENCEMENT AND COMPLETION
OF THE PROJECT7

 Section 3.1. Agreement to Issue the Series 2022 Bond.7

 Section 3.2. Obligations Relating to the Series 2022 Bonds.7

 Section 3.3. Application of Bond Proceeds.7

 Section 3.4. Agreement to Acquire, Construct and Install the Project.7

 Section 3.5. Establishment of Completion Date.8

ARTICLE IV EFFECTIVE DATE OF THIS CONTRACT; DURATION OF TERM;
CONTRACT PAYMENT PROVISIONS.....9

 Section 4.1. Effective Date of this Contract; Duration of Term.9

 Section 4.2. Contract Payments.9

 Section 4.3. Optional Redemption and Optional Prepayment of Contract
Payments.9

 Section 4.4. Budget and Tax Levy to Pay Contract Payments.10

 Section 4.5. Obligations of County Hereunder Absolute and Unconditional.....11

 Section 4.6. Enforcement of Obligations.....11

ARTICLE V SPECIAL COVENANTS AND AGREEMENTS.....12

 Section 5.1. No Warranty of Condition or Suitability by the Authority.....12

 Section 5.2. Further Assurances and Corrective Instruments, Recordings and
Filings.12

 Section 5.3. Bonds Made Subject to this Contract; Other Obligations.....12

 Section 5.4. Continuing Disclosure Certificate.....12

 Section 5.5. Use of Proceeds and Specific Tax Covenants.....13

 Section 5.6. Arbitrage Covenants.13

 Section 5.7. Authority and County Representatives.13

 Section 5.8. Provision of System Facilities.14

ARTICLE VI EVENTS OF DEFAULT AND REMEDIES15

 Section 6.1. Events of Default Defined.15

 Section 6.2. Remedies on Default.....15

 Section 6.3. No Remedy Exclusive.....16

 Section 6.4. No Waiver of Breach.16

Section 6.5.	County Authorized to Cure Default of Authority.	16
Section 6.6.	Failure to Enforce Agreement Not a Waiver.	16
ARTICLE VII INDEMNITY		18
Section 7.1.	Authority Indemnified; Immunity of Members of Authority.	18
ARTICLE VIII MISCELLANEOUS		Error! Bookmark not defined.
Section 8.1.	Agreement to Pay Attorneys’ Fees and Expenses. .. Error! Bookmark not defined.	
Section 8.2.	Notices.	19
Section 8.3.	Binding Effect; Third-Party Beneficiaries.	20
Section 8.4.	Severability.	20
Section 8.5.	Amounts Remaining in Sinking Fund.....	20
Section 8.6.	Amendments, Changes and Modifications.	20
Section 8.7.	Execution Counterparts.....	20
Section 8.8.	Captions.	21
Section 8.9.	Law Governing Contract.....	21
Section 8.10.	No Replacement or Supersession.....	21
Section 8.11.	No Assignment by County.....	21
SCHEDULE 1	- Contract Payments	
EXHIBIT A	- Project Description	

INTERGOVERNMENTAL CONTRACT

THIS INTERGOVERNMENTAL CONTRACT (this “Contract”) is entered into as of October 1, 2022, by and between the WALTON COUNTY WATER AND SEWERAGE AUTHORITY (the “Authority”), a public body corporate and politic and an instrumentality of the State of Georgia, and WALTON COUNTY, GEORGIA (the “County”), a political subdivision of the State of Georgia.

WITNESSETH:

WHEREAS, the Walton County Water and Sewerage Authority (the “Authority”) was duly created and is validly existing pursuant to an act of the General Assembly of the State of Georgia (Ga. L. 1972, p. 3623 *et seq.*), as thereafter amended (the “Act”) and owns a water system in the County (as it now exists and as it may be hereafter added to, extended, improved and equipped, the “System”); and

WHEREAS, under the Act and the Revenue Bond Law (O.C.G.A. § 36-82-60 *et seq.*, as amended), the Authority, with County approval, has, among others, the power (a) to issue revenue bonds and use the proceeds for the purpose of financing or refinancing all or part of the cost of (1) any project (as authorized by the Act), which includes the acquisition, construction and equipping of water facilities for obtaining one or more sources of water supply, the treatment of water and the distribution and sale of water to users and consumers, including, but not limited to, the State of Georgia and counties and municipalities for the purpose of resale, within and without the territorial boundaries of the County, and additions and improvements to and extensions of such facilities and the operation and maintenance of same so as to assure an adequate water system; and (2) any undertaking permitted by the Revenue Bond Law; (b) to prescribe and revise rates, and to collect fees and charges for the services and facilities furnished by the System; (c) in anticipation of the collection of revenues from the System, to issue revenue bonds to finance or refinance, in whole or in part, the costs of additions, extensions and improvements to the System and to pay all expenses necessary to accomplish the foregoing; and (d) to make and execute contracts and other instruments necessary to exercise the powers of the Authority; and

WHEREAS, pursuant to the Constitution and laws of the State of Georgia, the County is authorized and permitted to provide water and sewerage services to the citizens of the County or to contract with the Authority for such purpose; and

WHEREAS, Article IX, Section III, Paragraph I(a) of the Constitution of the State of Georgia authorizes, among other things, any county, municipality or other political subdivision of the State of Georgia to contract, for a period not exceeding fifty (50) years, with another county, municipality or political subdivision or with any other public agency, public corporation or public authority for joint services, for the provision of services, or for the provision or separate use of facilities or equipment, provided that such contract deals with activities, services or facilities which the contracting parties are authorized by law to undertake or to provide; and

WHEREAS, the Authority proposes to acquire, construct and install a water treatment facility (the “Project) [as more fully described in the Project Description attached hereto as Exhibit A]; and

WHEREAS, after careful study and investigation, the Authority proposes to issue its Revenue Bonds (Walton-Hard Labor Creek Reservoir Water Treatment Facility Project), Series 2022, in the aggregate principal amount of \$_____ (the “Series 2022 Bonds”) for the purpose of providing funds to (a) finance the acquisition, construction and installation of the Project, and (b) pay the costs of issuing the Series 2022 Bonds; and

WHEREAS, the Series 2022 Bonds shall contain such terms and provisions as provided in the Bond Resolution; and

WHEREAS, the Authority and the County propose to enter into this Contract, pursuant to which the Authority will agree, among other things, to issue the Series 2022 Bonds for the purpose of providing funds to acquire, construct and install the Project and to provide the System facilities to the County, and the County will agree to make contract payments in stated amounts which are sufficient to pay when due the principal of and interest on the Series 2022 Bonds; and

NOW, THEREFORE, in consideration of the premises and undertakings as hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS AND RULES OF CONSTRUCTION

Section 1.1. Definitions.

In addition to the words and terms elsewhere defined in this Contract and the Bond Resolution, the following words and terms as used in this Contract shall have the following meanings unless the context or use indicates another or different meaning or intent and such definitions shall be equally applicable to both the singular and plural forms of the words and terms herein defined:

“Bond Resolution” shall mean the resolution of the Authority, adopted on September __, 2022, authorizing the issuance of the Series 2022 Bonds, including any resolutions supplemental thereto.

“Code” shall mean the Internal Revenue Code of 1986, as amended.

“Contract Payments” shall mean the payments due pursuant to Section 4.2 of this Contract.

“State” shall mean the State of Georgia.

“Term” shall have the meaning as specified in Section 5.1 hereof.

Section 1.2. Rules of Construction.

The definitions referred to in Section 1.1 shall be equally applicable to both the singular and the plural forms of the terms therein defined and shall cover all genders. “Herein,” “hereby,” “hereunder,” “hereof,” “hereinbefore,” “hereinafter,” “this Contract” and other equivalent words refer to this Contract and not solely to the particular portion thereof in which any such word is used. All references herein to particular Articles or Sections are references to Articles or Sections of this Contract unless otherwise specified.

[END OF ARTICLE I]

ARTICLE II

REPRESENTATIONS, WARRANTIES AND AGREEMENTS

Section 2.1. Representations, Warranties and Agreements.

The Authority makes the following representations, warranties and agreements as the basis for the undertakings on its part herein contained:

(a) The Authority is a public body corporate and politic duly created, organized and existing under the Constitution and laws of the State, including the Act, and, unless otherwise required by law, shall maintain its corporate existence so long as the Series 2022 Bonds are outstanding. Under the provisions of the Act, the Authority, with County approval, is authorized to (i) adopt the Bond Resolution and perform its obligations thereunder, (ii) issue, execute, deliver and perform its obligations under the Series 2022 Bonds, and (iii) execute, deliver and perform its obligations under this Contract. The Bond Resolution has been duly adopted and has not been modified or repealed. The Authority has duly authorized (i) the issuance, execution, delivery and performance of the Series 2022 Bonds and (ii) the execution, delivery and performance of this Contract. The Bond Resolution, the Series 2022 Bonds and this Contract are valid, binding and enforceable obligations of the Authority.

(b) The Authority has determined that the Project is a project is in furtherance of the Authority's purpose and mission under the Act.

(c) No approval or other action by any governmental authority or agency or other person is required in connection with the (i) adoption of the Bond Resolution, (ii) issuance of the Series 2022 Bonds, (iii) acquisition, construction or installation of the Project, or (iv) execution, delivery and performance of this Contract by the Authority, except as shall have been obtained as of the date hereof; provided, however, no representation is given with respect to any "blue sky" laws.

(d) The adoption of the Bond Resolution, the issuance of the Series 2022 Bonds and the authorization, execution, delivery and performance by the Authority of this Contract do not violate the Act, the Authority's bylaws, any resolutions or ordinances of the County or the laws or Constitution of the State and do not constitute a breach of or a default under any existing court order, administrative regulation, or other legal decree, or any agreement, indenture, mortgage, lease, note or other instrument to which it is a party or by which it is bound.

(e) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, pending or, to the knowledge of the Authority, threatened against or affecting the Authority (or, to the knowledge of the Authority, any meritorious basis therefor) (i) attempting to limit, enjoin or otherwise restrict or prevent the Authority from issuing the Series 2022 Bonds, pledging the Contract Payments and this Contract to the payment of the Series 2022 Bonds or financing of the Project, (ii) contesting or questioning the existence of the Authority or the titles of the present officers of the Authority to their offices or (iii) wherein an unfavorable decision,

ruling or finding would (A) adversely affect the enforceability of the Series 2022 Bonds, the Bond Resolution or this Contract or (B) materially adversely affect the transactions contemplated by this Contract or the exemption of the interest on the Series 2022 Bonds from federal of State income tax.

(f) The Authority is not in violation of the Act, its bylaws, any resolutions or ordinances of the County or the laws or Constitution of the State and is not in default under any existing court order, administrative regulation, or other legal decree, or any agreement, indenture, mortgage, lease, note or other instrument to which it is a party or by which it is bound.

(g) Except as herein and in the Bond Resolution provided, the Authority will not encumber any part of its interest in the Contract Payments or its rights under this Contract. The pledge made of the Contract Payments constitutes a first and prior pledge of and lien on said Contract Payments and said pledge shall at no time be impaired by the Authority and the Contract Payments shall not otherwise be pledged.

(h) The Authority makes no representation as to the financial position or business condition of the County and does not represent or warrant as to any of the statements, materials (financial or otherwise), representations or certifications with respect to the County in connection with the sales of the Series 2022 Bonds, or as to the correctness, completeness or accuracy of such statements.

Section 2.2. Representations, Warranties and Agreements of the County.

The County makes the following representations, warranties and agreements as the basis for the undertaking on its part herein contained:

(a) The County is a political subdivision duly created and organized under the Constitution and laws of the State. Under the Constitution and laws of the State, the County is authorized to execute, deliver and perform its obligations under this Contract. The County has duly authorized the execution, delivery and performance of this Contract. This Contract is a valid, binding and enforceable obligation of the County.

(b) The County has determined that the Project is in the public interest.

(c) No approval or other action by any governmental authority or agency or other person is required in connection with the (i) acquisition, construction or installation of the Project or (ii) execution, delivery and performance of this Contract by the County, except as shall have been obtained as of the date hereof.

(d) The authorization, execution, delivery and performance by the County of this Contract do not violate the laws or Constitution of the State and do not constitute a breach of or a default under any existing resolution or ordinance, court order, administrative regulation, or other legal decree, or any agreement, indenture, mortgage, lease, note or other instrument to which it is a party or by which it is bound.

(e) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, pending or, to the knowledge of the County, threatened against or affecting the County (or, to the knowledge of the County, any meritorious basis therefor) (i) attempting to limit, enjoin or otherwise restrict or prevent the County from (A) collecting ad valorem taxes and using it to make the Contract Payments or (B) the acquisition, installation or financing of the Project, (ii) contesting or questioning the existence of the County or the titles of the present officers of the County to their offices or (iii) wherein an unfavorable decision, ruling or finding would (A) adversely affect the enforceability of this Contract or (B) materially adversely affect (1) the financial condition or results of operations of the County or (2) the transactions contemplated by this Contract.

(f) The County is not in violation of the laws or the Constitution of the State and is not in default under any existing resolution or ordinance, court order, administrative regulation, or other legal decree, or any agreement, indenture, mortgage, lease, note or other instrument to which it is a party or by which it is bound.

[END OF ARTICLE II]

ARTICLE III

ISSUANCE OF SERIES 2022 BONDS; APPLICATION OF SERIES 2022 BONDS PROCEEDS; COMMENCEMENT AND COMPLETION OF THE PROJECT

Section 3.1. Agreement to Issue the Series 2022 Bond.

In order to provide funds, as provided in the Bond Resolution, to acquire, construct and install the Project and pay the costs incident thereto, the Authority, in accordance with the Act, will issue the Series 2022 Bonds, and all of the covenants, agreements and provisions hereof shall, to the extent provided herein and in the Bond Resolution, be for the benefit and security of the Bondholders. The Authority has delivered a certified copy of the Bond Resolution to the County.

Section 3.2. Obligations Relating to the Series 2022 Bonds.

The County agrees to perform all such obligations as are contemplated by the Bond Resolution to be performed by the County.

Section 3.3. Application of Bond Proceeds.

At and upon the delivery of and payment for the Series 2022 Bonds, the proceeds received therefrom shall be applied in the manner set forth in the Bond Resolution.

Section 3.4. Agreement to Acquire, Construct and Install the Project.

(a) The Authority hereby appoints the County as its sole and exclusive agent to proceed forthwith with acquiring, constructing and equipping the Project in accordance with the Project Report as defined in the Bond Resolution. The County shall obtain or cause to be obtained all necessary approvals from any and all governmental agencies requisite to undertaking the acquisition, construction and equipping of the Project. The Project shall be acquired, constructed and installed in compliance with all federal, state and local laws, ordinances and regulations applicable thereto. The County will take or cause to be taken such action and institute or cause to be instituted such proceedings as it shall deem appropriate to cause and require all contractors and suppliers of materials to complete their contracts, including the correcting of any defective work. Any amounts recovered by way of damages, refunds, adjustments or otherwise in connection with the foregoing shall (i) if the County has corrected at its own expense the matter which gave rise to such default or breach, be paid to the County or (ii) if the County has not corrected at its own expense the matter which gave rise to such default or breach, be paid into the Project Fund.

(b) The County, as the sole and exclusive agent of the Authority, shall acquire, construct and install, or cause to be acquired, constructed and installed, the Project substantially as described in the Project Report with such change orders as may be approved by the County and the Authority.

(c) The moneys credited to the Project Fund from the sale of the Series 2022 Bonds shall be used and applied only for the purpose of paying the cost of the Project described in the Project Report and otherwise disbursed as provided in the Bond Resolution.

(d) All payments from the Project Fund shall be made upon the terms and conditions set forth in the Bond Resolution. The County shall prepare the requisitions and certificates required by the Bond Resolution, a form of such requisition being attached as Exhibit D to the Bond Resolution.

(e) All real or tangible personal property acquired with the proceeds of the Series 2022 Bonds shall be titled in the name of the Authority and shall hereby be leased to the County. All such property shall be free of any liens and encumbrances and the same shall constitute part of the Project.

Section 3.5. Establishment of Completion Date.

The Completion Date shall be evidenced to the Project Fund Depository by a certificate signed by a duly authorized representative of the County stating that, except for amounts retained by the Project Fund Depository at the County's direction to pay any cost of the Project not then due and payable, (a) the Project has been completed and all costs of labor, services, materials and supplies have been paid, and (b) all other facilities necessary in connection with the Project have been acquired, constructed and equipped and all costs and expenses incurred in connection therewith have been paid. Notwithstanding the foregoing, such certificate shall state that it is given without prejudice to any rights against third parties which exist at the date of such certificate or which may subsequently come into being. Upon receipt of such certificate, the Project Fund Depository shall retain in the Project Fund a sum equal to the amounts necessary for payment of the costs of the Project not then due and payable according to such certificate. If any such amounts so retained are not subsequently used, prior to any transfer of such amounts to the Sinking Fund, the Project Fund Depository shall give notice to the Authority and the County of the failure to apply such funds for payment of the costs of the Project. Any amount not to be retained in the Project Fund for payment of the costs of the Project, and all amounts so retained but not subsequently used, shall be transferred by the Project Fund Depository into the Sinking Fund and shall be used to pay the next occurring principal amount due on the Series 2022 Bonds.

[END OF ARTICLE III]

ARTICLE IV

EFFECTIVE DATE OF THIS CONTRACT; DURATION OF TERM; CONTRACT PAYMENT PROVISIONS

Section 4.1. Effective Date of this Contract; Duration of Term.

This Contract shall become effective as of October 1, 2022 and the interests created by this Contract shall then begin, and, subject to the other provisions of this Contract, shall expire on the later of (a) August 1, 2053, or if at said time and on said date the Bonds have not been paid in full as to principal and interest then on such date as such payment shall have been made or (b) the date the Bonds have been paid in full, but in no event in excess of fifty (50) years from the date hereof. Notwithstanding the foregoing, the provisions of Section 7.1 hereof shall expire fifty (50) years from the date hereof.

Section 4.2. Contract Payments.

As consideration for the Authority issuing the Series 2022 Bonds and providing the System facilities to the County, on or prior to each February 1 and August 1 of each year (each a "Contract Payment Date"), commencing February 1, 2023, the County shall make the Contract Payments to the Authority as set forth on Schedule 1 attached hereto. Upon the issuance of Additional Bonds, this Contract shall be amended to provide an updated schedule of Contract Payments for the coming Fiscal Year, which schedule shall take into account the additional principal and interest requirements of such Additional Bonds and shall be and become for all purposes thereafter Schedule 1. In addition to the foregoing, each Contract Payment shall include the charges as billed specified in subparagraphs (e) and (f) of Section 5.03 of the Bond Resolution. Notwithstanding anything in the Bond Resolution or herein to the contrary, if such date is on or prior to August 1, the County shall pay an amount sufficient to enable the Authority to pay in full the principal and interest on the Series 2022 Bonds coming due on August 1, and if such date is on or prior to February 1, the County shall pay an amount sufficient to enable the Authority to pay in full the interest on the Series 2022 Bonds coming due on February 1, and such Contract Payments shall continue and recontinue until provision has been made for the payment in full of the Series 2022 Bonds as to principal and interest. In addition to the foregoing, the Contract Payments provided for herein shall be made by payment directly to the Sinking Fund Custodian for deposit into the Sinking Fund (except the amounts billed which are specified in subparagraphs (e) and (f) of Section 5.03 of the Bond Resolution).

Section 4.3. Optional Redemption and Optional Prepayment of Contract Payments.

(a) The Series 2022 Bonds shall be subject to optional redemption, in whole or in part, as provided in the Bond Resolution, and the Contract Payments due under Section 4.2, with respect to the Series 2022 Bonds, shall be subject to prepayment, both at the option of the County.

(b) No prepayment of any Contract Payment in accordance with the provisions of the preceding sentence shall relieve the County to any extent from its obligations thereafter to

make Contract Payments required by the provisions hereof until the Series 2022 Bonds and interest thereon have been paid in full. Upon the prepayment of the Contract Payments in whole, the amount of such prepayment shall be used to retire the Series 2022 Bonds, in the manner provided in, and subject to, the Bond Resolution.

Section 4.4. Budget and Tax Levy to Pay Contract Payments.

(a) The obligations of the County to make the Contract Payments when due under Section 4.2 hereof, and to perform its other obligations hereunder, are absolute and unconditional general obligations of the County as herein provided, and the County hereby pledges its full faith and credit and taxing power to such payment and performance. In the event the amount of funds lawfully available to the County is not sufficient to pay the Contract Payments when due in any year, the County shall levy an ad valorem tax on all taxable property located within the limits of the County subject to taxation for such purposes, as now existent and as same may hereafter be extended, at such rate or rates as may be necessary to produce in each calendar year revenues which shall be sufficient to fulfill the County's obligations hereunder, from which revenues there shall be appropriated sums sufficient to pay in full when due the obligations herein contracted to be paid by the County including specifically the obligation to make the Contract Payments as provided herein. The County hereby creates a lien on any and all revenues realized by it pursuant to the provisions of this subparagraph to enable it to make the Contract Payments required pursuant to Section 4.2 hereof and such lien is superior to any that can hereafter be made; provided, however, the County may create a lien on a parity with the lien created herein in connection with the issuance of Additional Bonds.

(b) The County further covenants and agrees that in order to make funds available for such purpose, it will, in its general revenue, appropriation and budgetary measures whereby its tax funds or revenues and the allocation thereof are controlled or provided for, include sums sufficient to satisfy any such Contract Payments that may be required to be made, whether or not any other sums are included in such measure, until all payments so required to be made shall have been made in full. The obligation of the County to make the Contract Payments shall constitute a general obligation of the County and a pledge of the full faith and credit of the County to provide the funds required to fulfill such obligation; provided, however, nothing herein contained shall be construed as limiting the right of the County to pay the obligations hereunder assumed out of its general funds or from other sources lawfully available to it for such purpose.

(c) In the event for any reason any such provision or appropriation is not made as provided in the preceding subsection (b), then the fiscal officers of the County are hereby authorized and directed to set up as an appropriation on their accounts in the appropriate fiscal year the amounts required to pay the obligations which may be due from the general funds of the County. The amount of such appropriation shall be due and payable and shall be expended for the purpose of paying any such obligations, and such appropriation shall have the same legal status as if the County had included the amount of the appropriation in its general revenue, appropriation and budgetary measures, and the fiscal officers of the County shall make such Contract Payments to the Sinking Fund Custodian for deposit to the Sinking Fund if for any reason the payment of such obligations shall not otherwise have been made.

Section 4.5. Obligations of County Hereunder Absolute and Unconditional.

The obligations of the County to make the payments required in Section 4.2 hereof and to perform and observe any and all of the other covenants and agreements on its part contained herein shall be absolute and unconditional irrespective of any defense or any rights of set off, recoupment, or counterclaim it may otherwise have against the Authority. Until such time as all amounts owing hereunder have been paid or provision for the payment thereof shall have been made in accordance with the Bond Resolution and hereof, the County (a) will not suspend, abate, reduce, abrogate, diminish, postpone, modify or discontinue the Contract Payments provided for herein, (b) will perform and observe all of its other agreements contained in this Contract, and (c) will not terminate the Term of this Contract or its obligations hereunder for any contingency, act of God, event, or cause whatsoever, including, without limiting the generality of the foregoing, failure of title in and to the System or any part thereof, any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, destruction of or damage to the System, the taking by eminent domain of title to or the use of all or any part of the System, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State or any political subdivision of either, any declaration or finding that the Series 2022 Bonds are unenforceable or invalid, the invalidity of any provision of this Contract, or any failure of the Authority to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Contract, or the Bond Resolution. Nothing contained in this Section shall be construed to release the Authority from the performance of any of the agreements on its part contained herein or in the Bond Resolution; and if the Authority should fail to perform any such agreement, the County may institute such action against the Authority as the County may deem necessary to compel performance or recover its damages for nonperformance as long as such action shall not do violence to or adversely affect the agreements on the part of the County contained in this Contract and to make the Contract Payments specified herein. The County may, however, at its own cost and expense and in its own name, prosecute or defend any action or proceeding or take any other action involving third persons which the County deems reasonably necessary in order to secure or protect its rights hereunder, and in such event the Authority hereby agrees to cooperate to the extent required.

Section 4.6. Enforcement of Obligations.

The obligation of the County to make Contract Payments under this Article may be enforced by (a) the Authority, (b) the Bondholders, in accordance with the applicable provisions of the Bond Resolution and independently of the Authority or (c) such receiver or receivers as may be appointed pursuant to the Bond Resolution or applicable law. The covenants and agreements hereunder, including specifically the obligation to make the Contract Payments, shall be enforceable by specific performance; it being acknowledged and agreed by the Authority and the County that no other remedy at law is adequate to protect the interests of the parties hereto or the Bondholders.

[END OF ARTICLE IV]

ARTICLE V

SPECIAL COVENANTS AND AGREEMENTS

Section 5.1. No Warranty of Condition or Suitability by the Authority.

THE AUTHORITY MAKES NO REPRESENTATION OR WARRANTY WITH RESPECT TO THE CONDITION OR WORKMANSHIP OF ANY PART OF THE SYSTEM OR ITS SUITABILITY.

Section 5.2. Further Assurances and Corrective Instruments, Recordings and Filings.

The Authority and the County agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required to facilitate the performance of this Contract.

Section 5.3. Bonds Made Subject to this Contract; Other Obligations.

No Additional Bonds shall be subject to this Contract unless and until the County and the Authority shall execute an amendment or supplement to this Contract specifically incorporating such Additional Bonds.

The Authority shall not issue any other obligations of any kind payable from or enjoying a lien on the monies authorized to be appropriated and paid by the County under this Contract prior to or superior to the lien for the payment of the principal of and interest on the Bonds. Nothing contained herein shall otherwise restrict the issuance by the Authority of (i) other obligations secured by an intergovernmental agreement substantially similar to this Contract, or (ii) obligations not secured by this Contract and which will be secured by a lien on the net revenues of the System or any portion thereof, the proceeds of which may be applied to the payment of the costs of other extensions or improvements to the System or the payment of any other project or purpose which the Authority is authorized under law to undertake.

The Authority specifically acknowledges and agrees that notwithstanding anything in this Section 5.3, the Authority may not borrow any money or issue any Bonds without the consent of the Board of Commissioners of the County.

Section 5.4. Continuing Disclosure Certificate.

The County hereby covenants for the benefit of the owners of the Series 2022 Bonds and the Underwriter of the Series 2022 Bonds to comply with its obligations under a Continuing Disclosure Certificate, to be entered into in connection with the issuance of the Series 2022 Bonds, to assist the Underwriter in complying with its obligations under Rule 15c2-12 of the Securities Exchange Act of 1934, as amended. A breach of this covenant shall not be deemed to be an event of default hereunder, and the sole remedy under this Contract shall be an action to compel performance.

Section 5.5. Use of Proceeds and Specific Tax Covenants.

The Series 2022 Bonds are being issued by the Authority in compliance with the conditions necessary for interest income on the Series 2022 Bonds to be excluded from gross income for federal income tax purposes pursuant to the provisions of Section 103(a) of the Code relating to obligations of the State or political subdivisions thereof. It is the intention of the Authority and the County that the interest on the Series 2022 Bonds be and remain excludable from gross income for federal income tax purposes, and, to that end, the Authority and the County hereby covenant with the Bondholders as follows:

(a) That they will not take any action, or fail to take any action, if any such action or failure to take action would adversely affect the tax exempt status of interest on the Series 2022 Bonds under Section 103 of the Code.

(b) That they will not directly or indirectly use or permit the use of any of the proceeds of the Series 2022 Bonds or take or omit to take any action in a way that would cause the Series 2022 Bonds to be (i) “private activity bonds” within the meaning of Section 141 of the Code or (ii) obligations which are “federally guaranteed” within the meaning of Section 149(b) of the Code.

(c) That they will not directly or indirectly use or permit the use of any proceeds of the Series 2022 Bonds or any other funds of the Authority or the County or take or omit to take any action that would cause the Series 2022 Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code. To that end, the Authority and the County will comply with all requirements of Section 148 of the Code and any regulations promulgated thereunder to the extent applicable to the Authority or the County. In the event that at any time the Authority or the County is of the opinion that for purposes of this Section it is necessary to restrict or limit the yield on the investment of any moneys held under the Bond Resolution, the Authority and the County shall take such action as may be necessary to effect the same.

Section 5.6. Arbitrage Covenants.

Neither the Authority nor the County shall, subsequent to the date of the issuance and delivery of the Series 2022 Bonds, intentionally use any portions of the proceeds of the Series 2022 Bonds to acquire higher yielding investments, or to replace funds which were used directly or indirectly to acquire higher yielding investments, except as may otherwise be permitted by the Code, including, but not limited to, complying with the requirements of Section 148(f) of the Code and the payment of rebate, if any, required to be made by the Authority, and that they will expend the proceeds of the Series 2022 Bonds in compliance with the applicable provisions of Section 141 to 149, inclusive, of the Code.

Section 5.7. Authority and County Representatives.

Whenever under the provisions of this Contract the approval of the Authority or the County is required or the Authority or the County is required to take some action at the request of the other, such approval or such request shall be given for the Authority by its Chairman or its Vice Chairman and for the County by its Chairman or Vice Chairman.

Section 5.8. Provision of System Facilities.

As consideration for the payment of the Contract Payments by the County, the Authority shall provide the System facilities to the County, subject to the terms of the Lease and Transfer Agreement, dated April 25, 2006, between the Authority and the County, as amended.

[END OF ARTICLE V]

ARTICLE VI

EVENTS OF DEFAULT AND REMEDIES

Section 6.1. Events of Default Defined.

The following shall be “events of default” under this Contract and the term “event of default” shall mean, whenever used in this Contract, any one or more of the following events:

(a) Failure by the County to pay when due any amount required to be paid under Section 4.2 hereof;

(b) The County shall fail to perform any of the other agreements, conditions, covenants or terms herein required to be performed by the County and such default shall continue for a period of 30 days after written notice has been given to the County by the Authority, the Paying Agent or the Bondholders specifying such default and requesting that it be remedied, or within a greater number of days if such remedy has been undertaken and is being diligently pursued and more than 30 days is required for its completion; provided, however, that if, by reason of force majeure, the County is unable, in whole or in part, to perform the obligations on its part herein undertaken (other than the obligations relating to the payments to be made under Section 4.2 hereof), the County shall not be deemed in default during the continuance of such inability to perform. The term force majeure shall mean, without limitation, acts of God; strikes; work stoppages or similar disturbances; acts of public enemies; orders of any kind of the government of the United States of America or of the State or any of their departments, agencies or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquakes, fire; hurricanes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accident to machinery or equipment; partial or entire failure of utilities, or any other cause or event not reasonably within the control of the County. The County will use its best efforts, however, to remedy, with all reasonable dispatch, the cause or causes preventing the County from carrying out such obligation; provided, that the settlement of strikes, work stoppages and similar disturbances shall be entirely within the discretion of the County and the County shall not be required to make settlement of such disturbances by acceding to the demands of the opposing party or parties when such course is, in the judgment of the County, unfavorable to the County; or

(c) An “event of default” shall have occurred under the Bond Resolution.

Notwithstanding the foregoing, a breach of the covenant contained in Section 5.4 hereof shall not be deemed an event of default hereunder, and the sole remedy shall be an action to compel performance.

Section 6.2. Remedies on Default.

Whenever any event of default referred to in Section 6.1 hereof shall have happened and be subsisting, the nondefaulting party, or the Bondholders as provided in the Bond Resolution, may take any one or more of the following remedial steps:

(a) The Authority or the Bondholders may require any depository under the Bond Resolution to turn over to the Sinking Fund Custodian any moneys held in any of the funds created pursuant to the Bond Resolution;

(b) The Authority or the Bondholders may take whatever action at law or in equity may appear necessary or desirable to collect the Contract Payments then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the County under this Contract; and

(c) The Bondholders may exercise any remedies provided for in the Bond Resolution.

Any amounts collected pursuant to action taken under this Section 6.2 shall be applied in accordance with the Bond Resolution to the extent the provisions of the Bond Resolution relate to such amounts.

Section 6.3. No Remedy Exclusive.

No remedy herein conferred upon or reserved to the Authority or the Bondholders is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Contract or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority or the Bondholders to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice or notices as may be herein expressly required. Such rights and remedies as are given to the Authority hereunder shall also extend to the Bondholders, and the Bondholders shall be deemed third party beneficiaries of all covenants and agreements herein contained.

Section 6.4. No Waiver of Breach.

In the event any agreement contained herein should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 6.5. County Authorized to Cure Default of Authority.

With regard to any default on the part of the Authority under this Contract or under the Bond Resolution, the Authority hereby vests the County, with full power, for the account of the Authority, to perform any obligation in remedy of such default in the name and stead of the Authority with full power to do any and all things and acts to the same extent that the Authority could do and perform any such acts.

Section 6.6. Failure to Enforce Agreement Not a Waiver.

The failure of the Authority or the Bondholders to enforce any agreement,

condition, covenant or term by reason of any default or breach by the County shall not be deemed to void or affect the right to enforce the same agreement, condition, covenant or term on the occasion of any subsequent default or breach.

[END OF ARTICLE VI]

ARTICLE VII

INDEMNITY

Section 7.1. Events of Default and Remedies.

(a) During the term of this Contract, the County, at its own expense, shall handle to conclusion all claims and pay all judgments obtained against the Authority by reason of any failure, breach, or default on the part of the County in the performance of or compliance with any of the obligations of the County under the terms of this Contract, provided, however, that the indemnity provided by this Section shall be effective only to the extent that the amount of liability arising from any such loss shall exceed the proceeds available therefor obtained for insurance carried with respect to such loss.

(b) Notwithstanding the fact that it is the intention of the parties that the Authority shall not incur any pecuniary liability by reason of the terms of this Contract or the undertakings required of the Authority hereunder by reason of the issuance of the Bonds, the adoption of the Bond Resolution, or the performance of any act requested of the Authority by the County, nevertheless, if the Authority should incur any such pecuniary liability, then at that event, the County shall indemnify and hold the Authority harmless against all claims, demands, or causes of action arising therefrom and all costs and expenses incurred in connection with any such claim or in connection with any action or proceeding brought thereon, and, upon notice from the Authority, the County shall defend the Authority in any such action or proceeding.

(c) No recourse shall be had for the enforcement of any obligation, covenant, or agreement of the Authority contained in this Contract or in the Bonds or the Bond Resolution for any claim based hereon or thereon against any member, officer, or employee, of the Authority or of any successor thereto, in his individual capacity, either directly or through the Authority whether by virtue of any constitutional provision, statute, or rule of law. This Contract, the Bonds, and the Bond Resolution are solely corporate obligations, and no personal liability shall attach to, or be incurred by, any member, officer, or employee of the Authority or of any successor thereto, either directly or by reason of the obligations, covenants, or agreements entered into between the Authority and the County, and all personal liability of any character against every such member, officer, and employee is, by the execution of this Contract, expressly waived and released. The immunity of members, officers, and employees of the Authority under the provisions contained in this Section shall survive the termination of this Contract.

[END OF ARTICLE VII]

ARTICLE VIII

MISCELLANEOUS

Section 8.1. Agreement to Pay Attorneys' Fees and Expenses.

If a party should default under any of the provisions of this Contract and either or both the nondefaulting party or the Bondholders should employ attorneys or incur other expenses for the enforcement of performance or observance of any obligation or agreement on the part of the County or the Authority herein contained, the defaulting party agrees that it shall on demand therefor pay to the nondefaulting party and the Bondholders the reasonable fee of such attorneys and such other reasonable expenses so incurred by the nondefaulting party and the Bondholders.

Section 8.2. Notices.

All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

If to the Authority: Walton County Water and Sewerage Authority
2171 Highway 81 SW
Loganville, Georgia 30052
Attention: Chairman

With a copy to: Atkinson Ferguson, LLC
118 Court Street
Monroe, Georgia 30655
Attention: Chris H. Atkinson, Esq.
Facsimile: (770) 267-6200

If to the County: Walton County, Georgia
303 South Hammond Drive, Suite 330
Monroe, Georgia 30655
Attention: Chief Financial Officer

With a copy to: Atkinson & Ferguson, LLC
118 Court Street
Monroe, Georgia 30655
Attention: Charles M. Ferguson, Jr., Esq.
Facsimile: (770) 267-6200

Any party, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent.

Section 8.3. Binding Effect; Third-Party Beneficiaries.

This Contract shall inure to the benefit of and shall be binding upon the Authority, the County and their respective successors and assigns, subject, however, to the limitations contained in this Contract. The County hereby acknowledges and agrees that the Authority has pledged its rights, title and interests (but not its obligations) under the Contract as security for the payment of the principal of and interest on the Bonds. The County hereby consents to such pledge and the Authority and the County agree that the Bondholders are third-party beneficiaries of this Contract, and may enforce the terms and provisions hereof. There are no other third-party beneficiaries.

Section 8.4. Severability.

If any provision of this Contract shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 8.5. Amounts Remaining in Sinking Fund.

It is agreed by the parties hereto that, subject to and in accordance with the terms and conditions of the Bond Resolution certain surplus moneys remaining in the Sinking Fund after payment of the Bonds shall belong to and be paid to the County.

Section 8.6. Amendments, Changes and Modifications.

The Contract may be amended, changed and modified (a) to cure any ambiguity or formal defect or omission in this Contract; (b) to provide for the issuance of Additional Bonds in accordance with the terms of this Contract (including, without limitation, the addition of events of default and remedies relating to any Additional Bonds hereafter incurred by the County); (c) to grant any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the Bondholders by the County; (d) to further expand or clarify the amounts required to be paid into the Sinking Fund and the timing thereof; (e) to conform to supplements to the Bond Resolution; (f) to make any other amendments, changes and modifications that in the opinion of counsel are not materially adverse to the interests of the Bondholders. Any other amendments, changes and modification in this Contract will become effective only with the consent of the owners of fifty-one (51%) in aggregate principal amount of the Bonds secured hereby. In no event, however, may any such amendments, changes and modifications permit (a) the reduction of Contract Payments required to be made to ensure the payment of the Bonds and the other obligations secured by the Bond Resolution; or (b) the reduction of the percentage of the principal amount of the Bonds required to consent to any such amendment, change or modification.

Section 8.7. Execution Counterparts.

This Contract may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 8.8. Captions.

The captions and headings in this Contract are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this Contract.

Section 8.9. Law Governing Contract.

This Contract shall be governed by, and construed in accordance with, the laws of the State of Georgia.

Section 8.10. No Replacement or Supersession.

Nothing in this Contract is intended to replace, supersede or otherwise contradict or override any other agreement between the County and the Authority presently in effect.

Section 8.11. No Assignment by County.

This Contract may not be sold, assigned, delegated or encumbered by the County.

[END OF ARTICLE VIII]

IN WITNESS WHEREOF, the Authority and the County have caused this Contract to be executed in their respective corporate names and their respective corporate seals to be hereunto affixed and attested by their duly authorized officers, all as of the date first above written.

WALTON COUNTY WATER AND
SEWERAGE AUTHORITY

(SEAL)

By: _____
Chairman

Attest:

Secretary

WALTON COUNTY, GEORGIA

(SEAL)

By: _____
Chairman

Attest:

Clerk

SCHEDULE 1

CONTRACT PAYMENTS

[ATTACHED.]

EXHIBIT A

DESCRIPTION OF PROJECT

[ATTACHED.]