

8.10.2021

**INTERGOVERNMENTAL AGREEMENT
BETWEEN ROCKDALE COUNTY AND DEKALB COUNTY
TO PROVIDE SEWERAGE SERVICES TO
ROCKDALE COUNTY’S HONEY CREEK DRAINAGE BASIN**

STATE OF GEORGIA

COUNTY OF DEKALB

THIS AGREEMENT, made and entered into on the 26th day of October, 2021, by and between ROCKDALE COUNTY, GEORGIA, a political subdivision of the State of Georgia, acting by and through its duly elected Board of Commissioners, (hereinafter sometimes referred to as “ROCKDALE”), and DEKALB COUNTY, GEORGIA, a political subdivision of the State of Georgia, acting by and through its duly elected Governing Authority, (hereinafter sometimes referred to as “DEKALB”).

WITNESSETH

WHEREAS, DEKALB operates a water and sewerage system for the incorporated and unincorporated areas of DEKALB County, Georgia; and

WHEREAS, ROCKDALE operates a water and sewerage system for the incorporated and unincorporated areas of Rockdale County, Georgia; and

WHEREAS, the DeKalb County Pole Bridge Creek Wastewater Treatment Plant and Sludge Land Application Facility, and related appurtenances including the Honey Creek lift station and Dekalb’s collection and conveyance system that serves the Honey Creek Drainage Basin (hereinafter referred to as “DEKALB’s Pole Bridge Creek Wastewater Treatment Plant” or “DEKALB’s Pole Bridge Creek WWTP”) is so located as to be able to serve the Honey Creek Drainage Basin in Rockdale County;

NOW, THEREFORE, for and in consideration of the mutual covenants, promises, tenants, and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which hereby is acknowledged, it is mutually agreed by and between ROCKDALE and DEKALB as follows:

1.

DEKALB County and ROCKDALE County are authorized by Article IX, Section III, Paragraph I of the Georgia Constitution of 1983 and other applicable law to enter into this Agreement.

2.

ROCKDALE shall be allowed to discharge into the DEKALB County Sewerage System up to but not exceeding a monthly average of 375,000 gallons per day; however, the 24-hour maximum discharge from ROCKDALE into the DEKALB County Sewerage System shall not

exceed 750,000 gallons. In the event that such flows are exceeded by ROCKDALE and upon notification by DEKALB, ROCKDALE shall take immediate action so as not to exceed such flows.

3.

ROCKDALE shall have the right to make or permit connections to its sewerage system subject to the provisions of this Agreement. However, in no event shall the aggregate maximum flow contribution from all such connection exceed the aggregate maximum flow into the DEKALB County Sewerage System as set forth in paragraph 2 above. ROCKDALE shall notify DEKALB in writing before making or permitting any single connection to its sewerage system that alone is reasonable likely to increase the discharge into the DEKALB County Sewerage System by more than 37,500 gallons per any 24- hour period. ROCKDALE shall have the right to make such charges for connections as it makes or permits to ROCKDALE'S Sewerage System under the provisions set forth in this Agreement and shall retain for its own use all sums derived.

4.

DEKALB shall measure the flow from ROCKDALE and invoice ROCKDALE monthly at 1.15 times the sewer service charge (rate in effect at the time) per 1,000 gallons charged DEKALB County citizens for sewer service. Thus, the charges to ROCKDALE shall be increased whenever sewer service charges are increased by the DEKALB County Board of Commissioners to DEKALB County citizens; however, the surcharge of fifteen percent (15%) of the sewer service charge shall not be increased. DEKALB shall provide ninety (90) day notice of intent to increase sewer service charge when possible.

5.

ROCKDALE's payments to DEKALB shall be made monthly within thirty (30) days of the receipt of invoice for sewage discharged to DEKALB by ROCKDALE during the preceding month. Should ROCKDALE fail to pay the amount of the invoice within the period herein provided, DEKALB shall the right to cease to provide sewerage service to ROCKDALE at any time it elects to do so, provided thirty (30) day notice of intent to do so is given ROCKDALE, and provided ROCKDALE fails to make payment of all past due amounts, including any liquidated damages, within thirty (30) days from the notice of intent.

6.

In the event flows from ROCKDALE exceed the allowable monthly average of 375,000 gallons per day or a maximum of 750,000 gallons per day for any day in a monthly billing period, ROCKDALE shall pay an additional charge to DEKALB for conveyance and treatment of such excess flow to be calculated as follows:

Excess Monthly Average Flow: $[(\text{Current Monthly Avg. Flow} + 2 \text{ Immediately Preceding Months Average Monthly Flow}) / 3] - 375,000 \text{ gallons}] \times 2.5 \times (\text{DEKALB Sewer Service Charge})$

Excess Daily Flow: $(\text{Daily Avg. Flow} - 750,000 \text{ gallons}) \times 2.0 \times (\text{DEKALB Sewer Service Charge})$

The Excess Daily Flow charge applies even if the monthly average flow for a month does not exceed the allowable amount and is an additional charge for conveyance and treatment of excess flows. As a condition precedent to this temporary extension of capacity to ROCKDALE, ROCKDALE must be making a bona fide effort to comply with Paragraph 7.

7.

In the event DEKALB determines that future connections by ROCKDALE would generate a sewage flow in excess of ROCKDALE's allocated capacity or create other conditions that would endanger or impair the efficient operation of the Honey Creek Lift Station and the associated conveyance system and/or DEKALB's Pole Bridge Creek WWTP, ROCKDALE agrees to immediately begin and pursue diligently a construction program to eliminate any such condition or to divert such excess flow to another sewage treatment facility capable of properly handling the same. ROCKDALE shall provide to DEKALB a written description of its plan to eliminate or divert such excess flows within 30-days following any three-month period of excess flows.

8.

A metering station shall be located on each interconnecting sewer line at a point within DEKALB County near the ROCKDALE County boundary. ROCKDALE, at its expense, shall construct and install each such metering station. The meters' accuracy shall be +/- 0.01 feet for level measurement and +/- 0.1 ft/s for velocity measurement of better.

9.

After ROCKDALE's initial calibration of the meter(s), DEKALB shall operate, supervise, manage, maintain, repair, and replace the metering stations and the interconnecting sewer line within DEKALB County as a direct cost to ROCKDALE. Such direct cost shall be invoiced to ROCKDALE County as a separate line item on ROCKDALE's invoices in addition to the sewer service charges. DEKALB shall calibrate the meter(s) at least every six (6) months or in accordance with manufacturer's recommendation, whichever is more frequent. ROCKDALE shall always have the right at all times to inspect said meter(s) and to conduct such tests at ROCKDALE's expense as may be appropriate.

10.

In the event the meter(s) shall, for a period of time, fail to function properly and as a result fail to measure accurately, that month shall be billed based on the average of the three preceding monthly flows that the meter(s) was considered operating properly.

11.

DEKALB shall own, operate, and maintain that portion of the sewer lines, force mains, lift stations and other appurtenances which are located within DEKALB County, up to and including the County line. ROCKDALE shall own, operate, and maintain that portion of the sewer lines, force mains, lift stations and other appurtenances which are located within ROCKDALE County.

12.

ROCKDALE agrees to be responsible for all overflows that may occur in the sewers owned or operated by ROCKDALE as well as overflows within DEKALB caused by excess flows from ROCKDALE and to accept responsibility for any damages there from, holding DEKALB harmless for all damages including construction, operating, maintenance or other expenses connected with said sewers.

13.

All ROCKDALE sewers which may be laid in the future, which connect to the DEKALB County Sewerage System shall be laid in accordance with the design criteria that limit inflow and infiltration to a rate equal to or less than that required by the Rules, Regulations, and Design Standards of DEKALB.

14.

As related to discharges into the Honey Creek Drainage Basin or into the Dekalb County Sewerage System, ROCKDALE agrees to comply with all ordinances, rules, and regulations in which DEKALB now or may in the future impose on its own sewerage customers, including, without limitation, Industrial Users and Significant Industrial Users (as those terms are defined in 40 C.F.R. Part 403). DEKALB shall have the right and is hereby authorized to prescribe from time-to-time reasonable non-discriminatory rules, regulations and procedures pertaining to the use and operation of the DEKALB Sewerage System and ROCKDALE hereby agrees and assents thereto. Such rules, regulations and procedures may include, but are not limited to, rules, regulations and procedures regarding (i) the various types of sewage that may or may not be discharged into portions of Rockdale County's Sewerage System in the Honey Creek Drainage Basin or into DEKALB County's Sewerage System; (ii) Rockdale County's inspection, enforcement, and monitoring of Industrial Users, Significant Industrial Users and commercial sources of fats, oils and greases; (iii) DEKALB County's access to permitting, inspection, enforcement, monitoring and other information related to or obtained from Industrial users and Significant Industrial Users or other commercial users located in ROCKDALE whose discharge enters DEKALB's Sewerage System; (iv) any legal authorities required under 40 C.F.R. Part 403; and (v) the Standards of Acceptability (Exhibit "A") and the Pretreatment of Sewage (Exhibit "B"). Exhibits "A" and "B" are attached hereto and made a part of this Agreement

15.

If an overflow occurs at any point of the interconnecting sewer that qualifies as a spill or release in accordance with Georgia Environmental Protection Division's ("EPD") Rules and Regulations for Water Quality Control, Chapter 391-3-6, such revisions as may occur to these regulations from time-to-time, the owner of that portion of the sewer where the overflow occurs shall be responsible for all necessary release reporting, public notification, and monitoring as required by Georgia EPD, regardless of where the receiving waters may be located.

16.

In the case of accidental spills or releases into the DEKALB portion of the sewer of any deleterious material or substances, discharges of a non-routine nature, non- customary batch discharges or slug loads, whether such discharge was made directly by ROCKDALE or indirectly by an industrial user regulated by ROCKDALE, ROCKDALE shall notify DEKALB's Department of Watershed Management by telephone number provided by DEKALB as soon as it learns of the incident. This notification shall include the time of occurrence, location of discharge, type of waste, concentration, and volume if known, and corrective actions taken by ROCKDALE. ROCKDALE shall take all possible actions to prevent a spill, and should a spill occur; shall take immediate steps to ensure no recurrence of the incident. Within five (5) days following such discharge, ROCKDALE shall submit a detailed written report, unless waived by DEKALB, describing the cause(s) of the discharge and the measures to be taken by ROCKDALE to prevent similar occurrences in the future. Such notification shall not relieve ROCKDALE of any expense, loss, damage or other liability which may be incurred as a result of damage to DEKALB'S Pole Bridge Creek WWTP, natural resources or any other damage to person or property; nor shall such notification relieve ROCKDALE of any fines, penalties, or other liability which may be imposed by state and federal regulatory agencies or a court as a result of such discharge.

17.

Neither DEKALB nor ROCKDALE shall ever have the right to demand payment by the other party of any obligation assumed or imposed upon such party under and by virtue of this Agreement from any funds raised or to be raised by taxation. Neither party's obligation under this Agreement shall ever be construed to be a debt of such party of such kind as to require it to levy and collect a tax to discharge such obligation, it being expressly understood and agreed that all payments due by the parties hereunder are to be made from revenues derived from the operation of their respective water and sewerage systems, such payment ranking equally with the operating expenses of such systems. Nothing herein contained shall be construed as prohibiting either of the parties from making payments from other funds lawfully available to it for such purpose.

18.

If by reason of force majeure, either party hereto shall be rendered unable, wholly or in part, to carry out its obligations under this Agreement, then such party shall give notice and full particulars of such force majeure, in writing by certified mail to the other party within a reasonable time after the occurrence of the event or cause relied upon for the claim of force majeure. The obligation of the party giving such notice so far as it is affected by such force majeure, shall be suspended during the continuance of the inability then claimed, but for no longer period, and any such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term "force majeure" as employed herein shall mean, acts of God or nature, strikes, lockouts, or other industrial disturbances, acts of a public enemy, orders of any kind of the government of the United States or the State of Georgia, or any civil or military authority, insurrections, riots, epidemics, pandemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washout, droughts, arrests, restraint of government and people, civil disturbances, criminal acts,

958 Milstead Avenue
Conyers, Georgia 30012
If to Dekalb County, at: The Chief Executive Officer
Executive Assistant
1300 Commerce Drive, 6th Floor
Decatur, Georgia 30030

With copies to: Dekalb County Attorney
1300 Commerce Drive, 5th Floor
Decatur, Georgia 30030

Dekalb County Department of Watershed Management
Director
1580 Roadhaven Drive
Stone Mountain, Georgia 30083

23.

This Agreement contains the entire agreement of the parties with respect to matters covered by this Agreement and supersedes all prior agreements, arrangements, or understandings with respect thereto.

24.

This Agreement shall be in effect on the date of execution as shown above and shall continue in effect for ten (10) years or until this Agreement is dissolved by mutual consent of ROCKDALE and DEKALB.

25.

The right of ROCKDALE to the continued use of the DEKALB County Sewerage System facilities is conditioned upon performance by ROCKDALE of all its obligations under this agreement.

26.

This Agreement shall be binding upon and inure to the benefit of any successors and assigns of the parties hereto. Neither party shall assign, sublet, or transfer its interest in this Agreement without the written consent of the other. Such consent shall not be unreasonably withheld. Nothing herein shall be construed as creating any personal liability on the part of any officers, agents, or officials of either party.

27.

This Agreement is made in and shall be governed by and construed in accordance with the laws of the State of Georgia.

28.

This Agreement shall be deemed to have been made and performed in Dekalb County, Georgia. For the purposes of venue, all suits or causes of action arising out this Agreement shall be brought in the courts of Dekalb County, Georgia.

29.

It is understood by the parties that no employees, officers, or agents of either party shall be under or subject to the direction or control of the other party, its officers, employees, and agents for any of the services provided pursuant to this Agreement.

ROCKDALE shall defend and bear the expense of any and all claims, suits, actions, liabilities, and judgments from third parties resulting from ROCKDALE's actions or inactions pursuant to the enactment of this intergovernmental agreement.

30.

Either party may unilaterally terminate this agreement, in whole or in part, for any reason whatsoever. The terminating party shall terminate by delivering to the other party with a least ninety (90) days notice to the other party, a Notice of Termination specifying the nature, extent, and effective date of termination.

31.

This Agreement is for the benefit of the parties hereto only and is not intended to benefit any third party or to give rise to any duties to or causes of action for any third party.

32.

This Agreement constitutes the entire Agreement between the parties hereto as to all matters contained herein. No representation, oral or written, not incorporated herein shall be binding upon the parties hereto. All subsequent changes to this Agreement must be signed by all parties.

33.

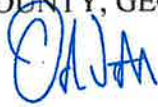
In the event any section of this agreement is declared and adjudged to be invalidated or unconstitutional, such declaration or adjudication shall not affect the remaining portions of this agreement.

IN WITNESS WHEREOF, the parties hereto, acting by and through their duly authorized officials, have caused this Agreement to be executed in four counterparts, each to be considered as an original, by their authorized representative the day and date herein above written.

[signatures on following page]

8.10.2021

ROCKDALE COUNTY, GEORGIA



BY: _____
Osborn Nesbitt, Sr.
Chairman, Rockdale County

Board of Commissioners

DEKALB COUNTY, GEORGIA

By: _____

Michael L. Thurmond
Chief Executive Officer
DeKalb County, Georgia

Attest:

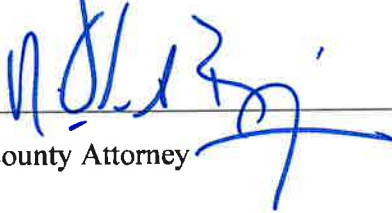


Executive Director
Legislative Affairs/ County Clerk
Rockdale Board of Commissioners

Attest:

Clerk to the Chief Executive
Office and Board of Commissioners
DeKalb County, Georgia

APPROVED AS TO FORM:



County Attorney

APPROVED AS TO FORM:

County Attorney

Approved as to substance:



Department Director

Approved as to substance:

Department Director

STANDARD OF ACCEPTABILITY**EXHIBIT "A"**

To the Sewer Agreement between ROCKDALE COUNTY, GEORGIA and DEKALB COUNTY, GEORGIA dated _____, 2021. This Exhibit establishes and provides the basis for determining acceptability of ROCKDALE's wastewater and provides for remedies for violation of the requirements of this Agreement, including without limitation the standards of acceptability established herein as related to wastewater and the enforcement of such standards.

1. All applicable provisions of DEKALB'S ORDINANCES REGULATING THE USE OF PUBLIC AND PRIVATE SEWERS AND DRAINS, PRIVATE SEWAGE DISPOSAL, THE INSTALLATION AND CONNECTION OF BUILDING SEWERS, THE DISCHARGE OF WATERS AND WASTES INTO COUNTY SEWERAGE SYSTEMS(S), AND FATS, OILS, AND GREASES REGULATIONS; AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF: IN THE COUNTY OF DEKALB, STATE OF GEORGIA (hereinafter referred to as "Ordinances"), and all amendments thereto are hereby made a part of Exhibit "A" by this specific reference.
2. The strength, characteristics, and flow of ROCKDALE's wastewater shall comply with all regulations incorporated in Paragraph 1 of this Exhibit "A".
3. It is understood that ROCKDALE (i) will enforce the standards of acceptability as defined in the Ordinances incorporated by reference under paragraph 1 of this Exhibit "A" against any industrial or commercial source of an indirect discharge to any sanitary sewer in ROCKDALE County which connects or flows to the DEKALB County Sewerage System, (ii) will notify DEKALB County of recurrent noncompliance by such sources, and (iii) will cooperate and coordinate with DEKALB County to assure such sources promptly cease all discharges to the sanitary sewer or comply with the standards of acceptability as defined in the Ordinances incorporated by reference under paragraph 1 of this Exhibit "A". It is further understood and agreed that no provision of the Agreement or any previous agreement shall be construed in such a manner as to allow ROCKDALE either for itself or for the use and benefit of any person or entity to construct and connect with any sewer of the DEKALB Sewerage System any sewer or sewers which in the sole determination of the DEKALB County Director, Department of Watershed Management will overload, endanger, or impair the efficient operation of the trunk sewers or treatment facilities of DEKALB.
4. In the event ROCKDALE violates any requirement established through this Agreement or fails to enforce the same as to industrial or commercial sources of indirect

discharges, or violates any other provision of this Agreement, DEKALB shall have the right to the following remedies after having given 30 days written notice to ROCKDALE to cease and desist its violation or violations or its failure to enforce the standards of acceptability:

- (a) Assess ROCKDALE for all costs, expenses, and damages which DEKALB may incur by reason of said violation or violations.
- (b) Discontinue sewage service.

PRETREATMENT OF SEWAGE**EXHIBIT "B"**

To the Sewer Agreement between ROCKDALE COUNTY, GEORGIA and DEKALB COUNTY, GEORGIA dated _____, 2021. This Exhibit establishes and provides the basis for determining ROCKDALE's compliance with federal, state, and local pretreatment regulations.

1. All Industrial Users (as the term is defined in 40 C.F.R. Part 403) in ROCKDALE County whose sewage flows contribute to DEKALB's Pole Bridge Creek WWTP shall be required to meet pretreatment standards and requirements as codified in 40 C.F.R. Part 403, entitled "General Pretreatment Regulations for Existing and New Sources of Pollution", and the discharge standards and requirements of DEKALB County's Industrial Pretreatment Program, whichever is more stringent; and such revisions as have occurred or may occur to the standards and regulations and/or program from time-to-time (hereinafter "Pretreatment Standards and Requirements").
2. All water or wastewater discharged to DEKALB's Pole Bridge Creek WWTP shall be required to meet Pretreatment Standards and Requirements.
3. ROCKDALE shall:
 - A. With DEKALB's knowledge and concurrence, deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to DEKALB's Pole Bridge Creek WWTP from all commercial or industrial sources of indirect discharges in Honey Creek Drainage Basin, where such indirect discharges do not meet applicable Pretreatment Standards and Requirements or where such contributions would cause DEKALB's Pole Bridge Creek WWTP to violate its NPDES Permit, or lead to Interference or Pass Through (as those terms are defined in 40 C.F.R Part 403).
 - B. Require compliance with applicable pretreatment Standards and Requirements by all commercial and industrial sources of indirect discharges.
 - C. Control, through permit, contract, order, or similar means, the contribution of DEKALB's Pole Bridge Creek WWTP by each Industrial User to ensure compliance with applicable Pretreatment Standards and Requirements; and

where such permits are issued to a Significant Industrial User (as that term is defined in 40 C.F.R. Part 403), ensure that each permit contains all the required elements identified at 40 C.F.R. 403.8 (f)(1)(iii).

- D. Require (a) the development of a compliance schedule by each Industrial User for the installation of technology required to meet applicable Pretreatment Standards and Requirements and (b) the submission of all notices and self-monitoring reports from Industrial users with Pretreatment Standards and Requirements, including but not limited to the reports required by 40 c.f.r.403.12.
 - E. Carry out all inspection, surveillance, and monitoring procedures necessary to determine, independent of information supplied by Industrial Users, compliance or noncompliance with Pretreatment Standards and Requirements. Representatives of DEKALB, upon written notice to ROCKDALE, shall be authorized to enter any premises of any Industrial User contributing to DEKALB's pole Bridge Creek WWTP in which an effluent source or treatment system is located or in which records are required to be kept under 40 C.F.R 403.12 to assure compliance with Pretreatment Standards. Such authority shall be at least as extensive as the authority provided the Administrator of the U.S. Environmental Protection agency under Section 308 of the Federal Clean Water Act, 33 US. § 1251 et seq.
 - F. Inspect all significant Industrial Users (as defined in 40 C.F.R. Part 403) at least once annually.
 - G. Obtain remedies for noncompliance by any Industrial User with any Pretreatment Standard and Requirement. ROCKDALE, upon written request from DEKALB, shall seek judicial relief, including but not limited to injunctive relief, against any Industrial User failing to comply with Pretreatment Standards and Requirements provided herein. ROCKDALE shall further enforce all civil and criminal penalties imposed by law against any Industrial User failing to comply with the Pretreatment Standards and Requirements, which penalties must meet or exceed the minimal penalties identified at 40 CF.R.403.8((f)(1)(vi).
4. ROCKDALE shall have procedures to ensure all commercial or industrial sources of indirect discharges comply with the Pretreatment Standards and Requirements. At a minimum, these procedures shall enable ROCKDALE to:
- A. Identify and locate all possible Industrial Users which might be subject to Pretreatment Standards and Requirements. Any compilation, index or

inventory of Industrial Users made under this paragraph shall be made available to DEKALB upon request.

- B. Identify the character and volume of pollutants contributed to DEKALB's Pole Bridge Creek WWTP by the Industrial Users identified under Title 40 C.F.R. 403.8(F)(2)(I). This information shall be made available to DEKALB upon request.
 - C. Notify Industrial Users identified under Title 40 C.F.R. Part 403.8(f)(2)(I) of applicable Pretreatment Standards and Requirements and any applicable requirements under Sections 204(b) and 405 of Act and Section 3001, 2004, and 4004 of the Solid Waste Disposal Act.
 - D. Receive and analyze self-monitoring reports and other notices submitted by the Industrial Users in accordance with the self-monitoring requirements in Title 40 C.F.R. Part 403.12.
 - E. Randomly sample and analyze the effluent from Industrial Users and conduct surveillance and inspection activities in order to identify, independent of information supplied by Industrial Users, occasional and continuing noncompliance with pretreatment Standards and Requirements. The results of these activities shall be made available to DEKALB upon request.
 - F. Investigate instances of noncompliance with pretreatment Standards and Requirements, as indicated by analysis, inspection and surveillance activities described in paragraph (f)(2)(v) of Title 40 C.F.R. Part 403.8. Sample taking and analysis and the collection of other information shall be performed with sufficient care to produce evidence admissible in enforcement proceedings or in judicial actions.
 - G. Comply with the public participation requirements of the Pretreatment Standards and Requirements as specified in Title 40 C.F.R. Part 403.8(f)(2)(viii), and such revisions as may occur from time-to- time.
5. ROCKDALE agrees to provide sufficient resources and qualified personnel to perform its obligations under the provisions of this Agreement.