

**INTERGOVERNMENTAL RESERVOIR AND WATER
SUPPLY AND TREATMENT AGREEMENT**

BETWEEN

WALTON COUNTY WATER AND SEWERAGE AUTHORITY,

OCONEE COUNTY, GEORGIA AND

WALTON COUNTY, GEORGIA

INDEX

ARTICLE I TERM OF AGREEMENT, DEFINITIONS3

 Section 101. Term..... 3

 Section 102. Definitions and Explanation of Terms 3

 Section 103. Section References 9

ARTICLE II WATER SUPPLY AND TREATMENT PROJECT.....10

 Section 201. Ownership and Operation of Project..... 10

 Section 202. Financing of Project..... 11

 Section 203. Costs of the Project 13

 Section 204. Insurance 13

 Section 205. Charges and Billings for the Project 13

 Section 206. Adjustment of Billing 17

 Section 207. Disputed Monthly Billing Statement 18

 Section 208. Project Entitlement and Payment Obligations 19

 Section 209. Sale of a Participant’s Entitlement Share of the Project 19

 Section 210. Sources of Participant’s Payments..... 20

 Section 211. Payments by the Authority From Available Revenue Sources..... 22

 Section 212. Character and Continuity of Service..... 22

 Section 213. Metering..... 23

ARTICLE III HARD LABOR CREEK RESERVOIR MANAGEMENT BOARD24

 Section 301. Establishment of Hard Labor Creek Reservoir Management Board 24

 Section 302. Voting, Terms, Compensation 24

 Section 303. Meetings of Management Board..... 25

 Section 304. Responsibilities and Authority of Management Board..... 26

ARTICLE IV CERTAIN OBLIGATIONS OF THE AUTHORITY AND THE OTHER PARTICIPANTS28

 Section 401. Water Supply and Treatment 28

 Section 402. Additional Treatment Facilities 28

 Section 403. Notification of Water Supply and Treatment Planning 29

 Section 404. Annual Project Budget..... 29

 Section 405. Reports 30

 Section 406. Records and Accounts..... 30

 Section 407. Environmental Protection and Watershed Protection District..... 30

 Section 408. Stream Bank Mitigation 31

ARTICLE V	TRANSFERS AND SALES OF WATER.....	32
Section 501.	Short-Term Transfers and Sales of Water	32
Section 502.	Length of Short-Term Transfers or Sale of Water.....	32
Section 503.	Rights of First Refusal	32
Section 504.	Short-Term Transfers or Sale of Water at Uniform Rate	33
Section 505.	Short-Term Transfers or Sale of Water in Water Emergency	33
Section 506.	No Reduction in Entitlement Share	33
ARTICLE VI	ADDITIONAL BONDS	34
Section 601.	Issuance of Additional Bonds	34
Section 602.	Issuance of Refunding Bonds	35
Section 603.	Adjustment of Annual Project Costs.....	35
Section 604.	Tax Covenants	36
ARTICLE VII	DEFAULT	39
Section 701.	Event of Default	39
Section 702.	Levy of Tax for Payment	40
Section 703.	Other Default by Participants.....	40
Section 704.	Default by Operator	41
Section 705.	Abandonment of Remedy	41
Section 706.	Arbitration.....	41
ARTICLE VIII	MISCELLANEOUS GENERAL PROVISIONS	43
Section 801.	Liability of Parties.....	43
Section 802.	Assignment of Agreement	43
Section 803.	Termination or Amendment of Agreement.....	44
ARTICLE IX	SEVERABILITY.....	46
Section 901.	Severability	46
Section 902.	Counterparts.....	46

**INTERGOVERNMENTAL RESERVOIR AND WATER
SUPPLY AND TREATMENT AGREEMENT**

BETWEEN AND AMONG

**WALTON COUNTY WATER AND SEWERAGE AUTHORITY,
OCONEE COUNTY
AND WALTON COUNTY**

This Intergovernmental Reservoir and Water Supply and Treatment Agreement (the "Agreement"), made and entered into as of September 1, 2007, between and among the Walton County Water and Sewerage Authority, a public body corporate and political and a public corporation of the State of Georgia (the "Authority"), Oconee County, a political subdivision of the State of Georgia ("Oconee"), and Walton County, a political subdivision of the State of Georgia ("Walton" and, together with Oconee and the Authority, the "Participants").

W I T N E S S E T H:

WHEREAS, the Authority has the power to acquire and maintain projects embracing sources of water supply and the distribution and sale of water and related facilities to individuals, private concerns, municipal corporations, the State of Georgia, including its political subdivisions and instrumentalities; and

WHEREAS, each of the Participants recognizes that water resources are finite, and that water conservation should be encouraged; and

WHEREAS, the Participants need an economical, reliable source of water to meet the growing demands of their citizens and have determined to construct a reservoir and related treatment facilities located on Hard Labor Creek in Walton County; and

WHEREAS, the Participants will take or cause to be taken all steps necessary to secure such governmental permits, licenses, and approvals as are necessary for the Project as hereinafter

defined, and will then proceed as appropriate with final design, financing, acquisition and construction of the Project; and

WHEREAS, each Participant has carefully considered the options available to it for obtaining an adequate supply of water for the citizens of Walton and Oconee Counties at an economical price, and each participant has made a determination that participating in the Project will assist in providing all or a portion of the water supply anticipated to be needed, and will be the most economic method of assuring such supply;

NOW THEREFORE, for and in consideration of the premises and the mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

ARTICLE I

TERM OF AGREEMENT, DEFINITIONS

Section 101. Term.

The term of this Agreement shall begin upon the execution and delivery of this Agreement by the parties. The term of this Agreement shall terminate 50 years after the date this Agreement is made and entered into by the last of the parties.

Section 102. Definitions and Explanation of Terms.

The terms set forth below shall have the respective meaning indicated in this section unless the use or context clearly indicates a different meaning or intent:

“*Act*” shall mean the provisions of an Act of the General Assembly of the State of Georgia (Ga. Laws 1972, pg. 3623, et seq.), as amended from time to time, which creates the Authority.

“*Agreement*” shall mean this Agreement as the same may be amended or supplemented from time to time.

“*Annual Fixed Charges for Debt Service*” shall have the meaning in Section 205(b)(1).

“*Annual Project Costs*” shall mean, with respect to a Fiscal Year, to the extent not paid as a part of the Costs of Acquisition and Construction, all costs and expenses paid by the Authority for the Project including, but not limited to, those items of cost and expense referred to in Section 205 hereof as Annual Fixed Charges for Debt Service, Other Annual Project Variable Costs and Other Annual Project Fixed Costs.

“*Annual Project Budget*” shall mean, with respect to a Fiscal Year, the budget prepared by the Operator and adopted by the Authority and approved by the Management Board not less than 30 days prior to the beginning of such Fiscal Year which budget shall itemize estimates of

Annual Project Costs and all revenues, income, or other funds to be applied to such costs, respectively, for such Fiscal Year.

“Authority” shall mean the Walton County Water and Sewerage Authority, and its successors and assigns.

“Billing Statement” shall mean the written statement prepared or caused to be prepared monthly by the Operator that shall be based upon the Annual Project Budget or upon the amended Annual Project Budget adopted by the Authority pursuant to Section 404, and that shall show the monthly amount to be paid to the Authority by each Participant in accordance with the provisions of Section 206 hereof.

“Bonds” and *“Revenue Bonds”* shall mean the revenue bonds, certificates, notes and other obligations or evidences of indebtedness issued or incurred by the Authority to finance or refinance the Cost of Acquisition and Construction of the Project, whether or not any issue of such bonds shall be subordinated as to payment to any other issue of such bonds, and shall include Additional Bonds issued pursuant to the provisions of Section 601, and Refunding Bonds issued pursuant to the provisions of Section 602.

“Bond Resolution” shall mean the resolution or indenture of the Authority providing for the issuance of bonds, notes or other evidences of indebtedness relating to the Project.

“Commercial Operation Date” shall mean the beginning of the first day on which the Authority is able to deliver treated water from the Project for commercial or residential use.

“Cost of Acquisition and Construction” or *“Cost of the Project”* shall mean, to the extent not included in Annual Project Costs:

- 1) all costs of and expenses of planning, design, and construction of the Project;

- 2) the cost of all lands, properties, rights, easements, mitigation rights and franchises acquired;
- 3) the cost of all buildings, machinery and equipment;
- 4) costs of training or testing the Project or components thereof;
- 5) financing charges (including the cost of any credit or liquidity facilities relating to the bonds and payments relating to any interest rate swap, hedge, collar or similar agreement relating to the Bonds);
- 6) interest and other carrying costs prior to and during construction and for up to one year after completion of construction and any start-up periods;
- 7) cost of compliance with environmental regulations and environmental protection;
- 8) cost of engineering, architectural and legal expenses, cost of plans and specifications, and other costs necessary or incident to determining the feasibility or practicability of the Project;
- 9) all costs of insurance applicable to the period of construction or until the Project is placed in service;
- 10) obtaining governmental approvals, certificates, permits and licenses with respect thereto heretofore or hereafter paid or incurred by the Authority,
- 11) working capital and reserves in such amounts as may be established pursuant to the documents under which the Bonds are issued and secured;
- 12) amounts determined by the Authority to be necessary to fund or maintain any debt service reserve relating to Bonds issued by the Authority relating to the

Project or to fund or maintain reserves for renewals and replacements for the Project or contingencies;

- 13) such other costs as may be necessary or incident to the financing authorized in the Act, the construction of the Project, the placing of the same in operation, and the acquisition and condemnation of property necessary for such construction and operation and all other costs incurred by the Authority and properly allocable to the acquisition and construction of the Project, including all costs financed by the issuance of Additional Bonds; and
- 14) costs incurred by any Participant prior to the execution of this Agreement relating to the Project, as verified by an independent auditor, approved by the other Participants.

Any obligation or cost incurred for any of the foregoing purposes shall be regarded as a part of the cost of the Project and shall be paid or reimbursed to the Authority out of the proceeds of the Bonds issued with respect to the Project.

“*Debt Service*” shall mean, with respect to any period, the aggregate of the amounts required to be paid during such period into any fund or funds for the sole purpose of paying the principal (including sinking fund installments) and premium, if any, and interest on all the Bonds from time to time outstanding as the same shall become due, provided, however, that Debt Service shall not include amounts due solely as a result of any acceleration of the maturity of the Bonds.

“*Entitlement Share*” shall mean, with respect to a Participant and with respect to the facilities of the Project, the percentage of the final output and services to be delivered as set forth in the following Schedule of Entitlement Shares; provided, however, that in the event any one or

more of the Participants listed in the following schedule elect to withdraw from participation in any future obligations or projects, the Entitlement Shares of the remaining Participants, as such Entitlement Shares are set forth in each column of the following schedule, shall be increased pro-rata in order that the sum of the remaining Entitlement Shares of the remaining Participants when so adjusted shall total 100%:

<u>PARTICIPANT</u>	<u>ENTITLEMENT SHARE</u>
WALTON COUNTY W&S AUTHORITY	71.2%
OCONEE COUNTY	28.8%

“*Fiscal Year*” shall mean the Authority’s fiscal year which is July 1 of each year through June 30 of the following calendar year.

“*Initial Operator*” shall mean the Operator selected by the Authority pursuant to Section 201(c).

“*Management Board*” shall mean the Hard Labor Creek Reservoir Management Board established by the Participants pursuant to Section 301.

“*Oconee*” shall mean Oconee County, Georgia, and its successors and assigns.

“*Operator*” shall mean initially the Initial Operator, or such other entity as designated pursuant to Section 201(c) hereof.

“*Other Annual Project Fixed Costs*” shall have the meaning provided in Section 205(b)(3).

“*Other Annual Project Variable Costs*” shall have the meaning provided in Section 205(b)(2).

“*Participant*” shall mean initially each of the Authority, Walton and Oconee.

“Project” shall mean (a) the planning, design, construction, and management of the dam and reservoir permitted by the U. S. Army Corps of Engineers, Permit No. 990012220, as amended or modified, together with the acquisition of all land or rights therein necessary to carry out the purposes of such permit, including without limitation, land for the normal pool of the reservoir, required buffers, required mitigation property, and any property otherwise necessary or desirable for the safe or efficient operation of the reservoir; (b) the planning, design, construction and equipping of a not less than 12, but no greater than 18 million gallon per day water treatment facility to treat water from the reservoir, including any property necessary or advisable for the safe construction and operation of the water treatment plant, for the relocation of infrastructure made necessary by the construction or operation of the dam, reservoir, water treatment plant or related facilities; (c) the transport of raw water from the Apalachee River to the reservoir; and (d) all work, pumps, piping and other facilities or property (including interests therein), necessary or desirable to transport raw water from the reservoir to the treatment plant, and to transport treated water to points of taking of the Participants, and all related sitework, sludge handling facilities, water storage facilities, pumping stations and related facilities, equipment and land. Such Project will end at the county line between Oconee County and Walton County.

“Short-Term Transfer or Sale of Water” shall mean any transfer of water or any resale of water by a Participant representing all or any portion of the output and services represented by such Participant’s Entitlement Share from the Project to any person or entity outside the geographical boundaries of the Participants for a time period not to exceed 10 years (including all renewal options); provided however, that any agreement relating to such permitted transfer or resale of water by a Participant for a stated term of 10 years or less shall expressly provide that (1) the term of the agreement will automatically be reduced as necessary to prevent a conclusion

under any applicable law or the rules and regulations of the State of Georgia that the sale or transfer of water for the originally specified term constitutes a sale of such Participant's Entitlement Share and (2) such transferee or purchaser shall expressly agree as a part of such agreement that it has no vested right to any portion of the Participant's Entitlement Share and no rights under this agreement.

"Transmission" shall mean the conveying of raw or treated water from one or more treatment plants constructed and installed as part of or as additions to the Project to any Participant, or any municipality or public authority, for the purpose of resale to end users of such water or wholesale purchasers of such water, but does not include conveyance of water to ultimate users.

"Walton" shall mean Walton County, Georgia, and its successors and assigns.

Section 103. Section References.

All references in this Agreement to Sections without any further identifier shall be references to the Section of this Agreement unless the context or use clearly indicates otherwise.

ARTICLE II

WATER SUPPLY AND TREATMENT PROJECT

Section 201. Ownership and Operation of Project.

(a) Each of the Participants acknowledge that the Authority will own title to the Project and that each Participant will have a beneficial interest in the Project as provided in this Agreement. Each Participant will own an undivided interest in the raw and treated water from the Project equal to its Entitlement Share. The Participants agree that they will not knowingly withdraw or use raw or treated water from the Project in an amount greater than their Entitlement Share of raw or treated water without providing notice thereof to the other Participants and to the Authority. The Participants agree that in the event that they withdraw or use raw or treated water from the Project in an amount greater than their Entitlement Share they will pay to the other Participant an amount computed by the Authority intended to reimburse the Authority and such Participant not only for the additional operating cost of providing such excess raw or treated water, but also for the portion of the capital cost of the Project represented by the excess raw or treated water so used.

(b) Any contract entered into with the Operator shall provide that the Operator will operate, maintain and manage the Project on behalf of and at the direction of the Authority and the Management Board. Such contract shall also provide that the operation and maintenance of the Project shall be consistent with the Annual Project Budget. Variations from and amendments to the Annual Project Budget shall be approved as provided in Section 404.

(c) The Management Board shall approve the selection of the Operator. The Operator will be responsible for the operation, maintenance and day-to-day management of the Project. An Operator may be appointed from time to time as provided for in this Agreement.

The Operator shall agree, as a condition of accepting such position, to perform all of the duties of the Operator under this Agreement and such other duties as the Authority and the Management Board may request from time to time.

Section 202. Financing of Project.

(a) Each of the Participants acknowledge and agree that the Authority, at the request of the Management Board, will issue the Bonds from time to time in one or more series to finance the Costs of the Project, including reimbursing the Authority for any debt or equity contributions made prior to the date of this contract that relate to the financing of the Project. The Bonds will not be general obligations of the Authority or secured by general revenues of the Authority, but will be solely secured by amounts held from time to time in the funds established under the Bond Resolution under which such Bonds are issued, and by the moneys to be received by the Authority under either an intergovernmental contract with Oconee or an intergovernmental contract with Walton. Under each such intergovernmental contract, Oconee or Walton, as the case may be, shall agree with the Authority that in return for the facilities and services provided by the Authority, it will pay to the Authority amounts due from time to time on the Bonds secured by such contract, and will levy an annual ad valorem tax, unlimited as to amount, sufficient to make such payments. Such Contract may also provide for the payment of amounts due from the Authority with respect to any credit or liquidity facility relating to any Bonds, or for the payment of any swap, cap, collar or other hedge relating to any Bonds (whether presently outstanding or to be issued).

The parties intend that Bonds shall be issued from time to time by the Authority such that the aggregate amount of debt service on the aggregate of Bonds issued by the Authority with respect to the Project secured by a contract with Oconee or a contract with Walton shall

generally match as closely as practicable the Entitlement Share of Oconee and Walton, respectively, of the total debt service on all Bonds issued with respect to the Project.

The Authority shall make a determination as to the amount of Bonds of each series to be issued, the terms of the Bonds, and all other details relating to the offer and sale of the Bonds. Each of Oconee and Walton agree for the benefit of the Authority and the other Participant that it shall cooperate in the financing of its portion of the Costs of the Project and shall cooperate with the Authority in:

1. approving any contract or amendment to a contract with the Authority securing such Bonds;
2. providing to the Authority such information regarding such Participant as the Authority may reasonably request in connection with the marketing and sale of the Bonds, obtaining ratings with respect thereto or insurance or other credit or liquidity facilities relating to the Bonds;
3. providing to the Authority such audited financial statements, agreed upon procedures letters and consent letters from the accountants for such Participant, legal opinion letters from counsel to such Participant and other similar materials as may be reasonably required by the Authority in connection with the sale and issuance of such Bonds;
4. participating in the validation of such Bonds in the Superior Court of Walton County or such other jurisdiction as the Authority may determine; and
5. providing or assisting in connection with the issuance and sale of such Bonds in such other way or ways as may be reasonably requested by the Authority.

All out of pocket costs and expenses incurred by the Participants in connection with the issuance of Bonds shall be paid out of the proceeds of such Bonds or out of moneys from the Annual Project Budget.

Section 203. Costs of the Project.

The Project will, for purposes of accounting for the costs and charges to the Participants, be separated into: (i) Costs of Acquisition and Construction of the Project, and (ii) Annual Project Costs.

Section 204. Insurance.

The Authority shall maintain or cause to be maintained such insurance with respect to the Project as shall be available and as is customary in connection with constructing and operating governmentally owned water supply, treatment and transmission facilities similar in the judgment of the Authority to the Project.

Section 205. Charges and Billings for the Project.

(a) The Operator will establish fair and nondiscriminatory charges relating to the Project designed to recover all of the operating costs allocable to the Project, as set forth in the Annual Project Budget.

(b) The Annual Project Costs allocable to the Project shall include (but not be limited to) the following items of cost and expense:

(1) "Annual Fixed Charges for Debt Service" which means:

(A) the amount which the Authority is required to pay or deposit into any fund or account established in connection with the issuance of any Bonds for the payment of Debt Service, to establish or maintain any reserve requirements for Bonds, to make payments required in connection with any credit or liquidity facility relating to Bonds, to make payments required in connection with any

swap, cap, collar, or other hedge agreement relating to Bonds and which, in each case is not being paid by a Participant under the contract relating to any specific series of the Bonds;

(B) the amount allocable to the Project which the Authority is required to pay or deposit during such Fiscal Year into any other fund or account established in connection with the issuance of any Bonds, including, without limitation, any such amounts required to make up any deficiency in any reserve fund or working capital fund resulting from a default in payments by any Participant or Participants of amounts due under this Agreement;

(C) amounts which the Authority is required under the documents relating to any series of the Bonds to pay or deposit into a reserve for renewals and replacements;

(D) amounts required to be paid by the Authority to any trustee, remarketing agent, credit or liquidity provider or other administrative agent in connection with carrying the Bonds;

(E) amounts which must be realized by the Authority for coverage of Debt Service as may be required by the documents relating to any series of the Bonds; and

(F) amounts required to be paid by the Authority with respect to any series of the Bonds under Section 148 of the Internal Revenue Code.

Each Participant shall be required to pay Annual Fixed Charges for Debt Service in accordance with the Participant's Entitlement Share; provided, however, that should the Authority issue Additional Bonds to finance any expansion in the treatment capacity of

the Project solely for the benefit of a particular Participant as described in Section 402 and 601(d), then the Annual Fixed Charges for Debt Service related to such Bonds shall be solely the responsibility of the party requesting such expansion.

(2) "Other Annual Project Variable Costs," which means all costs for the ordinary operation and maintenance of the Project and for the treatment and transmission of raw or treated water which are directly related to or vary substantially in accordance with the volume of water production or pumping charges, including but not limited to power costs for pumping, cost of chemicals, and cost of maintenance, repair and replacement of pumps, filters and other mechanical equipment related to flow. These costs shall be billed to the Participants on a unit cost basis (per thousand gallons purchased or taken). The unit cost billing rate will be determined as part of the annual budget approval process.

(3) "Other Annual Project Fixed Costs" which means the (a) administrative and general management costs of the Operator and the Authority attributable to the Project, (b) salaries for operators of the Project and other employees of the Authority or the Participants which are attributable to the Project, (c) maintenance of buildings and grounds, (d) insurance, (e) laboratory supplies and testing which are not substantially related to flow, (f) the routine maintenance, repair and replacement of equipment unrelated to flow, (g) maintenance of pipelines, (h) accounting and consultant's fees relating to Project, (i) extraordinary operating and maintenance costs, and costs related to the prevention or correction of any unusual loss or damage to keep the Project in good operating condition or to prevent a loss of revenue or output therefrom, (j) major renewals, replacements, repairs, additions and improvements necessary to keep the

Project in good operating condition or to prevent a loss of revenues or output therefrom, and (k) any major additions, improvements, repairs or modifications to the Project required by any state or federal agency to the extent funds are not available therefor from the proceeds of the issuance of Additional Bonds or other moneys available therefor, and (l) other similar costs not substantially related to flow. Each Participant shall be required to pay Other Annual Fixed Project Costs in accordance with the Participant's Entitlement Share.

(4) Each Participant shall receive a credit against Annual Fixed Charges for Debt Service for the amount of any moneys paid by such Participant under the contract between such Participant and the Authority relating to Bonds issued to finance the Costs of the Project (other than for amounts paid which are attributable to any Additional Bonds issued to finance expansions to the treatment facilities at the request of a particular Participant pursuant to Section 601(d)).

(c) The Operator shall bill each Participant each month during each Fiscal Year by providing each Participant with a Billing Statement for such month in accordance with the charges established pursuant to the provisions of this Section 205. Such monthly Billing Statement shall include any credit due a Participant or deficiencies owed by a Participant and such Billing Statement shall be paid to the Authority by the Participant on or before the 10th day from the date of such bill. Amounts due and not paid by the Participant on or before such day shall bear an additional charge of 1.00% of the amount due per month until the amount due and previously accrued additional charges are paid in full.

(d) For costs included under Other Annual Fixed Project Costs and Annual Fixed Charges for Debt Service, each Participant shall be billed a fixed monthly amount calculated by

multiplying the total annual budgeted amount for Other Annual Fixed Project Costs and Annual Fixed Charges for Debt Service by the Participant's Entitlement Share and dividing the result by 12. If, at the end of the Fiscal Year, the actual expenditures are less than the budgeted amount, each of the Participants shall receive a credit equal to the total surplus multiplied by the Participant's Entitlement Share, and conversely, if, at the end of the Fiscal Year, the actual expenditures for such purposes are greater than the budgeted amount, each of the Participants shall be assessed an amount equal to the total deficit multiplied by the Participant's Entitlement Share. At the end of each Fiscal Year, adjustments of billing shall be made in accordance with Section 206 hereof.

(e) At such times as the Authority issues Additional Bonds at the request of the Management Board in accordance with the provisions of Article VI hereof (other than for an increase in treatment capacity at the request of a particular Participant), the Authority will increase such elements of Annual Project Costs as are necessary in connection therewith and each Participant shall pay its Entitlement Share of such increased charges pursuant to the provisions of Section 205(b)(1) hereof.

Section 206. Adjustment of Billing.

At the end of each Fiscal Year, the Operator shall determine if the aggregate amount paid by each Participant under Section 205 hereof during such Fiscal Year was in an amount which reflects an allocation of actual Annual Project Costs for such Fiscal Year to each Participant in accordance with the terms of this Agreement. A copy of such determination shall be delivered to each Participant. Upon the making of such determination, any amount found to have been paid by any Participant in excess of the amount which should have been paid by such Participant shall be credited on the Billing Statements to each Participant for the remaining month or months of the Fiscal Year next succeeding the Fiscal Year for which such adjustment was determined to

have been necessary. In the event any Participant is found to be deficient in the amount which it should have paid, ten percent of the amount of any deficiency shall be added to each of the next ten Billing Statements for the Participant. In the event that the failure of a Participant to pay its Entitlement Share of Annual Project Costs in accordance with this Agreement shall have resulted in the application of amounts in any reserve or working fund under the Bond Resolution to the payment of costs payable from such reserve or working fund and the other Participants shall have made up the deficiency created by such application or paid additional amounts into such reserve or working fund, amounts thereafter paid to the Authority by such nonpaying Participant for application to such past due payments shall be credited on the Billing Statements of such other Participants in the next month or months as shall be appropriate.

Section 207. Disputed Monthly Billing Statement.

In case any portion of any monthly Billing Statement received by a Participant from the Operator shall be in dispute, the Participant shall pay to the Authority on a timely basis the full amount of such monthly Billing Statement, and, upon determination of the correct amount, the difference between such correct amount and such full amount, if any, will be credited to the Participant by the Authority after such determination. The Authority will then give consideration to such dispute and will advise the Participant with regard to the Authority's position relative thereto within 45 days following written notification to the Authority by the Participant of such dispute. Once the Authority has delivered such written notification of its determination, the Participant may no longer challenge the monthly billing statement, subject to the Participant's right to dispute the Authority's annual adjustment of billing pursuant to Section 206. Any dispute concerning the Authority's annual adjustment of billing shall be handled through the arbitration process provided for in Section 706 hereof.

Section 208. Project Entitlement and Payment Obligations.

(a) Each Participant shall be entitled to receive its Entitlement Share of the output and services of the Project.

(b) Each Participant shall pay its Entitlement Share of Annual Project Costs relating to Annual Fixed Charges for Debt Service and for Other Annual Project Fixed Costs set forth in the monthly Billing Statements submitted by the Operator to each Participant in accordance with the provisions of Section 205 hereof, whether or not the Project or any part thereof has been completed, and such payments shall not be subject to reduction whether by offset or otherwise and shall not be conditional upon the performance or nonperformance by any party of this Agreement or any other agreement for any cause whatever.

(c) The Participants agree that on the last day of the 50 year term of this Agreement, the right to the Entitlement Share of the Project (including the real property comprising a portion of the Project), that each Participant has on the last day of the term of this Agreement shall be fully vested in each of the Participants; provided, however, that each Participant's right to be vested with its Entitlement Share is expressly contingent upon the requirement that each Participant is not in material default under this Agreement.

Section 209. Sale of a Participant's Entitlement Share of the Project.

(a) In the event a Participant proposes to offer for sale all or any part of such Participant's Entitlement Share of the Project, before such Participant shall transfer or sell its Entitlement Share, it must first offer to sell such Entitlement Share to the other Participant at a price established in Section 209(b). Upon such an offer, the other Participant shall have 90 days to consider such offer and if accepted, an additional 90 days to complete the acquisition of such Entitlement Share. The Participants shall each have the right to waive their right of first refusal.

The Participants agree that should one Participant sell its Entitlement Share to a non-Participant, such non-Participant must be a governmental entity.

(b) The price established for the sale of a Participant's Entitlement Share for the remainder of the term of this Agreement under this Section shall be based on a fair market valuation of the value of such Entitlement Share at the time of such sale, determined by negotiations between the selling Participant and the purchaser of such Entitlement Share.

(c) If all or any portion of a Participant's Entitlement Share of output and services of the Project is sold pursuant to this Section, the Participant selling such Entitlement Share shall remain liable to the Authority to pay the full amount of its Billing Statement as if such sale had not been made. No such sale of an Entitlement Share shall relieve any Participant of any obligation it may have under a contract with the Authority providing for payments to the Authority related to debt service on any Bonds of the Authority issued with respect to the Project. No purchaser of all or any portion of an Entitlement Share who is not already a Participant shall have any rights under this Agreement or be deemed to be a party or third-party beneficiary of this Agreement, such purchaser's rights being limited to receiving the water represented by such Entitlement Share for the term of this Agreement; provided, however, that such purchaser must agree in writing for the benefit of the Authority and the Participants as a condition to the effectiveness of such sale that any further sale or transfer of the Entitlement Share so purchased, and any Short-Term Transfer or Sale of Water, shall be subject to this Agreement.

Section 210. Sources of Participant's Payments.

The obligations of each Participant, other than the Authority, to make the payments to the Authority under this Agreement shall constitute general obligations of the Participant for the payment of which the full faith and credit of the Participant is pledged to provide the funds

required to fulfill all obligations arising under this Agreement. Each Participant (other than the Authority) annually in each fiscal year of such Participant during the term of this Agreement will include in its general revenue or appropriation measure sums sufficient to make the payments required to be made in such year by this Agreement until all payments required under this Agreement have been paid in full; however, nothing shall prohibit a Participant from making such payments or provision for such payments from the revenues of the water system of the Participant or from other sources available to such Participant, including the resale of water to other counties, municipalities and public authorities, in accord with this Agreement. In the event for any reason any such provision or appropriation is not made for a fiscal year of a Participant, then the Participant shall appropriate on the accounts of the Participant in each fiscal year the amounts required to pay the obligations of the Participant for such fiscal year as provided in this Agreement. The amount of the appropriation in such fiscal year to meet the obligations of such Participant under this Agreement shall be due and payable and shall be expended for the purpose of paying and meeting the obligations provided under the terms and conditions of this Agreement, and such appropriation shall have the same legal status as if the Participant had included the amount of the appropriation in its general revenue or appropriation measure.

Section 211. Payments by the Authority From Available Revenue Sources.

To the extent that the Authority makes payments to Walton or to the trustee under the Bond Resolution for the payment of debt service on any Bonds on behalf of Walton, the parties to this Agreement acknowledge that such payments would be treated as payments from the Renewal and Extension Fund created under Section 501(3) of the Authority's Resolution dated as of July 13, 1989.

Section 212. Character and Continuity of Service.

(a) The Operator may temporarily interrupt or reduce the treatment and transmission of water to any or all of the Participants if the Operator determines that such interruption or reduction is necessary in case of emergencies or in order to install equipment in or make repairs to or replacements, investigations, and inspections or to perform other maintenance work on the Project. In the case of a planned interruption or reduction, the Operator will notify the affected Participant or Participants of such interruption or reduction, giving the reason therefore, and stating the probable duration thereof. The Operator will use its best efforts to schedule such interruption or reduction at a time which will cause the least interference with the operations of the Participants.

(b) Neither the Authority nor the Operator shall be required to provide, or be liable for failure to provide, service under this Agreement when such failure or the cessation or curtailment of or interference with the service is caused by *force majeure* or by the inability of the Authority or the Operator to obtain any required governmental approvals to enable the Authority or the Operator to acquire, construct or operate the Project.

Section 213. Metering.

(a) The Participants shall provide for installation of meters and will provide or cause to be provided all necessary metering equipment for determining the quantity and conditions of the supply of treated water transmitted by the Authority and the Operator under this Agreement; provided, however, that each Participant may at its own cost install additional metering equipment.

(b) If any meter used by the Operator for billing fails to register or is found to be inaccurate, the Operator shall repair or replace such meter or cause it to be repaired or replaced as soon as practicable, and an appropriate billing or accounting of output shall be made to the Participant by the Operator based upon the best information available for the period, not exceeding 60 days, during which no metering or inaccurate metering occurred. Any meter tested and found to be not more than two percent above or below normal shall be considered accurate insofar as correction of billings is concerned. If, as a result of any test, a meter is found to register in excess of two percent above or below normal, then the reading of such meter previously taken for billing or accounting of output purposes shall be corrected for the period during which it is established the meter was inaccurate, but no correction shall be made for any period beyond 60 days prior to the date on which an inaccuracy is discovered.

(c) In addition to such tests as are deemed necessary by the Operator, the Operator shall have any meter tested at any time upon written request of any of the Participants and, if such meter proves accurate within two percent above or below normal, the expense of such test shall be borne by the Participant requesting the test.

(d) The Operator shall notify the Participants in advance of the time of any meter test so that a representative of each of the Participants may be present.

ARTICLE III

HARD LABOR CREEK RESERVOIR MANAGEMENT BOARD

Section 301. Establishment of Hard Labor Creek Reservoir Management Board.

In order to provide for oversight with respect to certain aspects of the acquisition, construction, implementation, administration and operation of the Project as provided herein, the Participants agree to establish the Hard Labor Creek Reservoir Management Board (the "Management Board"). Walton shall designate four members to serve on the Management Board and Oconee shall designate three members to serve on the Management Board. Two of the Walton members shall be the Chairman of the Walton County Board of Commissioners and the Chairman of the Authority, *ex-officio*. The two remaining Walton members shall be members of, and shall be appointed by, the Walton County Board of Commissioners. The three Oconee members will be appointed by the Oconee County Board of Commissioners and at least one of the appointees must be a member of such Board of Commissioners. Walton and Oconee will each appoint alternates for each of their respective members of the Management Board; the alternates selected must either be members of the Board of Commissioners or employees of the appointing county.

Section 302. Voting, Terms, Compensation.

(a) Each member of the Management Board shall have one vote. All actions taken and all recommendations made by the Management Board shall require four affirmative votes.

(b) Each Walton non-*ex-officio* member shall serve a two-year term. Each Oconee non-*ex-officio* member shall serve a two year term at the pleasure of the Oconee County Board of Commissioners. Should any non-*ex-officio* member or alternate cease to be a member of the

Board of Commissioners or an employee of Walton or Oconee, such member or alternate shall no longer serve on the Management Board or as an alternate thereto. The position vacated by such member shall remain vacant until a successor member is appointed in the same manner as the predecessor member was appointed.

(c) Should any *ex-officio* member cease to hold the position which entitled such member to membership on the Management Board, such member shall no longer serve on the Management Board. The position vacated by such member shall remain vacant until a successor member is appointed or elected to office.

(d) Members of the Management Board shall serve without compensation but may be reimbursed by the Authority for their actual expenses properly incurred in the performance of their duties.

Section 303. Meetings of Management Board.

(a) The Management Board shall meet quarterly and at least one of such meetings each year shall be a joint meeting with the Authority for consideration of the Annual Project Budget as described in Section 404.

(b) Special meetings of the Management Board may be called from time to time by the Authority, Walton, Oconee or not less than three members of the Management Board. Notice of any such special meeting of the Management Board shall be given in writing to all members of the Management Board not less than four business days prior to the date of such meeting unless the then existing members of the Management Board unanimously agree to waive such notice.

(c) At a meeting of the Management Board, the Management Board may consider any matter properly before the Management Board, regardless of any agenda or other notice of such meeting.

(d) A majority of the members of the Management Board shall constitute a quorum for the purpose of any meeting. All actions taken and recommendations made by the Management Board shall require four affirmative votes.

The Management Board may establish its own governing rules and regulations, pursuant to and in accordance with the terms of this Agreement, for the purpose of conducting meetings, discussing and voting on matters properly before the Management Board.

Section 304. Responsibilities and Authority of Management Board.

(a) Not less than one week before the joint annual meeting between the Authority and the Management Board to consider the Annual Project Budget, the Operator shall submit to the Management Board a proposed Annual Project Budget and a projects report. The joint annual meeting between the Authority and the Management Board shall occur prior to the adoption by the Authority of the Annual Project Budget.

(b) The Management Board shall have the following duties:

(i) to review and approve contracts in excess of \$25,000 relating to the Project;

(ii) to review and approve the appointment of the Operator pursuant to Section 201(c) hereof;

(iii) to review and approve the proposed Annual Project Budget;

(iv) to review and approve the selection of a firm of independent certified public accountants for the Project; and

(v) to make any recommendations as to such other matters relating to the Project as the Authority may request.

(c) The Management Board may make recommendations to the Authority and consult with the Operator on any matters related to the Project.

(d) Nothing in this Section 304 shall require the Management Board to approve the specific amount, timing or terms of any Bonds issued with respect to the Project.

(e) The parties to this Agreement agree that the actions taken and the recommendations made by the Management Board to the Authority shall be given due consideration by the Authority.

(f) The Management Board shall have no authority to make recommendations to the Authority with respect to the facilities or operations of the Authority unrelated to the Project.

(g) The Authority agrees to make available to the Management Board, upon its reasonable request, such information as is necessary for the Management Board's performance of its functions as set forth herein; provided, however, that the Authority shall not be required to provide the Management Board with information whose disclosure would waive the attorney-client privilege or any other similar privilege or work product claim available to the Authority or whose release is precluded by applicable law.

ARTICLE IV

CERTAIN OBLIGATIONS OF THE AUTHORITY AND THE OTHER PARTICIPANTS

Section 401. Water Supply and Treatment.

The Authority shall provide or cause to be provided, and each Participant may take from the Authority, its Entitlement Share of the output and services of the Project. The Authority, with the concurrence of the Management Board as provided in Article III of this Agreement, is responsible for planning, negotiating, designing, financing, refinancing, acquiring or constructing, contracting for, administering, operating, and maintaining the Project as necessary to effect the delivery and sale of the Entitlement Share of the output and services of the Project to each Participant.

Section 402. Additional Treatment Facilities.

In the event any Participant deems it necessary or desirable to proceed with the construction and installation of additional facilities for the treatment of raw water beyond that provided as part of the Project, such Participant will provide each other Participant at least 180 days written notice. In the event that any Participant deems it necessary or desirable to proceed with the construction and installation of additional facilities for the treatment of raw water beyond that provided as part of the Project, and the other Participant does not elect to participate in such expansion of the treatment facilities, the Authority and the other Participant agree that the Authority shall undertake such expansion in a minimum increment of two million gallons per day of treated water so long as the Participant requesting such expansion agrees to pay the capital costs and any additional overhead and operation expenses relating to such expansion.

Section 403. Notification of Water Supply and Treatment Planning.

Each Participant will keep the Management Board and the Authority advised on matters relating to the Participant's water supply and water treatment planning, including, but not limited to, future water requirements, treatment and Transmission requirement forecasts.

Section 404. Annual Project Budget.

(a) The Operator will prepare and submit to the Management Board and each Participant a proposed Annual Project Budget at least 90 days prior to the beginning of each Fiscal Year. The Management Board shall consider such proposed Annual Project Budget and make recommendations (if any) to the Operator as to such proposed Annual Project Budget not less than 60 days prior to the beginning of the next Fiscal Year. The Operator (if necessary) shall submit a revised proposed Annual Project Budget to the Management Board, and following approval of such proposed Annual Project Budget by the Management Board, the Authority shall proceed with the adoption of such proposed Annual Project Budget not less than 30 days prior to the beginning of such Fiscal Year. The Operator shall cause copies of such adopted Annual Project Budget to be delivered to each Participant and the Management Board as soon as possible following the execution and delivery of this Agreement.

(b) As required from time to time during any Fiscal Year, after at least 30 days notice to the Management Board and each Participant, the Operator may prepare and the Authority may adopt an amended Annual Project Budget for such Fiscal Year. The Management Board shall have the duty to review and approve any proposed amendment to the Annual Project Budget pursuant to Section 304(b)(iii). The Authority shall deliver a written copy of any such amended Annual Project Budget to the Participants as soon as practicable following its adoption by the Authority.

Section 405. Reports.

In addition to the monthly Billing Statement prepared by the Opeartor in accordance with Section 205(c) hereof, the Operator will prepare and issue to each Participant the following reports monthly during each Fiscal Year:

- (1) A comparison of the actual revenues and expenses of the Project to the Annual Project Budget;
- (2) Status of construction budget of the Project during construction; and
- (3) Analysis of operations relating to the Project.

Section 406. Records and Accounts.

The Authority will keep accurate records and accounts for the Project and the operation and financing thereof in accordance with generally accepted accounting principles. Such records and accounts shall be subject to an annual audit by a firm of independent certified public accountants approved by the Authority and the Management Board as soon as practicable after the end of each Fiscal Year. Each Participant shall have the right to access the books and records of the Authority relating to the Project upon reasonable written notice to the Authority; provided, however, that the Authority shall not be required to provide the Management Board with any information or records which would waive the attorney-client privilege or work product or other similar doctrine.

Section 407. Environmental Protection and Watershed Protection District.

Walton and Oconee shall enact zoning ordinances pursuant to the requirements of all applicable state laws and Section 404 of the Clean Water Act. Walton and Oconee, as necessary, shall enforce their watershed protection ordinances which were enacted as a result of construction of this Project and shall at no time amend their zoning ordinances to permit any land use activity which would violate any rule or regulation of the Environmental Protection Division

of the Department of Natural Resources or would be inconsistent with maintaining and protecting adequate water quality in the reservoir.

Section 408. Stream Bank Mitigation.

The Participants agree to cooperate with the Authority in identifying and providing to the Authority stream bank mitigation sites and other rights as may be necessary or desirable in connection with the construction or operation of the Project. The Participants agree to cooperate with each other to assure that the costs of such stream bank mitigation are borne by the Authority and Oconee as nearly as possible in accordance with their respective Entitlement Shares. Further, Walton and Oconee agree to reasonably cooperate with the Authority in connection with obtaining and maintaining any permits or other approvals as may be reasonably necessary or desirable in connection with the acquisition, construction, installation and operation of the Project.

Section 409. Recreational Facilities.

The Participants agree that Oconee may elect not to participate in any recreational activities initiated in connection with the Project; however, any Participant, at its sole cost, may elect to construct recreational facilities to provide for recreational activities as part of the Project subject to any applicable laws.

ARTICLE V
TRANSFERS AND SALES OF WATER

Section 501. Short-Term Transfers and Sales of Water.

Subject to the provisions of this Section and the Act, especially Section 503 below, the Participants each shall have the right, without the consent of the Authority, the Management Board or the other Participant, to make one or more Short-Term Transfer or Sale of Water. Prior to any such Short-Term Transfer or Sale of Water, the Participant proposing such transfer or resale shall have the obligation to provide to the Authority and the other Participant assurances reasonably satisfactory to the Authority that no person or entity will acquire vested rights to any Participant's Entitlement Share under any applicable law.

Section 502. Length of Short-Term Transfers or Sale of Water.

Except as to a sale of a Participant's Entitlement Share of the Project under Section 209 hereof, under no circumstances shall there be any Short-Term Transfer or Sale of Water for any term longer than 10 years (including all renewal options). The Participants intend that the Participants shall have an opportunity on at least a 10 year basis to have a right of first refusal to any other Participant's excess raw or treated water as provided in Section 209.

Section 503. Rights of First Refusal,

Any proposed Short-Term Transfer or Sale of Water (except in the event of a *bona fide* water emergency) shall be first offered to the other Participants pursuant to this Agreement. Upon receiving such offer, the Participant receiving such offer shall have a period of not less than 90 days to consider such offer and, if accepted, an additional period of not less than 90 days to commence taking such additional water before it may be otherwise transferred or resold

outside the geographical boundaries of the Participants. The Participants shall have the right to waive their right of first refusal under this paragraph.

Section 504. Short-Term Transfers or Sale of Water at Uniform Rate.

Each Participant agrees that any offer for a Short-Term Transfer or Sale of Water from the Project shall include in the offer the uniform rate established by the Authority for such Participant's raw or treated water. The Authority has established the uniform rate for this Project applicable to a Short-Term Transfer or Sale of Water between the Participants as the uniform rate the Participants negotiate with one another from time to time.

Section 505. Short-Term Transfers or Sale of Water in Water Emergency.

A Short-Term Transfer or Sale of Water in a *bona fide* water emergency shall be permitted without consent by any other Participant provided they are limited to not more than 60 days in the aggregate in any calendar year. Notice of any such Short-Term Transfer or Sale of Water shall be provided to the Management Board and the other Participants.

Section 506. No Reduction in Entitlement Share.

If all or any portion of a Participant's Entitlement Share of output and services of the Project is sold or transferred on a short-term basis pursuant to this Section, that Participant's Entitlement Share shall not be reduced, and the Participant shall remain liable to the Authority to pay the full amount of its Billing Statement as if such Short-Term Transfer or Sale of Water had not been made.

ARTICLE VI

ADDITIONAL BONDS

Section 601. Issuance of Additional Bonds.

(a) Additional bonds may be sold and issued by the Authority, at the request of the Management Board, at any time and from time to time (subject to any agreements relating to any prior series of Bonds) in the event, for any reason, the proceeds derived from the sale of the Bonds previously issued shall be insufficient for the purpose of completing the Project. The Authority may also issue Bonds from time to time to refund either on a current or advance basis any Bonds previously issued by the Authority pursuant to Section 602.

(b) Additional Bonds may be sold and issued by the Authority (subject to any agreements relating to any prior series of Bonds) at any time and from time to time in the event funds are required to pay the costs of: (i) any major renewals, replacements, repairs, additions, betterment, or improvements, to the Project necessary or convenient in the judgment of the Authority to keep the Project in good operating condition or to prevent a loss of revenues therefrom; and (ii) any major additions, improvements, repairs, or modifications to the Project required by any state or federal agency having jurisdiction over the Project or any facility thereof.

(c) Any such Additional Bonds shall be secured by assignment of the payments to be made by the Participants pursuant to their intergovernmental agreements relating to such Bonds, and all other payments attributable to the Project or to the Annual Project Costs to be made in accordance with or pursuant to any other provision of this Agreement, as such payments may be increased and extended by reason of the issuance of such Additional Bonds, and such Additional Bonds may be issued in amounts sufficient to pay the full amount of such costs and

sufficient to provide such reserves as may be reasonably determined by the Authority to be desirable.

(d) In the event that any Participant shall elect to expand the treatment capacity of the Project, and the other Participant shall not choose to join in such expansion as provided in Section 402, then the Authority may issue Additional Bonds to finance the costs of such expansion in treatment capacity, and all costs of issuing and carrying such Additional Bonds shall be paid by the Participant requesting such expansion.

Section 602. Issuance of Refunding Bonds.

In the event the Annual Project Costs to the Participants for the Project may be reduced by the refunding of any of the Bonds then outstanding or in the event it shall otherwise be advantageous, in the opinion of the Authority, to refund any Bonds, the Authority may issue and sell Additional Bonds to refund outstanding Bonds to be secured by assignment of the payments to be made by the Participants under their respective intergovernmental agreements relating to such Bonds. The Participants agree to participate with the Authority in the issuance and sale of such Bonds to the same extent as Bonds issued to finance Costs of the Project.

Section 603. Adjustment of Annual Project Costs.

In the event the proceeds derived from the sale of any Bonds issued pursuant to the provisions of this Agreement exceed the aggregate amount required for the purposes for which such Bonds were issued, the amount of such excess shall be used to make up any deficiency then existing in any fund or account under the Bond Resolution in the manner therein provided (to the extent, and subject to the limitation that the Authority shall receive an opinion of Bond Counsel to the effect that such use is permitted under Georgia law and will not cause the interest on the Bonds to become includable in gross income for federal income tax purposes), and any balance

shall be used to retire, by purchase or redemption, Bonds in advance of maturity to the extent and as shall be approved by Bond Counsel to the Authority.

Section 604. Tax Covenants.

(a) The parties to this Agreement acknowledge and agree that it is the intent of the parties to this Agreement that the interest on the Bonds issued from time to time to finance or refinance the Costs of the Project shall be excluded from gross income for federal income tax purposes. To that end, the Participants and the Authority agree to take all actions required in connection with the issuance of the Bonds to assure that the interest on such Bonds is excluded from gross income for federal income tax purposes, and to take such actions, or refrain from taking any action, which if taken or not taken, would cause interest on the Bonds or any of the Bonds to be includable in gross income for federal income tax purposes.

(b) The Authority agrees to maintain in its books and records a closing transcript relating to each series of the Bonds, together with the following records relating to each series of the Bonds:

- 1) the Costs of the Project financed therefrom;
- 2) the investment of the proceeds of the Bonds of any series (including any bank or brokerage statements or similar records relating to the proceeds of the Bonds);
- 3) the sources and uses of the proceeds of each series of the Bonds;
- 4) amounts paid to any credit or liquidity provider relating to any series of the Bonds or to the provider of any swap, collar, cap or other hedge relating to the Bonds;
- 5) amounts held to pay debt service on the Bonds of any series, and any reserves therefor;

- 6) any records relating to the bidding or investment of the proceeds of the Bonds or any other moneys associated with the Bonds in any defeasance escrow or guaranteed investment contract;
- 7) any computation of any arbitrage rebate relating to any series of the Bonds, including all returns or reports filed with the Internal Revenue Service or the Department of the Treasury relating to the Bonds (on Forms 8038 or otherwise); and
- 8) such other documents, books and records as may be required from time to time to be maintained by the Internal Revenue Service relating to any of the Bonds, or to evidence compliance with the applicable provisions of the Internal Revenue Code or regulations or the laws of the State of Georgia.

The Authority agrees that it will provide copies of such records to each Participant upon reasonable request. The Authority further agrees that it will provide each Participant with prompt written notice of the receipt by the Authority of notice from any owner of a Bond or from the Internal Revenue Service, the Department of Treasury or any other federal or state agency of any examination, investigation or review relating to any series of the Bonds or of any preliminary or final determination that the interest on the Bonds of any series is not excluded from gross income for federal income tax purposes.

(c) Each Participant further agrees that it will not take any action with respect to its Entitlement Share of the output from the Project which would cause the Bonds of any series to be "private activity bonds" within the meaning of Section 141 of the Internal Revenue Code or obligations the interest on which is not excluded from gross income for federal income tax purposes.

(d) Each Participant agrees, upon reasonable request from the Authority, to provide such documents and other information which may be required to respond to any governmental inquiry or investigation, whether by the State of Georgia or any agency thereof, or of the United States or any Department or agency thereof, including the Internal Revenue Service or otherwise, relating to the Project or to the financing or refinancing of the Project. The Authority shall have the sole and complete discretion as to how to handle or respond to any such inquiry or investigation, the retention of counsel or other experts in connection therewith, and other similar matters. In the event that the Authority shall deem it advisable to settle or enter into any closing agreement, settlement or other similar agreement to terminate or resolve any such governmental investigation or inquiry, then the Authority may enter into such settlement or closing agreement, and the Participants agree to indemnify and hold harmless the Authority and each of its members, officers, employees or agents from any costs or payments associated therewith (including any costs, fees or expenses incurred by the Authority in investigating or resolving the same), and upon written notice from the Authority, the Participants shall pay the same in accordance with their respective Entitlement Shares.

ARTICLE VII

DEFAULT

Section 701. Event of Default.

The occurrence of any of the following events shall constitute an Event of Default under this Agreement:

- 1) Failure of any Participant to make any of the payments required under this Agreement when the same is due and payable;
- 2) Assertion by any Participant that this Agreement is not binding on such Participant or such Participant shall seek to have this Agreement declared invalid for any reason;
- 3) Failure by any Participant to participate in connection with the issuance of any Bonds to finance the Costs of the Project following 90 days written notice from the Authority to such Participant; provided, however, that inability of the Authority to issue such Bonds due to failure or inability of the Authority to have such Bonds validated as required by Georgia law shall not constitute a default on the part of such Participant if such Participant has otherwise participated in the validation, issuance and sale of the Bonds as provided herein; and
- 4) Failure on the part of any Participant to perform its obligations under this Agreement (other than as described in paragraph 1 or 3 above) and the continuance of such failure for a period of 60 days after written notice from the Authority or the other Participant; provided, however, that if such failure can not be corrected within such 60 day period, then no Event of Default shall

be deemed to have occurred so long as such Participant diligently pursues the correction of such failure.

Notwithstanding any provision of this Agreement to the contrary, in the event of any such Event of Default, the Participant shall not be relieved of its liability for payment of the amounts in default, and the Authority shall have the right to recover from the Participant any amount in default. The Authority shall have the option, at its choice, to bring any suit, action, or proceeding in law or in equity, including mandamus and action for specific performance as may be necessary or appropriate to enforce any covenant, agreement or obligation to make any payment for which provision is made in this Agreement against the Participant.

Section 702. Levy of Tax for Payment.

In the event any Participant shall default in the payment of any amount due hereunder, the Participant hereby agrees for the benefit of the Authority and the other Participant that it shall provide for the assessment and collection of an annual tax sufficient in amount to provide funds annually to make all payments due under the provisions of this Agreement in each year over the remainder of the life of this Agreement and the Authority as issuer of the Bonds, shall have the right to bring any suit, action, or proceeding in law or in equity, including mandamus and action for specific performance, to enforce the assessment and collection of a continuing direct annual tax upon all the taxable property within the boundaries of such Participant sufficient in amount to provide such funds annually in each year of the remainder of the life of this Agreement.

Section 703. Other Default by Participants.

In the event of a default by the Participant under any other covenant, agreement or obligation of this Agreement, subject to the arbitration permitted in Section 706 hereof, the other Participants may bring any suit, action, or proceeding in law or in equity, including mandamus,

injunction and action for specific performance, as may be necessary or appropriate to enforce any covenant, agreement or obligation of this Agreement against the defaulting Participant.

Section 704. Default by Operator.

In the event of any default by the Operator under any agreement relating to the Project, subject to the arbitration permitted in Section 706 hereof, each Participant may bring any suit, action or proceeding in law or in equity, including mandamus, injunction, and action for specific performance as may be necessary or appropriate to enforce any covenant, agreement, or obligation under such an agreement against the Operator. Default by the Operator shall not relieve any Participant of its liability for payment of amounts specified herein.

Section 705. Abandonment of Remedy.

In case any proceeding taken on account of any default shall have been discontinued or abandoned for any reason, the parties to such proceedings shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers, and duties of the Authority and the Participants shall continue as though no such proceedings had been taken.

Section 706. Arbitration.

If any disagreement shall arise with reference to any of the terms or conditions of this Agreement, or with reference to any matter connected with this Agreement or the operation of the Project, except as to the payments required to be made pursuant to the provisions of Section 208(b) hereof and the Authority's rights and remedies at law or equity in the event of a Participant's default under this Article, the obligation for which shall be absolute and unconditional as to each Participant, such a disagreement or dispute may be immediately submitted to binding arbitration at the request of the defaulting Participant or the Authority. The requesting party or parties involved in the dispute shall select one arbitrator and the remaining party or parties shall select one arbitrator and the two arbitrators selected shall select a third

arbitrator; provided that if the two arbitrators first chosen cannot agree on a third, such third arbitrator shall be appointed by the Chief Judges of the Judicial Circuits in which the Participants are located upon application by any of the parties hereto. The arbitrators as so chosen may choose the time, location and method of such arbitration, including such limits on discovery, witnesses, depositions, document requests and other similar matters as the arbitrators may, in their discretion, deem appropriate or necessary. The vote of two of the three arbitrators selected shall control and the arbitration will be binding.

ARTICLE VIII

MISCELLANEOUS GENERAL PROVISIONS

Section 801. Liability of Parties.

The Participants shall assume full responsibility and liability for the maintenance and operation of their respective properties and each shall indemnify and save harmless the other from all liability and expense on account of any and all damages, claims, or actions, including injury to or death of persons arising from any act or accident in connection with the installation, presence, maintenance and operation of the property and equipment of the indemnifying party and not caused in whole or in part by the negligence of the other party; provided that any liability which is incurred by the Operator, through the operation and maintenance of the Project and not covered, or not covered sufficiently, by insurance shall be paid solely from the revenues of the Authority, and any payments made by the Authority to satisfy such liability shall become part of the Annual Project Budget and shall be paid according to the Participants' Entitlement Shares.

Section 802. Assignment of Agreement.

(a) 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 except as provided in the case of an Event of Default, and, except for the assignment by the Authority authorized hereby or for the sale of a Participant's Entitlement Share in accordance with this Agreement, neither this Agreement nor any interest herein shall be transferred or assigned by any party hereto except with the consent in writing of all other parties hereto, provided, however, that such consent shall not be withheld unreasonably. No assignment or transfer of this Agreement shall relieve the parties of any obligation hereunder.

(b) The Participants acknowledge and agree that the Participants may assign and pledge to a Trustee designated in connection with any Bonds all of its right, title, and interest in and to all payments to be made to the Authority under the provisions of Article II of this Agreement and to all or any portion of the payments attributable to the Project or to the Annual Project Costs to be made in accordance with or pursuant to any other provision of this Agreement as security for the payment of the principal (including sinking fund installments) of, and premium, if any, and interest on all the Bonds, and, upon the execution of such assignment and pledge, such Trustee shall have all rights and remedies herein provided to the Participants, and any reference herein to the Participants shall be deemed, with the necessary changes in detail, to include such Trustee which shall be a third-party beneficiary of the covenants and agreements of the Participants herein contained. Nothing contained in this Section is intended to affect or limit the assignment and pledge of amounts due from Oconee or Walton to the trustee for any Bonds under the terms of any intergovernmental agreement entered into to provide moneys to secure such Bonds.

Section 803. Termination or Amendment of Agreement.

This Agreement shall not be terminated by any party under any circumstances, whether based upon the default of any of the other parties under this Agreement or any other instrument or otherwise except as specifically provided in this Agreement.

This Agreement shall not be amended, modified, or otherwise altered in any manner that will adversely affect the security for the Bonds afforded by the provisions of this Agreement upon which the owners from time to time of the Bonds shall have relied as an inducement to purchase and hold the Bonds. So long as any of the Bonds are outstanding or until adequate provisions for the payment thereof have been made in accordance with the provisions of the Bond Resolution, this Agreement shall not be amended, modified, or otherwise

altered in any manner which will reduce the payments pledged as security for the Bonds or extend the time of such payments provided herein or which will in any manner impair or adversely affect the rights of the owners from time to time of the Bonds. Except as limited by this paragraph, this Agreement may be amended by the written agreement of the parties hereto.

ARTICLE IX

SEVERABILITY

Section 901. 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, the parties hereto intend 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.

Section 902. Counterparts.

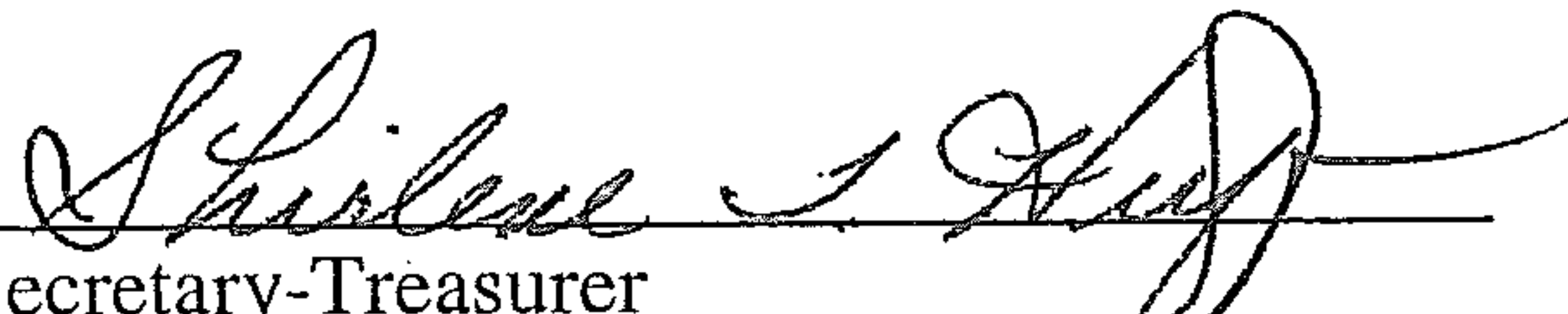
This Agreement may be executed by the parties hereto in multiple counterparts, all of which shall be deemed to be a single agreement.

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized officers, have caused this contract to be executed and their respective seals to be hereunto affixed and attested as of the date and year first above written.

**WALTON COUNTY WATER AND
SEWERAGE AUTHORITY**

By: 
Chairman

(SEAL)

Attest: 
Secretary-Treasurer

OCONEE COUNTY, GEORGIA

By: *W. L. Stewart*
Chairman

Attest: *Anna M. Smidney*
Clerk

(SEAL)

WALTON COUNTY, GEORGIA

By: Kenn W. Pitts
Chairman

(SEAL)

Attest: Leta B. Tammis
Clerk