

10/15/2020 REVISED DRAFT

STATE OF GEORGIA)
)
COUNTY OF CHATHAM)
)

SEWER SERVICE AGREEMENT

THIS AGREEMENT made and entered into this _____ day of _____, 2020 between the **MAYOR AND ALDERMEN OF THE CITY OF SAVANNAH**, a municipal corporation organized and existing under the laws of the State of Georgia (herein after referred to as “**Savannah**”, and the **BOARD OF COMMISSIONERS OF BRYAN COUNTY**, a political subdivision of the State of Georgia (herein after referred to as “**Bryan County**” or “**County**”):

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 Savannah and Bryan County desire to enter into a Sewer Service Agreement to provide for sewage treatment capacity for areas currently within north Bryan County; and

WHEREAS, Bryan County intends to design, permit, **construct**, and make operational a sewer pumping station and force main to collect and convey sewer from northern Bryan County to the City of Savannah’s existing sewer collection, conveyance, and treatment system in western Chatham County, north of John Carter Road and east of Old River Road. Bryan County’s sewer force main (“**Regional Force Main**”) will be constructed generally parallel to Interstate 16, and extend from approximately Bryan County’s existing Industrial Mega Site south of Interstate 16 and east of US Highway 280, to the existing Savannah Economic Development Authority (SEDA) Savannah Manufacturing Center; and

WHEREAS, it is in the best interest of the citizens of Savannah 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, Savannah and Bryan County agree as follows:

- 1. Sewer Conveyance and Treatment Capacity.** Savannah will make a sewer connection point available to Bryan County to allow the conveyance and treatment of wastewater meeting the requirements of all applicable regulatory agencies **and as otherwise stated herein**. Said sewer connection point will be located within Chatham County, north of John Carter Road and east of Old River Road, as shown on attached Exhibit 1. Both parties agree that, Bryan County will own and maintain the sewer conveyance system **from the Bryan County Mega Site to the metering station constructed by Bryan County** and Savannah will own and maintain the sewer conveyance system **from the metering station constructed by Bryan County to the existing sewer facilities owned by Savannah**. Bryan County shall construct a sewer metering station at a location mutually agreed to by Savannah and Bryan County located near the

Chatham-Effingham County border in the vicinity of Old River Road. (“**Old River Road Sewer Metering Station**”). The **initial sewer conveyance system from Bryan County to the connection point, and the initial treatment capacity made available by Savannah** under this agreement shall be used solely to serve sewer customers located within current (as of the date of this Agreement) political limits of Bryan County. The “**Sewer Delivery Point**” shall be a point within the Old River Road Sewer Metering Station immediately downstream (i.e. on the Savannah side) of the sewer meter device. **Both parties agree that in the future, and after when the sewer conveyance system is redirected to transfer sewer to Bryan County’s proposed water reclamation facility, both Bryan County and Savannah can utilize the their respective portions of the Regional Force Main sewer conveyance system to serve other customers outside of Bryan County, except that Bryan County shall not directly serve customers within Chatham County and Savannah shall not serve customers within Bryan County.**

Sewer conveyance to Savannah, and treatment capacity made available by Savannah shall be phased based on timing of infrastructure improvements within Savannah’s system. As part of this agreement both parties mutually agree to the following:

- a. Within six (6) months following execution of this agreement, Bryan County will commence with the design, permitting, and construction of **the new Regional Force Main** to facilitate the transfer of wastewater from the North Bryan County service area to the Savannah Sewer Delivery Point.
- b. Following the construction of the Travis Field WRF, and its approval from the Georgia Environmental Protection Division (GA EPD) to be placed into operation, Savannah will make available sewer treatment capacity of 350,000 gpd. The maximum amount of sewer conveyance from Bryan County into Savannah’s system will not exceed ~~1,800~~ **1,000** gallons per minute of peak flow. In no event shall Savannah be obligated to provide sewer conveyance and treatment capacity in excess of a monthly average of 350,000 gallons per day during this initial phase.
- ~~c. Both parties agree, that if a significant industrial development project (“**Project**”), which generates a minimum **sewer** flow of 0.5 MGD, occurring in either **the Bryan County service area described herein or the Savannah Manufacturing Center site within Chatham County, Savannah agrees to provide additional sewer conveyance and treatment capacity up to 0.85 MGD within one (1) year of a mutually agreed upon start date following announcement of Project. Likewise, Bryan County agrees to build a minimum 2.0 MGD water reclamation facility within thirty six (36) months of the same mutually agreed upon start date following announcement of Project. If no Project, generating sewer flows equal to or greater than 0.5 MGD, occurs in either Bryan County or in the Savannah Manufacturing Center, then schedule of design, permitting, and construction of a water reclamation facility within Bryan County will follow the program described in Section 1, Paragraph d.**~~
- d. Bryan County agrees to proceed with planning, design, permitting, and construction efforts related to the future Bryan County water reclamation facility on a schedule to meet the timing obligations described in ~~Section 1, Paragraph c above~~ **below**. Both parties

Commented [JS1]: 350,000 gpd over an 8 hour day is 730 gpm; 350,000 gpd is 243 gpm and with a peaking factor of 4 is 972 gpm. Rounded to 1,000 gpm.

agree to provide regular and continuous updates, at least semi-annually, to each other on the progress of the water reclamation facility design, permitting, construction, actual wastewater flows, and development within each party's respective service areas. In order to provide a template for coordination between the parties, Bryan County agrees to the following milestone dates, more or less, to accomplish specific tasks and provide updates to the City on the water reclamation facility:

- i. Request a "Waste Load Allocation for Planning" (PWLA) from the Georgia Department of Natural Resources Environmental Protection Division (GA EPD) for a proposed discharge into the Ogeechee River on or before August 1, 2021.
 - ii. Using the PWLA as guidance, Bryan County will start the Antidegradation Review and Watershed Assessment process within GA EPD in support of a National Pollutant Discharge Elimination System (NPDES) permit on or before August 1, 2022.
 - iii. Contingent on GA EPD approvals and concurrence of the Antidegradation Review and Watershed Assessment, Bryan County will begin to prepare the Environmental Information Document (EID) and Design Development Report (DDR) in support of GA EPD approval of the proposed water reclamation facility on or before January 30, 2024.
 - iv. Contingent on GA EPD approval of the EID and DDR, Bryan County will begin preparation of construction plans and technical specifications for the water reclamation facility on or before August 1, 2024.
 - v. Contingent on GA EPD approval of the construction plans and technical specifications, Bryan County will commence construction of the water reclamation facility on or before August 1, 2025.
- e. Both parties agree, that in the event of economic downturn or recession or other currently unforeseen factors, if mutually acceptable to both parties the timing of construction of the proposed water reclamation facility in Bryan County can be delayed. Terms of said delay shall be detailed via amendment to this agreement.

2. Savannah Sewer Capital Cost Recovery Charge. In lieu of Savannah requiring Bryan County to pay a sewer connection charge for each Equivalent Residential Unit ("**ERU**") that connects to the Bryan County sewer, which discharges into Savannah's system, both parties mutually agree to the following:

- a. Savannah will provide the sewer conveyance and treatment capacity described herein for a limited period not to exceed seven (7) years from the executed date of this agreement.
- b. Bryan County will within the prescribed seven (7) years from the executed date of this agreement, design, permit, construct and make operational a water reclamation facility in northern Bryan County in the vicinity of Interstate 16 and US Highway 280. ~~Bryan~~

County will construct said water reclamation facility which will provide up to 2,000,000 gallons per day of treatment capacity to Savannah.

- c. Upon completion of Bryan County's water reclamation facility, and following mutual agreement of both parties, the **Regional Force Main** along Interstate 16 shall be modified and repurposed to transfer sewer from Savannah to Bryan County. Bryan County shall then make available to Savannah a maximum sewer conveyance and treatment capacity of 3,472 gallons per minute 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 2,000,000 gallons per day.
- d. As the proposed **Regional Force Main** along Interstate 16 will provide a future benefit to the City of Savannah, Savannah will share in the construction cost of said force main.
- e. It is acknowledged by both parties, that sewer flows from Bryan County to Savannah are intended to be temporary only. It is also acknowledged that cutting off sewer flows to multiple existing customers with no other means of sewer collection is not practical. Therefore, failure to eliminate sewer flows from Bryan County to Savannah within the seven (7) year period as stated in paragraphs a and b above, shall be cause for Savannah to increase the consumption rate by ten (10) percent at the end of said seven (7) year period and to continue to increase the consumption rate by an additional ten (10) percent every 90 days thereafter, until sewer flows are no longer transmitted from Bryan County to Savannah.

3. **Sewer Conveyance System Cost Sharing.** In consideration of the mutual covenants, agreements, and benefits to the parties, Savannah and Bryan County agree as follows:

- a. Bryan County will pay for and procure the services of a qualified engineer to prepare the survey, design, and permitting for the sewer conveyance system improvements (as depicted in Exhibit 1). Based on planning efforts to date, Savannah and Bryan County anticipate the improvements will include a regional pump station and 18-inch force main to transport wastewater from Bryan County's existing Industrial Mega Site to an existing connection point within the Savannah Manufacturing Center (SMC) industrial park. Bryan County further agrees to be responsible for obtaining all utility and construction easements outside of Chatham County, including all legal fees, land acquisition costs, and other fees that are associated with easement acquisition, required for the force main and pump station, which will be owned and maintained by Bryan County. Savannah shall be responsible for obtaining all utility and construction easements within Chatham County, including all legal fees, land acquisition costs, and other fees that are associated with easement acquisition, required for the force main, which will be owned and maintained by Savannah.
- b. Both parties agree that Bryan County will be responsible for the construction cost of the sewer conveyance system improvements to serve the northern Bryan County service area as depicted in Exhibit 1. Portions of the sewer conveyance system within Chatham County

to be owned and maintained by Savannah, shall be designed and constructed in accordance with the most recent City of Savannah standard construction specifications.

- c. Bryan County agrees to accept responsibility for the administration of the construction contract(s) with the selected contractor(s) and agrees to require the awarded contract(s) to be paid via **approved** monthly construction payment requests for work performed to date.
- d. Savannah further agrees that upon completion and final acceptance of the sewer conveyance system improvements described herein, Savannah will pay Bryan County \$5,000,000 for Savannah's cost sharing contribution to the **Regional Force Main** improvements.
- e. **Both parties acknowledge that Bryan County has submitted an application to the Economic Development Administration (EDA) for funding through the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020. If awarded funding through EDA, Bryan County could receive partial grant monies, with a local match requirement, for the proposed Regional Force Main. Both parties agree to reevaluate and renegotiate Savannah's \$5,000,000 cost sharing contribution described in Section 3, Paragraph d if Bryan County is successful in obtaining EDA funding. Any modification to Savannah's cost sharing must be mutually agreed to by both parties in a separate amendment to this agreement.**

4. Flow Meter Station. Bryan County shall pay all costs to install a sewage flow meter device to measure both instantaneous **flow** and **total gallons of flow per month** at the designated point of discharge to the Savannah sewer system. **Ownership of the sewer meter station as well as operational and maintenance responsibilities of the same shall be Bryan County's.** The meter that is furnished shall be approved by Savannah and shall measure flows to an accuracy acceptable to both parties. Both parties further agree as follows:

- a. The meter installation shall include a dedicated interface to which Savannah may connect telemetry or SCADA systems to monitor and record flow in real time independent of Bryan County's flow recording requirements. The interface (including PLCs, routers, programming, and other communication hardware) and its output signals shall be compatible with Savannah's existing communication equipment and programming protocols for its telemetry and SCADA systems. **Output signals for Savannah's use shall be the raw data signals directly from the measuring instruments. The telemetry, SCADA, and other equipment used for Savannah to monitor and record flow independently of Bryan County's equipment** shall be considered an integral part of the meter and shall be installed, **operated**, and maintained by Savannah to provide accurate sewage flow measurement data.
- b. The cost of wiring, cabling, hardware, software, communications services, and other infrastructure required to send the output signal from the interface furnished by Bryan County to the location for Savannah's use shall be borne by Savannah.

- c. After the initial calibration and final acceptance of the meter station, Bryan County shall operate, supervise, manage, maintain, repair and replace the metering station and the interconnecting sewer line within Chatham County, up to the designated Sewer Delivery Point into Savannah's system. [Periodic maintenance, calibration, and/or adjustments to instruments shall be provided to Savannah via fax or email within 24 hours of said operation and followed in writing within 30 days.](#)
- e. Upon completion of Bryan County's water reclamation facility, and following the parties' mutual agreement to redirect flow in the force main along Interstate 16 to transfer sewer from Savannah to Bryan County, the meter station described herein will be used for Bryan County to charge Savannah for wastewater discharged into Bryan County's system. All costs to repurpose the meter station to measure both instantaneous and total flow from the Savannah sewerage system into Bryan County's system shall be borne by Bryan County. All cost to design, permit, and construct piping, valves, and other appurtenances to facilitate the redirection of sewer conveyance within Savannah's sewer system to discharge into Bryan County's sewer system at said meter station, shall be borne by Savannah.

5. 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. Savannah shall have the right at all times to inspect said meter and to conduct at Savannah's expense such tests as may be appropriate. Savannah 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 Savannah) shall be paid by Savannah 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 Savannah 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. Savannah 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 Savannah 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 Savannah 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 Savannah. 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 Bryan County to Savannah 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 Savannah.

6. **Metered Sewage Consumption Charge.** Bryan County shall pay to Savannah a consumption charge for each 1000 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 equal 0.67 (i.e. a 33% discount) multiplied by the Effective Rate charged by Savannah to its retail user category "D" sewer customers on the outside-city rate schedule with a monthly usage of 1,250 cubic feet (9,350 gallons) as set by the Savannah Revenue Ordinance, as changed from time to time.

"Effective Rate" for purposes of the preceding paragraphs is computed by dividing the total monthly sewer charges for a customer with monthly usage of 1,250 cubic feet (or 9,350 gallons) by 0.748 to arrive at an average effective rate in terms of dollars per 1000 gallons.

Effective April 1, 2020, the Class D rate for outside customers was \$4.64 per 100 cubic feet. Therefore, the applicable rate for sewage delivered by Bryan County based on the Savannah sewer rate schedule with the 33% discount described in the paragraphs above, following April 1, 2020 is \$4.16 per 1000 gallons.

In the future, upon completion of the Bryan County WRF and redirection of flow from Savannah to Bryan County, both parties agree to amend this agreement to set the rate which Savannah will pay Bryan County for a consumption charge for each 1000 gallons delivered through the meter station. Both parties agree to negotiation and mutually agree to this consumptive rate as part of the future amendment process. However, in no case shall the consumptive rate be more than 1.5 times the rate charged by Bryan County to its own customers.

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

7. **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 Point.

Savannah shall construct, fund, own, and maintain (or cause the construction, funding and maintenance of) all pump stations and transport facilities necessary to accept sewage from within Bryan County downstream of the Sewage Delivery Point and to convey and treat said sewer within Savannah's sewer system. Savannah shall be responsible for meeting all wastewater collection, conveyance, and treatment requirements of applicable regulatory agencies to the Sewer Delivery Point.

8. **Sewage Treatment.** Savannah will accept for treatment domestic strength sanitary sewage delivered by Bryan County to a force main delivery point located in the vicinity of the Effingham County-Savannah border near Old River Road and Interstate 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) corporate limits of Bryan County which area is delineated in Exhibit 1.

The delivered sewage shall contain no toxic materials which would interfere with Savannah'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>
Ammonia-Nitrogen	16

BOD	150
COD	500
Fat, Oil, and Grease	100
Total Suspended Solids	170
Total Toxic Organics	2.13
Cyanide (total)	0.041
Arsenic	0.003
Cadmium	0.003
Chromium	0.050
Copper	0.061
Lead	0.049
Mercury	0.0003
Nickel	0.021
Silver	0.005
Zinc	0.175

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

Bryan 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 Bryan County in any month is 350,000 gallons per day. In no event shall Savannah be obligated to accept in excess of an annual average of 350,000 gallons per day ~~with the exception of conditions as outlined in Section 1 Paragraph c above.~~

9. Sewer Use Regulations. Bryan 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:

- a. Interfere with the operation or efficiency of the sewage transport and treatment systems of Savannah, or not be susceptible to treatment by the treatment process.
- b. 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 City of Savannah or any other regulatory agency.
- c. Constitute a hazard to human or animal life due to toxicity, flammable or explosive characteristics of the pollutant(s).

Such regulations shall be no less stringent than the sewer use provisions of the “Combined Sewer Use and Pretreatment Ordinance” of the City of Savannah as amended from time to time, as adopted pursuant to, and in accordance with, the regulations of the EPD or any successor agency.

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

10. Future Bryan County Sewage Capital Cost Recovery Charge. In the future, following mutual agreement of both parties for Savannah to transport sewage to the Sewer Deliver Point for Bryan County to accept, transport, and treat, both parties agree to negotiate a capital cost recovery charge to allow Bryan County to recover capital costs it has incurred to enable the acceptance of sewage at the Sewage Delivery Point. This future capital cost recovery charge to Savannah, will be based on Savannah's pro rata cost sharing in the costs to improve force main(s) and pumping station(s) to convey sewage to the future Bryan County water reclamation facility, and pro rata cost sharing in the costs of the treatment and effluent disposal facilities. For and in consideration of the Capital Cost Recovery Charge specified herein and the mutual benefits to be derived by the parties hereto, Bryan County agrees to sell and Savannah agrees to purchase a maximum of two million (2,000,000) gallons per day (2 MGD) of water reclamation services. To ensure Bryan County's ability to adequately serve all of its customers, and reserve capacity for Savannah, Savannah agrees to pay the future Capital Recovery Charge based on actual costs of infrastructure as mutually agreed upon by both parties. The final charge shall be calculated in accordance with the worksheet included in Exhibit 2, which is attached to and made part of this agreement. Based on current planning efforts and the calculation of costs presented in Exhibit 2, the total Capital Recovery Charge is estimated at \$22,934,480.00. Savannah agrees to pay the Capital Recovery Charge over a ten (10) year period for 2.0 MGD capacity of Bryan County's water reclamation services. Within one (1) year ~~subsequent to~~ the start of construction of Bryan County's WRF, and no more than seven (7) years from the execution of this agreement, ~~unless this agreement is extended in accordance with the terms outlined in Section 17 below,~~ Savannah shall make an initial payment, estimated at \$2,293,448.00, to obtain instantaneous flow (daily max flow) system capacity of 2.0 MGD from Bryan County. On an annual basis thereafter, Savannah shall pay an estimated \$2,293,448.00 to Bryan County on June 1st of each year. Ten payments of \$2,293,448.00 equates to estimated total charge of \$22,934,480.00, for a total capacity of 2.0 MGD instantaneous flow. Payments are made on an annual basis over ten (10) years unless both parties agree to increase the daily max flow sent from Savannah to Bryan. In that case, Savannah will increase payments to an amount that corresponds with the agreed upon new capacity allotment. Both parties must agree to a new payment schedule prior to any modification in capacity allotment.

Savannah is free to charge new customers any connection fee it wishes (either above or below the amount stated above) for customers connecting to its sewer system, however, the amount payable by Savannah to Bryan County shall be as stated in paragraph 10 of this agreement.

Savannah and Bryan County shall cooperate in any ~~potential audit,~~ ~~if requested by either party,~~ and make reasonably available records concerning building permits and connections to its sewer system to permit verification of compliance with this section.

For the mutual benefit of both parties, it is agreed that Bryan County shall cause the initial design of the Bryan County WRF to incorporate the necessary planning and permitting to allow Savannah to transmit up to 2,000,000 gallons per day to the Bryan County WRF for treatment and disposal in the future. However, Bryan County shall not be responsible for constructing said 2,000,000 gallons per day of capacity as part of the initial plant construction. Savannah shall be responsible for and pay to Bryan County, any additional design and permitting cost necessary to allow for and minimize cost for future modifications, improvements, and/or expansions to the Bryan County WRF to accommodate a future flow of 2,000,000 gallons per day from Savannah. Bryan County shall provide, for Savannah's review, the engineer's opinion of cost specific to said additional design and permitting cost prior to commencement of design. Savannah's remission of payment for said design and permitting costs shall be made upon written request by Bryan County, but not before commencement of construction of the initial plant.

Bryan County shall complete any and all modifications, improvements, and/or expansions to the Bryan County WRF necessary to accommodate acceptance for treatment and disposal of up to 2,000,000 gallons per day of sewage from Savannah via the Regional Force Main within 60 months of written notice from Savannah. Savannah shall be responsible for 100 percent of costs associated with said modifications, improvements, and/or expansions by Bryan County necessary to accommodate said 2,000,000 gallons per day of sewage flow from Savannah. It shall be necessary for Bryan County and Savannah to develop a separate and specific agreement for these efforts in the future.

11. Required Future Sewage Treatment Improvements. In the event that Savannah is required by any regulatory agency, or by any law, rule, or regulation, within seven (7) 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 adjusts will be reviewed in detail between both parties.

In the future, following mutual agreement of both parties for Savannah to transport sewage to the Sewer Deliver Point 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 Savannah 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 adjusts 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.

12. Future Connections to Sewer System. Upon completion of the Bryan County water reclamation facility and the redirection of the transport force main to convey sewer from Savannah to Bryan County, the County may elect to allow other wholesale users to connect to said force main. Bryan County will be responsible for ensuring the design and construction of said future connections will not affect Savannah’s ability to discharge the maximum treatment capacity described in Section 2 into Bryan County’s system. Savannah agrees that it will not allow other wholesale or municipal sewer **customers** to connect to the sewer conveyance system and discharge into Bryan County’s system without prior mutual agreement between both parties.

13. 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.

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

to make payment before Savannah is relieved of its obligations. **The same shall hold true for Bryan County once it begins accepting sewage from Savannah.**

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 5.

14. Excess Usage.

Excess sewage usage means sewage delivered by **either party through the meter station and Sewer Delivery Point, 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 8 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 13 hereof.

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

16. 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 Savannah: City of Savannah
Attention: City Manager
P.O. Box 1027
Savannah, GA 31402

With Copy to: City of Savannah
Attention: City Attorney
P.O. Box 1027
Savannah, GA 31402

If to Bryan County: Bryan County
Attention: County Administrator
66 Captain Matthew Freeman Drive
Richmond Hill, GA 31324

With Copy to: Bryan County
Attention: County Engineer

66 Captain Matthew Freeman Drive
Richmond Hill, GA 31324

17. Term. This Agreement shall be effective for an initial term ending on December 31, 2030. 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 III, Paragraph 1 of the Constitution of the State of Georgia.

However, the parties recognized 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.

It is further agreed in the event that changed circumstances cause the consumption charges provided for by Sections 6 and 11 to be inadequate to cover all costs incurred by Savannah (including a rate of return) to furnish the services to Bryan County (unless such changed circumstances were caused by Savannah's own negligence), that Savannah shall be entitled to place revised consumption charges in effect which are sufficient to cover all costs, after giving notice to Bryan County 90 days in advance of the effective date of any such consumption charge change. Savannah will make an equitable adjustment in any revised consumption charge in the event that the change circumstances that caused a consumption charge change is temporary, or is remedied so that it no longer has an impact on the costs incurred by Savannah to furnish service to Bryan County, but in no event will revised consumption charges be less than provided in Sections 6 and 11.

18. 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 8 hereof for use in the area delineated by Exhibit 1. However, before any adjustment is effective it must be mutually agreed upon by the parties by written amendment to this Agreement.

19. Construction Procurement Procedures. The parties hereto agree that should Bryan County receive CARES Act funding through EDA, or other state/federal funding programs, then Bryan County will procure construction services for the Regional Force Main project in general conformance with the state/federal funding program's *Standard Terms and Conditions for Construction Projects*, which include requirements for following federal and state laws regarding the Davis-Bacon Act, non-discrimination, small business, minority business, and women owned business enterprises, and other provisions. Both parties acknowledge and agree that any procurement and construction contracting involving use of EDA CARES Act, or other state/federal funding programs, will require compliance with the CARES Act grant or other funding program guidelines.

Should the Regional Force Main project not receive or use EDA CARES Act, or other state/federal program, funds and all funds are from local sources, Bryan County agrees to procure construction services following State of Georgia and Bryan County procurement laws and ordinances. Bryan County further agrees that if only local funds are used, the procurement process will also adhere to the current, as of the execution date of this agreement, City of Savannah Disadvantaged Business Enterprise (DBE) participation policy, provided said policy does not conflict with other state or federal laws. Both parties agree that DBE participation goals for the Regional Force Main project will not exceed ten percent (10%) of the total amount of Savannah's cost sharing contribution if only local funds are used. Both parties further agree

that small business enterprise (SBE), woman-owned business enterprise (WBE), and minority-owned business enterprise (MBE) participation goals will not exceed the goals established by EDA if CARES Act, or other state/federal, funding is used for the project.

20. Miscellaneous.

- a. **Amendments.** No amendment to this Agreement shall be effective unless it is in writing and signed by duly authorized representatives of the parties hereto.
- b. **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.
- c. **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.
- d. **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.
- e. **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.

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.

Executed in the presence of:

MAYOR AND ALDERMEN OF THE
CITY OF SAVANNAH, GEORGIA

Witness

By: _____
City Manager

Notary Public

Attest: _____
Clerk of Council

(SEAL)

Executed in the presence of:

BRYAN COUNTY, GEORGIA

Witness

By: _____

Notary Public

Attest: _____

(SEAL)

DRAFT

