

**AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT FOR
WASTEWATER SERVICES BETWEEN FULTON COUNTY, GEORGIA AND THE
CITY OF UNION CITY, GEORGIA FOR CAMP CREEK WATER RECLAMATION
FACILITY**

This INTERGOVERNMENTAL AGREEMENT (“Agreement”) between the CITY OF UNION CITY, a municipal corporation of the State of Georgia (“Union City”), and FULTON COUNTY, GEORGIA, a political subdivision of the State of Georgia (“Fulton”) (Union City and Fulton are each a “Party” and collectively the “Parties”), is effective as of the date the last Party to the Agreement executes the Agreement.

WITNESSETH:

WHEREAS, each of the Parties hereto is a governmental entity of the State of Georgia, having the legal authority and obligation to organize, maintain, and operate systems of sewerage in its respective jurisdiction to serve its citizens; and

WHEREAS, Fulton owns and operates the Camp Creek Water Reclamation Facility, ("Camp Creek WRF"); and

WHEREAS, the Georgia Department of Natural Resources, Environmental Protection Division (“EPD”) has mandated that watershed assessment and planning be conducted to support environmental regulatory action on wastewater discharges; and

WHEREAS, both parties agree that it is in their mutual interests to work cooperatively on wastewater management and watershed management in the Camp Creek service area and agree that the environmental management of the common watershed can be enhanced through regional cooperation; and

WHEREAS, the terms of this Agreement are intended to address the long-term needs of the parties related to wastewater management; and

WHEREAS, the Parties wish to set terms and conditions and provide procedures for the current and future use of Camp Creek WRF and future capital improvements to the System, and to agree upon methods of determining and sharing current and future costs of capital improvements and operation and maintenance of the Sewerage System.

NOW, THEREFORE, in consideration of the mutual rights and obligations set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties do agree as follows:

ARTICLE 1

DEFINITIONS

In the construction of this Agreement, the following terms shall have the following meanings and shall be construed as required by the following provisions, unless inconsistent with the manifest intent of the text:

1.1 **APPLICABLE INTEREST RATE**. The rate of one percent per month.

1.2 **BUSINESS DAY**. Each day excluding each Saturday, Sunday, and state or federal holiday on which banks in the State of Georgia are authorized to close for purposes of customary banking services.

1.3 **CAPITAL IMPROVEMENTS**. Those additions, replacements, or improvements to the Sewerage System, which, under generally accepted accounting principles or practices, are considered capital in nature, and which are made for the purpose of repairing, improving, or expanding the Sewerage System.

1.4 **CITY MANAGER**. The Manager of the City of Union City, or his or her designee, for purposes of this Agreement.

1.5 COLLECTION SYSTEM. A component of the System consisting of the sewer lines, storage facilities, pump stations, and force mains which transport flows to a treatment facility or its influent pumping station.

1.6 DATE OF EXECUTION. The date on which the last Party to this Agreement executes this Agreement.

1.7 DESIGN CAPACITY. Flow capacity in million gallons per day (MGD) of a particular water pollution control or reclamation facility as described in the most recent design study, or any revision thereto, undertaken by the permit holder of said facility, which must be certified by an engineer licensed to practice in the State of Georgia, expressed as average daily flow, maximum-month daily flow, and/or peak wet weather flow; provided, however, as to any facility for which a permit from a regulatory body as to its maximum flow capacity is required, the Design Capacity of such facility shall not exceed such maximum permitted flow capacity.

1.8 DIRECTOR OF PUBLIC WORKS. The Director of Public Works of Fulton, or his or her designee, for purposes of this Agreement.

1.9 GOVERNING AUTHORITY. As applicable, the City Council of the City of Union City, Georgia, or the Board of Commissioners of Fulton County, Georgia, or any replacement governmental body vested with the power to govern the respective jurisdiction under the laws of the State of Georgia.

1.10 NPDES PERMIT. National Pollution Discharge Elimination System Permit.

1.11 PROJECT. Any project consisting of future capital improvements to the System undertaken pursuant to this Agreement.

1.12 PROJECT COSTS. Any and all costs and expenses of any Project, including,

without limitation, the costs of planning, design, engineering, architectural, and construction of the Project, the costs of plans and specifications, the costs necessary or incident to determining the feasibility or practicality of the Project, the costs of acquiring or condemning all lands, properties, rights, and easements acquired for the Project, the costs of all buildings, machinery and equipment included in the Project, the costs of insurance, financing charges and interest as applicable, the costs of compliance with environmental regulations and environmental protection, the costs of re-rating any facility, the costs of project construction management and construction engineering, legal fees and expenses, and such other costs as may be necessary or incidental to the construction and equipping of the Project, and the placing of the Project in operation; provided, however, Project Costs shall not include any operating cost (as accepted by industry standard), any repair or routine maintenance cost, or any cost stemming from a claim, fine or penalty resulting from the negligent or intentional act or omission of Fulton or such Party's agent.

1.13 RATES. Rates shall be established on the basis of a utility industry standard cost of service study prepared by or on behalf of Fulton. Such study shall serve to establish at least the following three rate categories: (1) retail rates billed to residential/commercial customers, (2) wholesale rates, inclusive of a capital component and operations and maintenance component based on no capital contribution to the System ("Capital/O&M"); and (3) wholesale rates, without a capital component and with operations and maintenance based on that customer's capital contribution to the System ("O&M"). Whenever Fulton deems it necessary to revise its rates, Fulton shall notify Union City in writing of the pending rate increase not less than thirty (30) days prior to submittal of such revised rates to Fulton's Governing Authority for approval. Upon approval of such rates, Fulton shall notify Union City in writing by the first to occur: (a) thirty (30)

days after such approval by the respective Governing Authority or (b) at least thirty (30) days prior to the effective date of such rates, which notice shall state each rate and the effective date thereof. Nothing herein is intended to be construed as affecting Fulton's sole authority to revise its rates. All documentation used in cost-of-service studies, if any, shall be provided by Fulton to Union City within ten (10) Business Days of the date upon which Fulton's Governing Authority revises its rates.

1.14 RESERVED CAPACITY. The quantity of flow expressed as million gallons per day or thousand gallons per day purchased and allocated for use by Union City of Camp Creek WRF, as set forth in Section 5.1.2.

1.15 REQUIRED FINANCIAL CONTRIBUTION. The dollar amount payable by Union City with respect to each future Project equal to (a) the sum of the Total Project Cost for the Project minus the total amount of all state and federal funds, (b) multiplied by Union City's Required Financial Contribution Percent.

1.16 REQUIRED FINANCIAL CONTRIBUTION PERCENT. The applicable percent specified in Section 2.1 or in an amendment to this Agreement for the applicable Project, or if no percent is so specified for any future capital improvement to the Sewerage System, the percent which such Reserved Capacity (following such capital improvement) is of the Design Capacity of Camp Creek WRF (following such capital improvement).

1.17 SEWERAGE SYSTEM, SEWER SYSTEM, OR SYSTEM. The physical system of sewers, pumping stations, force mains, storage and treatment facilities by which Union City and Fulton collect, convey, treat, and discharge wastewater within the Camp Creek service area.

1.18 TOTAL PROJECT COST. The aggregate dollar amount of all Project Costs of a

future Project undertaken pursuant to this Agreement.

ARTICLE 2

FINANCIAL CONTRIBUTION BY UNION CITY

2.1 UNION CITY'S REQUIRED FINANCIAL CONTRIBUTION PERCENT FOR CAMP CREEK WRF. Union City's total Required Financial Contribution Percent for the Camp Creek WRF Improvements shall be 12.5% of Camp Creek WRF's current capacity as determined in Section 5.1.2.

ARTICLE 3

FUTURE CAPITAL IMPROVEMENTS OF FULTON

3.1 DETERMINATION TO MAKE FUTURE CAPITAL IMPROVEMENTS.

Fulton may make necessary Capital Improvements to the Sewerage System from time to time, subject to approval by appropriate state or federal regulatory agencies, if excessive water loads or flows are impairing the efficient operation of the System, if additional capacity is required, if such improvements are necessary to comply with the regulations or requirements of agencies of the State of Georgia and/or agencies of the federal government, or if improved processes are available and the additions of said processes are necessary or desirable to provide operations which are more efficient and economical. Union City agrees that the determination to make capital improvements for any one or more of the reasons aforementioned shall be made by Fulton. For the purpose of long-range planning, the Parties, acting by and through the City Manager of Union City and the Fulton Director of Public Works, shall meet at least annually or more frequently as deemed necessary to discuss Inflow and Infiltration ("I/I") concerns and reductions determine whether additional capacity to serve both

jurisdictions will be required, necessary, or desirable, for any facility which is part of the Sewerage System. The Parties agree that any such meeting will be held within thirty (30) days of a written request therefor from either Party.

3.2 NOTICE. Upon the determination that Capital Improvements to the System are necessary, desirable or appropriate pursuant to Section 3.1, Fulton shall provide written notice to Union City of such determination, which notice also shall include Fulton's current estimate of the Total Project Cost and its calculation of the Required Financial Contribution from Union City, based on Union City's Required Financial Contribution Percent, for such Project. Fulton's estimate of the Total Project Cost shall be supported by the estimate from the contractor who was awarded the contract for the aforesaid Capital Improvement. Union City shall respond in writing acknowledging such notice within thirty (30) days after the date such notice is received.

3.3 PAYMENT. The date Union City begins making its Required Financial Contribution will depend on when Union City receives written notice from Fulton. If Union City receives written notice prior to sixty (60) days of the commencement of Union City's next fiscal year, Union City shall pay the Required Financial Contribution within forty-five (45) days of the beginning of that fiscal year. If Union City does not receive the above-described notice at least sixty (60) days prior to the beginning of Union City's next fiscal year, Union City shall pay the full Required Financial Contribution within forty-five (45) days of the beginning of Union City's succeeding fiscal year. Upon completion of the Project, adjustments to the estimated Total Project Cost shall be made in accordance with Sections 4.2 and 4.3.

Union City shall pay its financial obligations under this Agreement in accordance with the provisions of this Agreement, whether or not a Project, or any part thereof, has been completed, is operating or operable or its output is suspended, interrupted, interfered with, reduced or curtailed or terminated in whole or in part, and such payments shall not be subject to reduction by offset and shall not be conditional upon the performance or non-performance by Fulton of any other agreement or any other condition whatever.

ARTICLE 4

PAYMENTS AND OWNERSHIP

4.1 **FAILURE TO RESPOND.** In the event Union City fails to comply with Articles 2 and 3 of this Agreement, such failure shall be deemed a material breach of this Agreement and all remedies set forth in this Agreement, including the provisions of Section 4.3, shall be available to Fulton.

4.2 **ADJUSTMENT OF PAYMENTS.** Union City and Fulton agree that the calculation of the Total Project Cost for future Capital Improvements and Union City's Required Financial Contribution with respect thereto are estimates, and that circumstances may arise that cause a change to such estimates. After (a) Fulton initiates any Capital Improvement pursuant to this Agreement and has certified that construction of such Capital Improvement has been completed in accordance with approved plans and specifications, (b) final payment of all federal or state grant money due Fulton, if any, has been received, (c) final payment to the construction contractor(s) has been made and resolution of any appropriate construction claims (excluding claims stemming from a negligent or intentional act or omission of Fulton) has occurred and (d) Fulton has determined the final Total Project Cost

of the Capital Improvement, then the mathematical adjustment of the total Required Financial Contribution payable by Union City shall be made. If an adjustment needs to be made and Union City receives billing for that adjustment at least sixty (60) days prior to the beginning of that fiscal year, Union City shall pay such additional Required Financial Contribution within forty-five (45) days of the beginning of Union City's fiscal year. If Union City does not receive such billing at least sixty (60) days prior to the beginning of its fiscal year, Union City shall pay the additional Required Financial Contribution within forty-five (45) days following the beginning of Union City's next fiscal year.

4.3 FAILURE TO PAY WHEN DUE. In the event of any failure to pay when due any amount due under this Agreement, interest shall automatically accrue on such delinquent amount in accordance with Sections 1.1 and 8.2, from the date such payment is due until full payment of such delinquent amount and accrued interest thereon is made.

4.4 OWNERSHIP OF SYSTEM. Union City agrees that the payment of its Required Financial Contributions as described in Section 2.1 and payment of the rates assessed for its flow to Camp Creek WRF constitutes consideration paid for Union City's contractual right to use Camp Creek WRF in the amount of its Reserved Capacity therein and does not constitute consideration paid for any ownership right, ownership interest, indicia of ownership or other property right in Camp Creek WRF. Union City's use of Camp Creek WRF in the amount of its Reserved Capacity specified herein shall not constitute any transfer of any ownership rights, ownership interests or other property rights in Camp Creek WRF.

ARTICLE 5

USE OF FACILITIES

5.1 UNION CITY'S RIGHT TO USE OF CAMP CREEK.

5.1.1 CURRENT FACILITY. Subject to Section 2.1 of this Agreement and payment of the additional Required Financial Contribution described in Section 2.1, Union City's Reserved Capacity in Camp Creek WRF shall be 3.00 MGD with respect to the current Camp Creek WRF.

5.1.2 RESERVED CAPACITY. Union City's payment of its additional Required Financial Contribution pursuant to Articles 3 and 4 hereof, and Union City's timely payment of applicable treatment rates for its use of Camp Creek WRF pursuant to the Agreement, will entitle Union City to discharge in the future no more than the following respective Reserved Capacity of flow to Camp Creek WRF:

Camp Creek WRF

	Design Capacity (MGD)	Union City's Reserved Capacity (Percent)	Union City's Reserved Capacity (MGD)
Maximum Month Daily Flow	24	12.50%	3.0

5.1.3 RE-RATING OF RESERVED CAPACITY. [RESERVED].

5.1.4 UNUSED RESERVED CAPACITY. Union City is prohibited from selling its unused Reserved Capacity to other jurisdictions or any private entities outside of its municipal limits. In addition, Union City shall not extend, or permit extensions of or connections to, the System outside of the current or future municipal limits of Union City.

5.1.5 DETERMINATION AND PAYMENT OF APPLICABLE RATES. Union

City agrees to pay for its flow usage at an established rate that reflects the cost of service being provided as established and revised from time to time in accordance with Section 1.13. The rate for flows exceeding the Reserved Capacity shall be the wholesale rate inclusive of a capital component based on no previous capital contribution to the system (Capital/O&M). Payments shall be due within thirty (30) days of receipt of such billing.

5.2 DETERMINATION OF FLOWS. The basis for billing shall be metered flow volumes wherever possible. The location of current meters monitored by Fulton is shown on the map attached hereto as Exhibit A. Meters shall be calibrated no less often than quarterly, and appropriate calibration records shall be retained. Union City shall have the opportunity to observe the calibration process, test the calibration equipment and review the calibration records of Fulton upon written request. Any meter tested and found to be accurate within ten percent shall be considered accurate for billing purposes. The cost of monitoring the flows and of any quarterly calibration services shall be borne equally by the parties, with Union City's share of any such costs being due and payable to Fulton no later than thirty (30) days from Union City's receipt of an invoice from the County. If payment is not remitted by the due date, Union City agrees to pay Fulton (in addition to Union City's share of the calibration costs) a late charge equal to five percent (5%) of Union City's share of the calibration costs. The parties agree that a 250 gpd amount will be used for house counts where it is not economically feasible for a flow meter to be placed. Where a dispute arises with respect to the accuracy or appropriateness of metering results, the City Manager and the Director of Public Works shall attempt to resolve the dispute in good faith before seeking other options that may be available to the parties.

5.3 PROVISION OF DATA. Both Parties agree to provide flow data, or, if flow is not

metered, water consumption within the service area and population data to the other Party as may be reasonably requested in writing by the other Party within ten (10) business days following receipt of each such request.

5.4 CHANGES IN CAPACITY. Union City may request additional Reserved Capacity in Camp Creek WRF. Any increase of Reserved Capacity shall require the adjustment of the Required Financial Contribution Percent for the Total Project Cost of any future capital improvements to such facility. The percentage of Reserved Capacity and the parallel Required Financial Contribution Percent may not, however, be increased or decreased except by formal written amendment of this Agreement. Fulton shall act on Union City's request for additional Reserved Capacity within sixty 60 days of Fulton's receipt of the request. Should Fulton deny Union City's request for additional Reserved Capacity due to Camp Creek WRF having no more Unallocated Reserved Capacity, then the Excess Flow provisions of Section 5.5 may be implemented. However, should Fulton deny Union City's request for additional Reserved Capacity for any reason other than Camp Creek WRF having no more Unallocated Reserved Capacity available, or should Fulton fail to respond to Union City within sixty 60 days of Fulton's receipt of Union City's request for additional Reserved Capacity, then the higher rate for future Excess Flows as described in Section 5.5 shall not be implemented. This Section does not limit implementation of the Excess Flow provisions of Section 5.5 in any circumstances other than those described above regarding requests by Union City for additional Reserved Capacity.

5.5 FUTURE EXCESS FLOW. When the average daily flow received from Union City to Camp Creek based on a 60-day reporting period reaches 80% of the Reserved Capacity for such facility, Union City must prepare and submit to Fulton a written plan which demonstrates

how future flows will be maintained within the Reserved Capacity. Should Union City's flow received at Camp Creek WRF exceed its then-current Reserved Capacity, Union City shall immediately take appropriate measures to reduce its flow to within its Reserved Capacity. Continued discharge in excess of the Reserved Capacity calculated as a daily average over 60 days' time, will be considered a material breach of contract, for which Fulton is entitled to one or more of the following remedies, none of which shall be an exclusive remedy: (a) immediate payment of the applicable rates set forth in Section 5.2 with respect to the Reserved Capacity flow and the flow in excess of the Reserved Capacity, (b) payment (or reimbursement) of any and all damages caused to third parties directly related to such excess flow, (c) immediate payment (or reimbursement) of any and all civil penalties and fines imposed by regulatory agencies or courts of law directly attributed to such excess flow, (d) interest on any aforesaid amount not paid when due pursuant hereto at the Applicable Interest Rate calculated in accordance with Section 8.2, and (e) any and all other remedies available at law or in equity. Any amount payable pursuant to this Section 5.5 shall be paid by Union City within fifteen (15) days following written demand therefor.

ARTICLE 6

COLLECTION SYSTEM

6.1 **FULTON'S RIGHTS/RESPONSIBILITIES.** Fulton shall have the right to make or permit connections to that portion of the Collection System located within the sewer service boundaries outlined as Fulton's responsibility in the map attached hereto as Exhibit B, subject to Fulton first receiving a right to serve letter from Union City for those areas depicted in Exhibit B within the municipal limits of Union City. Fulton shall continue to provide retail sewer service to its existing customers located within the corporate limits of Union City (as those limits currently

exist and as they may be expanded in the future by annexation) delineated as its responsibility in Exhibit B unless and until such time as the Parties mutually agree to transfer such retail customers to Union City. Union City shall provide retail sewer service to its existing customers unless and until such time as the Parties mutually agree to transfer such retail customers to Fulton. Notwithstanding the above, permitting related to any direct connection to the interceptor wastewater line located in or around Union City, identified in the map attached hereto as Exhibit C, shall be the sole responsibility of Fulton.

6.2 UNION CITY'S RIGHTS/RESPONSIBILITIES. Union City shall have the right to make or to permit new connections to that portion of the Collection System located within the corporate limits of Union City, subject to the restrictions set forth in Section 6.1.

6.3 CHARGES FOR CONNECTIONS. Union City shall have the right to determine and impose charges for new connections permitted or made to the Collection System within Union City's corporate limits. This right shall include the right to contract with other sewer service provider(s) for the use of the Sewerage System within its sewer service boundaries, provided that Union City shall not permit, by contract or otherwise, the discharge of flow which will result in Union City's exceeding its maximum Reserved Capacity flow to Camp Creek WRF as set forth in Article 5 hereof. .

6.4 INFLOW AND INFILTRATION (I/I) PROGRAM - UNION CITY. Union City shall implement an I/I program to reduce I/I to its Collection System. Union City shall submit to Fulton annual reports indicating action taken and amount of reduction of I/I in the Collection System due to those actions.

6.5 INFLOW AND INFILTRATION (I/I) PROGRAM - FULTON. Fulton shall

implement an I/I program to reduce I/I to its portion of the Collection System located within the municipal limits of Union City, and that part of Fulton's Collection System outside of Union City that flows into Union City, as described in Section 3.1. Fulton shall submit to Union City annual reports indicating action taken and amount of reduction of I/I in the Collection System due to those actions.

ARTICLE 7

SEWER USE ORDINANCES AND INDUSTRIAL PRETREATMENT PROGRAMS

7.1 **RESPONSIBILITIES.** Each Party will be responsible for implementing, updating, enforcing, monitoring and controlling its sewer use ordinance and industrial pretreatment programs within its jurisdictional limits.

7.2 **REVISIONS.** To the extent that either Party's sewer use ordinance and industrial pretreatment program is inconsistent with state and federal requirements, that Party will amend and/or revise its sewer use ordinance and industrial pretreatment program to comply with all state and federal requirements and will accept and implement reasonable changes to such ordinance and program requested in writing by the other Party with respect to control of discharges from or through Union City which ultimately will be treated at Camp Creek WRF. When required for compliance with Fulton's NPDES permit, Union City will revise its ordinance and industrial pretreatment program in a manner reasonably acceptable to Fulton.

7.3 **ENFORCEMENT AND PERMITTING.** Each Party agrees to diligently enforce its sewer use ordinance and industrial pretreatment program for users of its portion of the Sewerage System. Union City will issue new permits to all industrial dischargers within its municipal limits as required by its ordinance and pretreatment program and will monitor compliance with the

permits. A written report of non-compliant discharges within Union City's municipal limits to tributaries of Camp Creek will be provided to the other party by the party whose retail customer(s) caused such discharge(s).

7.4 FAILURE TO ENFORCE. In the event either Party fails to take reasonable pretreatment enforcement action on a timely basis, the other party may take whatever action by law it is authorized to take.

7.5 ANNUAL REPORTS. Each Party will submit a written annual report to the other party on the compliance status of each of their respective significant industrial customers located within the corporate limits of Union City and any enforcement response taken or anticipated. Each such report will include the time frames for initial enforcement actions, as well as any subsequent enforcement actions.

7.6 EMERGENCY ACTION. Each Party, acting as an agent of the other Party, may take emergency action to stop or prevent any discharge into its sewer system for treatment at Camp Creek WRF that is generated in, or transported through Fulton or Union City, when in the reasonable opinion of either Party such discharge presents, or may present, an imminent danger to the health or welfare of humans, which reasonably appears to threaten the environment, or which threatens to cause interference or contamination to either Party's System. Both Parties agree to provide such notice as is practicable to the sewer user and the other Party of its intent to take emergency action prior to taking action; provided, however, it is understood and agreed the opportunity to respond to such action or anticipated action may be limited to a hearing after the emergency powers of either Party have been exercised.

ARTICLE 8

PROVISIONS OF GENERAL APPLICATION

8.1 **RIGHT TO SEEK SPECIFIC PERFORMANCE.** The Parties agree that the costs and damages resulting from a breach of the contractual rights to use the Sewerage System facilities up to the specified amounts granted by this Agreement may not be susceptible of monetary calculation, and that damages recoverable at law may not be adequate compensation for nonperformance of the covenants of this Agreement. It is therefore agreed that in each instance where money damages are not an adequate remedy and the provisions of Section 8.8 have been complied with, either Party shall be entitled to specific performance or any other equitable remedies provided by law.

8.2 **RATE OF INTEREST.** Whenever this Agreement provides for the accrual and payment of interest on sums to be paid by one party to the other, such interest shall be calculated at the Applicable Interest Rate as defined in Section 1.1. Interest shall be calculated at the Applicable Interest Rate based upon the total number of calendar days during which the applicable amounts remain unpaid, including the original due date of the delinquent payment and excluding the day on which the amount (including accrued interest) is paid in full.

8.3 **OPERATIONS REVIEW.** Both Parties agree that, upon receipt by one Party of a written request from the other Party for an operations review, an operations review to determine the status of the operations, maintenance and personnel needs of any component of the Sewerage System, as well as the efficiency, management and reliability of the cost-effectiveness of the operation of any component of the Sewerage System, shall be completed and a written report of such review and the resulting recommendations shall be delivered to the requesting Party within

ninety (90) days following receipt of the written request. The reasonable out-of-pocket costs of the operations review will be paid by the Party requesting same. The recommendations of an operations review will not bind either Party.

8.4 SEVERABILITY. In case any one or more of the provisions of this Agreement shall for any reason be held to be illegal or invalid by a court of competent jurisdiction, it is the intention of each of the Parties hereto that such illegality or invalidity shall not affect any other provision hereof, but this Agreement shall be construed and enforced as if such illegal or invalid provision had not been contained herein. This Agreement shall be construed to adopt, but not to enlarge upon, all the applicable provisions of the Constitution and general laws of Georgia, and, if any provisions hereof conflict with any applicable provisions of said Constitution or laws, the latter as adopted by the legislature and as interpreted by the courts of this state shall prevail in lieu of any provision hereof in conflict or not in harmony therewith.

8.5 WAIVER. A failure to initiate action as to any breach shall not be deemed as a waiver of that right of action and all such uninitiated rights of action shall be cumulative.

8.6 TERM OF AGREEMENT. This Agreement shall be in effect and shall constitute a binding obligation of the Parties hereto from and after its execution by the last Party to execute same and shall continue in effect for fifteen (15) years. Upon written notice not less than ninety (90) days prior to expiration, this Agreement may be renewed for an additional term of five (5) years.

8.7 PERIODIC REVIEW OF PROVISIONS. The Parties shall hold periodic reviews of the provisions of this Agreement in order to provide for the changing needs of both Parties, and to insure the Sewerage System meets all applicable state and federal requirements, as they may be

promulgated or amended. The Parties agree to negotiate diligently and in good faith to accommodate each other's needs and proposed amendments and to use all diligent and good faith efforts to enact by appropriate legislation such amendments as are agreed upon by both Parties to be appropriate. No such amendments to this Agreement shall become effective unless authorized by the respective Governing Authority of both Parties. However, nothing herein shall prevent either Party from proposing amendments to the other at any time during the term of this Agreement.

8.8 RESOLUTION OF DISPUTES. Should there arise any issues or disputes related to this Agreement, the Parties will in good faith attempt to resolve such issues or disputes promptly and amicably, and may by mutual agreement submit same to non-binding mediation.

8.9 INSURANCE COVERAGE. Fulton shall self-fund insurance coverage for its capital assets and personalty included in the Sewerage System. This self-funded coverage will be sufficient to cover reasonably foreseeable risks and shall insure the buildings' systems, equipment and other improvements and all additions, extensions, alterations and modifications thereto. Any costs associated with this coverage shall be paid for by Fulton.

8.10 DAMAGE OR DESTRUCTION OF FACILITIES. In the event of damage or destruction by fire or other casualty of the Sewerage System, Fulton shall, with reasonable diligence and dispatch, repair, or rebuild, or otherwise make provision for restoring functionality to said facilities so as to restore them as nearly as possible to the condition which existed immediately prior to the damage or destruction, subject to such modifications as may be agreed to by the parties. Any repair or rebuilding required hereunder shall be paid for with the proceeds of the insurance required under Section 8.9 and any remaining costs shall be paid by Fulton as the

owner of the Camp Creek WRF.

8.11 PERSONAL LIABILITY. No elected official, director, officer, or employee of either Party shall be charged personally or held contractually liable by or to the other Party under any terms or provisions of this Agreement or because of any breach thereof or because of its or their execution or attempted execution thereof.

8.12 RESPONSIBILITY OF PARTIES FOR SEWERAGE SYSTEM. Union City and Fulton shall be responsible for the maintenance, repair and operation of their respective components of the Sewerage System, except as otherwise agreed to by the Parties through a separate memorandum of understanding or agreement. No Party not a signatory to this Agreement shall be a beneficiary of the rights and obligations hereunder.

8.13 TIME OF ESSENCE. Time is of the essence for all the terms of this Agreement.

8.14 HEADINGS. The headings contained herein are for convenience and reference only and are not intended to define or limit the scope of any provisions of this Agreement.

8.15 ASSISTANCE. Union City and Fulton agree to provide each other with assistance in the form of plans and specifications, reports and projections, as may be necessary or appropriate for the efficient operation of the Sewerage System.

8.16 NUMBER OF ORIGINAL DOCUMENTS. It is agreed between the Parties that this Agreement shall be executed in two or more originals, all of which shall constitute one and the same document, and any one of which may be used for any purpose for which an original executed document may be used.

8.17 ASSIGNMENT OF AGREEMENT. This Agreement shall inure to the benefit of and shall be binding upon the respective successors and assigns of the Parties to this Agreement;

provided, however, that neither this Agreement nor any interest herein shall be transferred or assigned by any Party hereto except with the consent in writing of the other Party hereto which consent shall not be unreasonably withheld. No assignment or transfer of this Agreement without consent shall relieve a Party hereto of any obligation hereunder.

8.18 INTERGOVERNMENTAL AGREEMENT. The parties hereto agree that this Agreement is an intergovernmental contract entered into pursuant to Article IX, Section III, Paragraph I of the Constitution of the State of Georgia of 1983.

8.19 PRIOR AGREEMENTS. This Agreement supersedes any and all previous agreements between Fulton and Union City concerning the same subject matter as this Agreement.

8.20 DEFAULT. Failure of Union City to pay Fulton any of the payments required under this Agreement when due or failure of either Party to comply with any covenant, term, or obligation of this Agreement shall constitute a material default on the part of such Party. In any such event the non-defaulting Party may, after complying with the provisions of Section 8.8, bring any suit, action, or proceeding in law or in equity, including but not limited to mandamus, injunction and/or action for specific performance, as may be necessary or appropriate to enforce any provision, covenant, term, or obligation of this Agreement against the other Party.

8.21 NOTICE. All notices pursuant to this Agreement shall be in writing and delivered in person or transmitted by certified mail, postage prepaid, or by registered overnight mail or delivery service, charges prepaid. All notices to Fulton shall be addressed as follows, unless otherwise directed in writing:

County Manager
Fulton County Government Center
141 Pryor Street, Suite 10061
Atlanta, Georgia 30303

With a copy to:

Director, Fulton County Department of Public Works

Fulton County Government Center

141 Pryor Street, Suite 6001

Atlanta, Georgia 30303

With a copy to:

Office of the County Attorney

Attn: County Attorney

Fulton County Government Center

141 Pryor Street, Suite 4038

Atlanta, Georgia 30303

All notices to Union City shall be addressed as follows, unless otherwise directed in writing:

Mayor

City of Union City

5047 Union Street

Union City, Georgia 30291

With a copy to the:

City Manager

City of Union City

5047 Union Street

Union City, Georgia 30291

[signatures on following page]

IN WITNESS WHEREOF, the duly authorized officials of Union City and Fulton have caused the name of Union City and the name of Fulton and the seals of said political subdivisions and the signatures of their duly authorized executive officers to be affixed hereto below:

ATTESTED:

FULTON COUNTY, GEORGIA


Tonya R. Grier
Clerk to the Commission


Robert L. Pitts, Chairman
Board of Commissioners

APPROVED AS TO FORM:

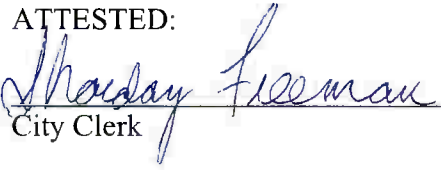
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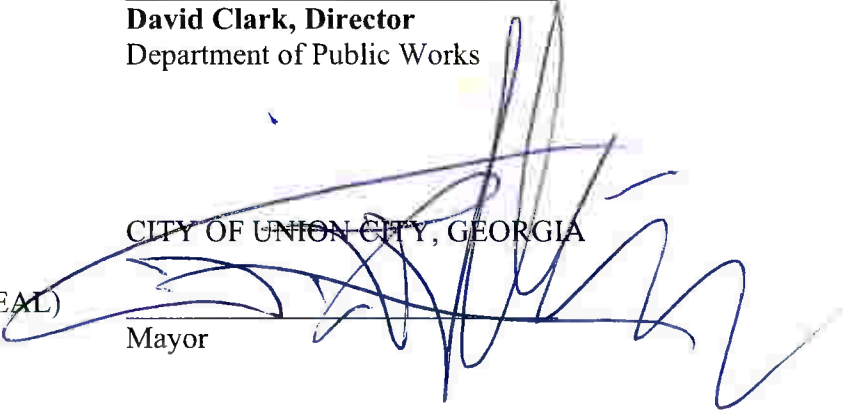

Office of the County Attorney


David Clark, Director
Department of Public Works

ATTESTED:

CITY OF UNION CITY, GEORGIA


City Clerk


Mayor

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:


City Attorney


Director of Public Works



EXHIBIT A
[Title]

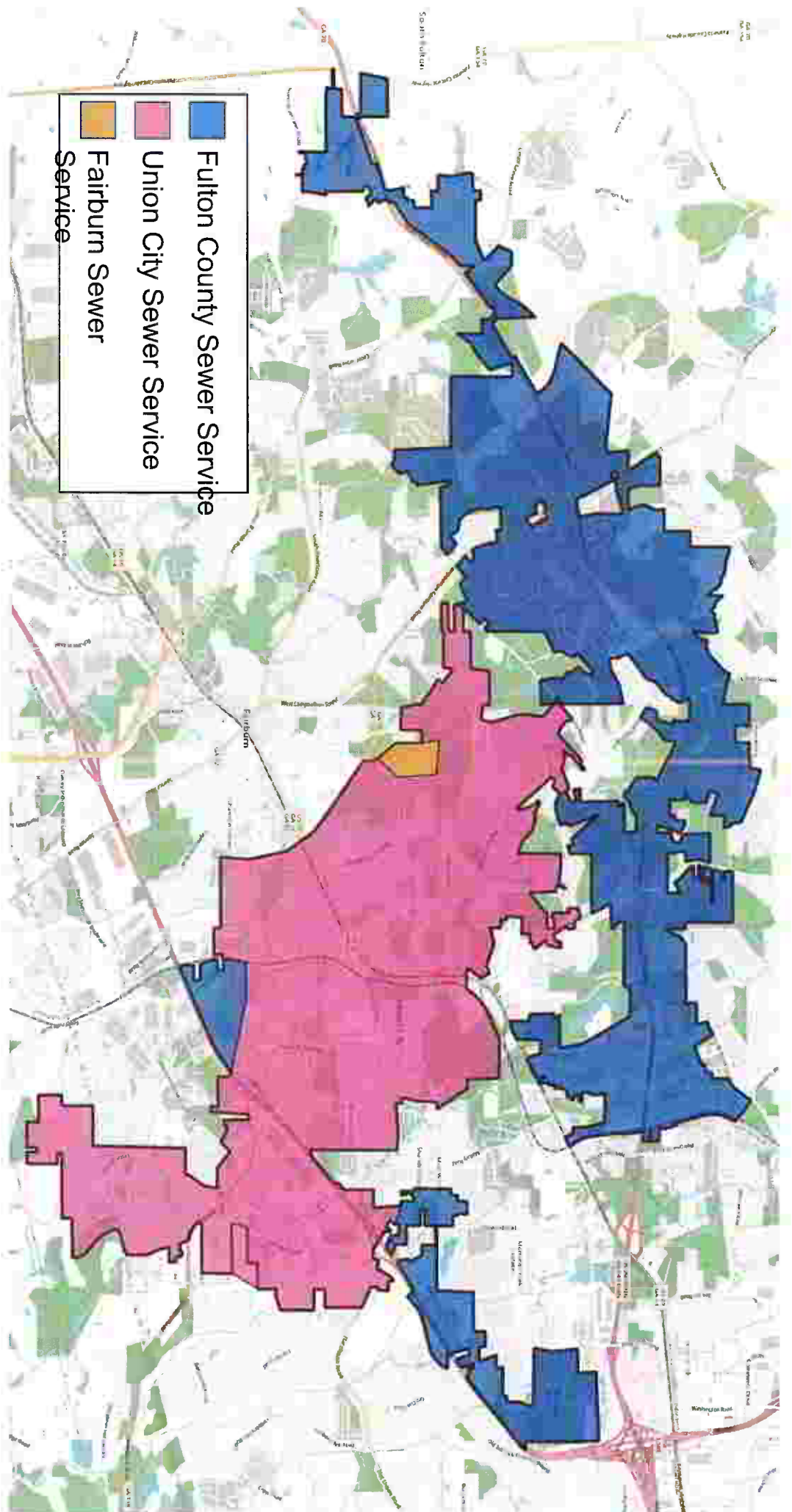


EXHIBIT B

[Title]

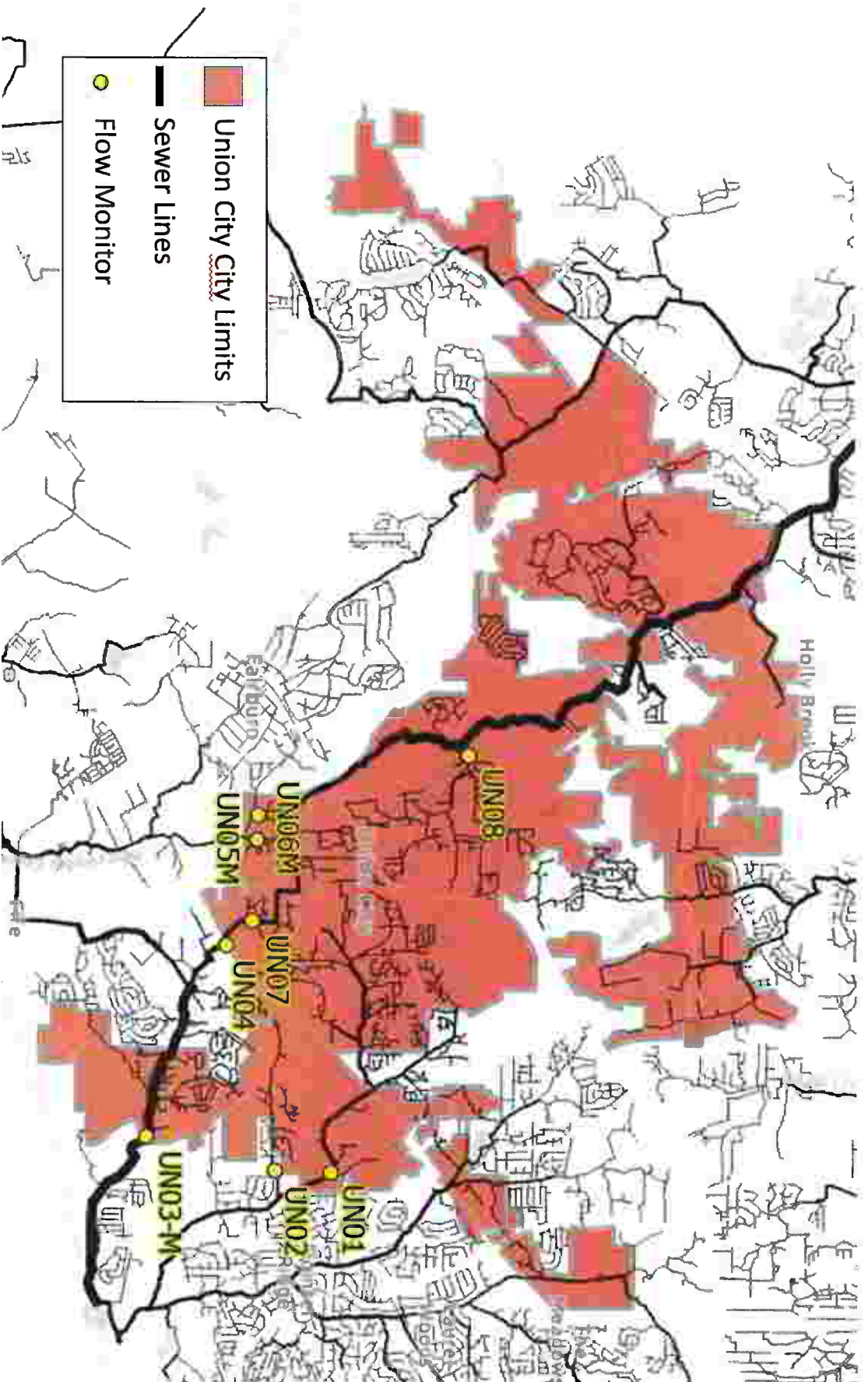


EXHIBIT C
[Title]

