# Baldwin County Commissioners
# Called Meeting
# February 7, 2020
# 11:00 a.m.

A Called Meeting of the Baldwin County Commissioners was held Friday, February 7, 2020 at 11:00 a.m., Baldwin County Courthouse, Suite 319, 121 North Wilkinson Street, Milledgeville, Georgia with Henry Craig presiding.

Members Present: Henry Craig
Tommy French
John Westmoreland
Emily C. Davis
Sammy Hall

Also Present: David McRee
Carlos Tobar
Cindy Cunningham
Dawn Hudson

Call to Order

Chair Henry Craig called the February 7, 2020 Called Meeting to order at 11:00 a.m.

Executive Session

Commissioner John Westmoreland made a motion to adjourn into Executive Session at 11:02 a.m. to discuss potential litigation. Commissioner Sammy Hall seconded the motion and it passed unanimously.

Regular Meeting

Commissioner John Westmoreland made a motion to reopen the Called Meeting at 11:40 a.m. Commissioner Sammy Hall seconded the motion and it passed unanimously.

Amendment to Agenda

Vice Chair Tommy French made a motion to amend the Agenda to discuss Service Delivery Strategy documents. Commissioner John Westmoreland seconded the motion and it passed unanimously.

Commissioner John Westmoreland made a motion to amend the Agenda to discuss the right-of-way deed to the Georgia Department of Transportation. Vice Chair Tommy French seconded the motion and it passed unanimously.

County Attorney David McRee presented the following documents for the Boards consideration:

*A Joint Resolution between Baldwin County and the City of Milledgeville approving forms pertaining to the delivery and funding of certain services pursuant to the service delivery act, enacting intergovernmental agreements approving the settlement, release and dismissal of claims between the parties and for other purposes. He stated this Resolution was adopted last week; however, the City has made some changes. Attorney McRee stated he has reviewed the Resolution and agrees with the amended Joint Resolution as proposed.

Vice Chair Tommy French made a motion to approve the Joint Resolution between Baldwin County and the City of Milledgeville approving forms pertaining to the delivery and funding of certain services pursuant to the service delivery act, enacting intergovernmental agreements approving the settlement, release and dismissal of claims between the parties and for other purposes as presented and subject to no further changes being made by the City. Commissioner John Westmoreland seconded the motion and it passed unanimously.

A copy of the Resolution is herewith attached and made an official part of the minutes at pages _____ and _____.

*An Intergovernmental Sales Tax Agreement between Baldwin County and the City of Milledgeville delineating how the parties will handle sales tax proceeds. Attorney McRee stated the City has adopted the IGA. He has reviewed the IGA and recommends adoption.

Vice Chair Tommy French made a motion to approve the Sales Tax Agreement between Baldwin County and the City of Milledgeville delineating how the parties will handle sales tax proceeds subject to no further changes being made by the City. Commissioner John Westmoreland seconded the motion and it passed unanimously.

A copy of the Joint Sales Tax Agreement is herewith attached and made an official part of the minutes at pages _____ and _____.

*A Water and Sewer Services Intergovernmental Agreement between Baldwin County and the City of Milledgeville. Attorney McRee stated the City has adopted the IGA. He has reviewed the IGA and recommends approval and adoption subject to no changes by the City.

Vice Chair Tommy French made a motion to approve the Water and Sewer Services Intergovernmental Agreement as presented subject to no further changes by the City when the final document is received. Commissioner Sammy Hall seconded the motion and it passed unanimously.

A copy of the Joint Water and Sewer Intergovernmental Agreement is herewith attached and made an official part of the minutes at pages _____ and _____.

Right-Of-Way Deed to Georgia Department of Transportation

County Attorney McRee presented a right-of-way deed to GDOT for the acel/decel lane at the Administration Building on North Columbia Street.

Commissioner John Westmoreland made a motion to approve the right-of-way deed to the Georgia Department of Transportation. Commissioner Sammy Hall seconded the motion and it passed unanimously.

Adjournment

Commissioner Sammy Hall made a motion to adjourn the Called Meeting at 11:45 a.m. Vice Chair Tommy French seconded the motion and it passed unanimously.

Respectfully submitted,

Henry R. Craig
Chairman

Cynthia K. Cunningham
County Clerk

**A JOINT RESOLUTION OF BALDWIN COUNTY, GEORGIA, AND THE CITY OF MILLEDGEVILLE, GEORGIA, APPROVING FORMS PERTAINING TO THE DELIVERY AND FUNDING OF CERTAIN SERVICES PURSUANT TO THE SERVICE DELIVERY ACT, ENACTING INTERGOVERNMENTAL AGREEMENTS PERTAINING TO THE DELIVERY AND FUNDING OF CERTAIN SERVICES, APPROVING THE SETTLEMENT, RELEASE, AND DISMISSAL OF CLAIMS BETWEEN THE PARTIES, AND FOR OTHER PURPOSES.**

***WITNESSETH:***

**WHEREAS,** Baldwin County, Georgia ("County") is a duly formed political subdivision of the State of Georgia;

**WHEREAS,** the City of Milledgeville, Georgia ("City") is a municipal corporation duly organized and existing under the laws of the State of Georgia;

**WHEREAS,** the Service Delivery Act, O.C.G.A. § 36-70-20, *et seq.*, requires each county and all cities located therein to develop, approve, and implement a service delivery strategy that specifies the manner in which all local governmental services will be provided and funded; and

**WHEREAS,** the Service Delivery Act also requires the periodic review and revision of service delivery strategies upon the occurrence of any one of the six conditions specified in O.C.G.A. § 36-70-28(b); and

**WHEREAS,** the City and County have been engaged in negotiations to revise the Parties' 2008 Service Delivery Strategy; and

**WHEREAS,** the City and the County are each authorized to levy taxes, and to expend tax moneys and other available funds; and

**WHEREAS,** the City and the County are authorized to enter into this intergovernmental agreement by virtue of the provision of the Constitution and Laws of the State of Georgia; and

**WHEREAS,** the County and City brought several claims against each other in Civil Action File Numbers SUCV2018049244, SUCV2019049322, and SUCV2019049 related to the 2008 SDS Agreement;

**WHEREAS,** the County and City desire to resolve all litigation by dismissing their respective claims and counter-claims with prejudice;

**WHEREAS,** both the County and City alleged claims with regard to how each local government used their respective water and sewer funds. After much discourse and a thorough review of the circumstances, both Parties intend and have agreed to withdraw, dismiss, and forever abandon these respective claims against each other; provide however, this statement is not in any way intended nor shall it be interpreted to be a waiver of any kind by either Party of

any future claims that may arise from and after the implementation of the new 2020 Service Delivery Strategy and the associated intergovernmental agreements.

**WHEREAS**, the City and the County have determined that it is in best interests of each of them to enter into this Agreement for the benefit of the City, the County, and their citizens; and

**WHEREAS**, the City and the County desire to approve the forms and intergovernmental agreements for the funding and provision of services as set forth herein;

**THEREFORE, IT IS NOW JOINTLY RESOLVED BY THE BALDWIN COUNTY BOARD OF COMMISSIONERS AND THE CITY COUNCIL OF THE CITY OF MILLEDGEVILLE, GEORGIA AS FOLLOWS:**

I. **Incorporation of Recitals.** The above stated recitals are true and correct and are incorporated as though fully set forth herein.

II. **Acceptance of Service Delivery Strategy Agreements.** The County and City hereby approve the Service Delivery Strategy Agreements attached hereto as Exhibit "A." Said documents have been discussed, reviewed, revised, and mediated by the Parties.

III. **Execution of Intergovernmental Agreements.** The County and City hereby approve, execute, and enter into the Intergovernmental Agreements attached hereto as Exhibit "B." Said agreements have been discussed, reviewed, revised, and mediated by the Parties.

IV. **Execution and Filing of Dismissals With Prejudice.** The County and City hereby approve, execute, and authorize the filing of the forms for the joint dismissal with prejudice of all claims and counterclaims asserted in Civil Action File Numbers SUCV2018049244, SUCV2019049322, and SUCV2019049, in the Superior Court of Baldwin County. Both the County and City alleged claims with regard to how each local government used their respective water and sewer funds. After much discourse and a thorough review of the circumstances, both Parties, by and though the adoption of this Resolution, intend and have agreed to withdraw, dismiss, and forever abandon these respective claims against each other; provided however, this statement is not in any way intended nor shall it be interpreted to be a waiver of any kind by either Party of any future claims that may arise from and after the implementation of the new 2020 Service Delivery Strategy and the associated intergovernmental agreements.

V. **Authorization of the Chairman, County Attorney, and Clerk.** The Baldwin County Board of Commissioners hereby authorizes the transmission of the Service Delivery Strategy Agreements attached as Exhibit A and Intergovernmental Agreements attached as Exhibit B to the Department of Community Affairs for verification. The Baldwin County Board of Commissioners hereby authorizes the filing of the forms for joint dismissal with prejudice in Civil Action File Numbers SUCV2018049244, SUCV2019049322, and SUCV2019049, in the Superior Court of Baldwin County.

VI. **Authorization of the Mayor, City Attorney, and Clerk.** The City of Milledgeville Mayor and City Council hereby authorize the following transmission of the Service Delivery Strategy Agreements attached as Exhibit A and Intergovernmental Agreements attached as Exhibit B to the Department of Community Affairs for verification. The City of Milledgeville Mayor and City Council hereby authorizes the filing of the forms for joint dismissal with prejudice in Civil Action File Numbers SUCV2018049244, SUCV2019049322, and SUCV2019049428, in the Superior Court of Baldwin County.

VII. **Term.** Unless otherwise provided in Exhibit A or Exhibit B, the revised Baldwin County Service Delivery Strategy shall have a term of ten (10) years from the effective date.

VIII. **Severability.** To the extent any portion of this Resolution is declared to be invalid, unenforceable, or nonbinding, that shall not affect the remaining portions of this Resolution.

IX. **Repeal of Conflicting Provisions**. All City and County resolutions are hereby repealed to the extent they are inconsistent with this Resolution.

X. **Effective Date.** This Resolution shall take effect immediately.

THIS RESOLUTION adopted this 6 day of February, 2020.

**The Mayor and Alderman of the City of Milledgeville**

By: _____
Mayor

Attest: _____
City Clerk

[seal]

**Baldwin County, Georgia**

By: _____
Chairman, Board of Commissioners

Attest: _____
County Clerk

[seal]

**A JOINT RESOLUTION OF BALDWIN COUNTY, GEORGIA, AND THE CITY OF MILLEDGEVILLE, GEORGIA, APPROVING FORMS PERTAINING TO THE DELIVERY AND FUNDING OF CERTAIN SERVICES PURSUANT TO THE SERVICE DELIVERY ACT.**

***WITNESSETH:***

**WHEREAS,** Baldwin County, Georgia ("County") is a duly formed political subdivision of the State of Georgia;

**WHEREAS,** the City of Milledgeville, Georgia ("City") is a municipal corporation duly organized and existing under the laws of the State of Georgia;

**WHEREAS,** the Service Delivery Act, O.C.G.A. § 36-70-20, *et seq.*, requires each county and all cities located therein to develop, approve, and implement a service delivery strategy that specifies the manner in which all local governmental services will be provided and funded; and

**WHEREAS,** the Service Delivery Act also requires the periodic review and revision of service delivery strategies upon the occurrence of any one of the six conditions specified in O.C.G.A. § 36-70-28(b); and

**WHEREAS,** the City and County have been engaged in negotiations to revise the Parties' 2008 Service Delivery Strategy; and

**WHEREAS,** for the benefit of the City, the County, and their citizens, the City and the County have determined that it is in best interests of each of them to adopt the certain Service Delivery Forms, over which the parties have no disagreement, which are attached hereto as Exhibit "A"; and

**WHEREAS,** the City and the County desire to approve and transmit the Service Delivery Forms attached hereto as Exhibit "A," subject to finalizing the terms of all other service delivery and litigation issues, including, but not limited to, Water and Sewer, Roads Construction and Maintenance, Library, Animal Control, SPLOST, and a dismissal of pending litigation in Civil Action File Numbers SUCV2018049244, SUCV2019049322, and SUCV2019049 related to the 2008 SDS Agreement;

**THEREFORE, IT IS NOW JOINTLY RESOLVED BY THE BALDWIN COUNTY BOARD OF COMMISSIONERS AND THE CITY COUNCIL OF THE CITY OF MILLEDGEVILLE, GEORGIA AS FOLLOWS:**

I. **Incorporation of Recitals.** The above stated recitals are true and correct and are incorporated as though fully set forth herein.

II. **Acceptance of Service Delivery Strategy Agreements.** The County and City hereby approve the Service Delivery Strategy Agreements attached hereto as Exhibit "A." Said documents have been discussed, reviewed, revised, and mediated by the Parties. Acceptance of the Service Delivery Strategy Agreements attached hereto as Exhibit "A" is contingent on the Parties' finalizing and resolving all other service delivery and litigation

issues, including, but not limited to. Water and Sewer, Roads Construction and Maintenance, Library, Animal Control, and SPLOST. Upon the final approval and execution of all Service Delivery Strategy Agreements and Forms, Intergovernmental Agreements, and the execution of all litigation settlement documents, the Parties will submit their complete Service Delivery Strategy to the Georgia Department of Community Affairs for verification.

III. **Authorization of the Chairman, County Attorney, and Clerk.** The Baldwin County Board of Commissioners hereby authorizes the approval of those Service Delivery Strategy Agreements attached as Exhibit "A."

IV. **Authorization of the Mayor, City Attorney, and Clerk.** The City of Milledgeville Mayor and City Council hereby authorize the approval of those Service Delivery Strategy Agreements attached as Exhibit "A."

V. **Severability.** To the extent any portion of this Resolution is declared to be invalid, unenforceable, or nonbinding, that shall not affect the remaining portions of this Resolution.

VI. **Repeal of Conflicting Provisions**. All City and County resolutions are hereby repealed to the extent they are inconsistent with this Resolution.

VII. **Effective Date.** This Resolution shall take effect immediately.

THIS RESOLUTION adopted this 10th day of ~~January~~ February, 2020.

**The Mayor and Alderman of the City of Milledgeville**

By: Mary Parham Copelan
Mayor

Attest:
City Clerk

[seal]

**Baldwin County, Georgia**

By:
Chairman, Board of Commissioners

Attest: Cynthia K. Cunningham
County Clerk
**Approved by Board of Commissioners**
**January 28, 2020**
[seal]

- FINAL APPROVED

# INTERGOVERNMENTAL SALES TAX AGREEMENT

This **INTERGOVERNMENTAL SALES TAX AGREEMENT** (this "Agreement"), made and entered into as of this 12 day of February, 2020, by and between Baldwin County, Georgia (the "County"), a political subdivision of the State of Georgia, and The Mayor and Aldermen of the City of Milledgeville (the "City"), a municipal corporation duly created and existing under the laws of the State of Georgia (sometimes singularly referred to as a "Party" and collectively referred to as the "Parties");

## W I T N E S S E T H:

**WHEREAS,** the voters of Baldwin County have approved the re-imposition within the special district of Baldwin County (the "Special District") of a special one percent sales and use tax (the "Sales Tax"), pursuant to Part 1 of Article 3 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated (the "Sales Tax Law") for the purposes of providing funds to pay a portion of the costs of the hereinafter described capital outlay projects to be carried out by the County, the City, and the Development Authority of the City of Milledgeville and Baldwin County (the "Development Authority") in the following estimated amounts; provided, however, the County and City will look for project efficiencies to save monies wherever possible to avoid project overruns and thereby attempt to fund as many projects as financially feasible under this Sales Tax:

(a) level-one County-wide capital outlay projects (the "Level-One Projects"):

(1) acquisition, construction, and installation of new County administrative building as an annex to County courthouse - estimated $7,800,000,
(2) County courthouse renovations, improvements, and additions, including security replacements and upgrades – estimated $4,800,000,
(3) County jail renovations and improvements, including security replacements and upgrades – estimated $750,000, and
(4) renovations and improvements to County health department buildings, including energy efficient replacements and upgrades - estimated $200,000;

(b) level-two County-wide capital outlay projects (the "Level-Two Projects"):

(1) park, recreational, and cultural facilities and equipment, including new aquatics facility – estimated $2,000,000,
(2) economic development projects, including airport improvements – estimated $1,000,000,
(3) County-wide communications system (Oconee Area-wide Radio System) upgrades – estimated $660,000,
(4) animal control facilities, including new animal control office and shelter and related vehicle and equipment replacement – estimated $220,000, and
(5) senior citizens center upgrades and renovations – estimated $50,000;

(c) capital outlay projects to be owned or operated or both by the County or one or more local authorities within the Special District pursuant to intergovernmental contracts with the County (the "County Projects"):

(1) road, street, bridge, and drainage improvements and related equipment upgrades and replacement – estimated $6,700,000,
(2) water distribution system and sewer collection system upgrades and expansion and related equipment upgrades and replacement – estimated $5,000,000,
(3) fire protection and public safety facilities and equipment – estimated $6,000,000, and
(4) economic development projects, including infrastructure and site development for Sibley-Smith Industrial Site, Fall-Line Industrial Park, and Central State Hospital Redevelopment Site - estimated $1,000,000;

(d) capital outlay projects to be owned or operated or both by the City (the "City Projects"):

(1) water distribution system and sewer collection and treatment system upgrades and expansion and related equipment upgrades and replacement, including replacement of water treatment facility – estimated $5,000,000,
(2) fire and police protection and public safety facilities and equipment – estimated $6,000,000,
(3) road, street, bridge, park, and drainage improvements and related equipment upgrades and replacement - estimated $6,500,000, and
(4) municipal buildings and facilities renovations, improvements, and additions, including equipment replacement and upgrades - estimated $1,500,000; and

(e) capital outlay projects to be owned or operated or both by the Development Authority (the "Development Authority Project"):

(1) development of Milledgeville-Baldwin County Industrial Park, including acquisition of approximately 1,700 acres of land and related infrastructure and site development, for location of new industries – estimated $6,776,000; and

**WHEREAS,** the Sales Tax Law allows the proceeds of the Sales Tax to be distributed pursuant to the terms of a contract entered into pursuant to Article IX, Section III, Paragraph I of the Constitution of the State of Georgia between the County and one or more "qualified municipalities" (as defined in the Sales Tax Law) located within the Special District containing a combined total of no less than 50 percent of the aggregate municipal population located within the Special District; and

**WHEREAS,** the County and the City desire to enter into this Agreement to meet the provisions of Section 48-8-115(b)(2)(B)(i) of the Official Code of Georgia Annotated (the "Georgia Code");

**NOW, THEREFORE,** in consideration of the respective representations and agreements hereinafter contained and in furtherance of the mutual public purposes hereby sought to be achieved, the County and the City do hereby agree as follows:

**Section 1. Representations of the County.** The County makes the following representations as the basis for the undertakings on its part herein contained:

(a) The Sales Tax was validly reimposed pursuant to the Sales Tax Law.

(b) The County is permitted by Article IX, Section III, Paragraph I of the Constitution of the State of Georgia to contract for any period not exceeding fifty (50) years with the City for joint services, for the provision of services, or for the joint or separate use of facilities or equipment.

(c) The County has the power to enter into this Agreement and to perform all obligations contained herein, and has, by proper action, duly authorized the execution and delivery of this Agreement.

**Section 2. Representations of the City.** The City makes the following representations as the basis for the undertakings on its part herein contained:

(a) The City is a "qualified municipality" within the meaning of the Sales Tax Law.

(b) The City contains a total of no less than 50 percent of the aggregate municipal population located within the Special District.

(c) The City is permitted by Article IX, Section III, Paragraph I of the Constitution of the State of Georgia to contract for any period not exceeding fifty (50) years with the County for joint services, for the provision of services, or for the joint or separate use of facilities or equipment.

(d) The City has the power to enter into this Agreement and to perform all obligations contained herein, and has, by proper action, been duly authorized to execute and deliver this Agreement.

**Section 3. Term.** The term of this Agreement shall commence with the execution and delivery hereof and shall extend until the termination of the Sales Tax.

**Section 4. Capital Outlay Projects.** The County shall apply the proceeds of its General Obligation Bond, Series 2018 (the "Bond") to pay the costs of the Level-One Projects, the Level-Two Projects, the County's Water and Sewer Upgrades and

Expansion (purchase of water and sewer infrastructure from the City recognized by separate agreement dated February ____, 2020), and the Development Authority Project, before it applies any proceeds of the Bond to pay the costs of any other County Projects. The County shall design and engineer the Level-One Projects and the Level-Two Projects for an aggregate cost that does not exceed the unspent proceeds of the Bond, after applying Bond proceeds to purchase the Development Authority Project from the Development Authority and pay the City for said Water and Sewer Expansion Project.

**Section 5. Distribution of Sales Tax Collections.**

(a) The County shall apply the proceeds of the Sales Tax, after payment of the collection fee provided for by Section 48-8-115(a)(1) of the Georgia Code, to fund the following capital outlay projects in the following order of priority:

(1) First, a sufficient amount shall be set aside to accumulate funds in the Sinking Fund for the Bond to pay the semiannual interest requirements and annual principal requirement next coming due on the Bond during the current calendar year, 58.3% of the annual principal requirement coming due on the Bond in the next following calendar year, and 8.3% of the semiannual interest requirement coming due on the Bond on June 1 of the next following calendar year;

(2) Second, Sales Tax collections received by the County shall be applied annually as soon as practicable to fund the Level-One Projects ratably and pay the City for said County Water and Sewer Expansion Project, but this only applies to the extent not funded with proceeds of the Bond; and the County covenants to take all reasonable measures to ensure that such projects do not exceed their respective or total estimated bonded costs;

(3) Third, Sales Tax collections received by the County shall be applied annually as soon as practicable to fund the Level-Two Projects ratably, but this only applies to the extent not funded with proceeds of the Bond; and the County covenants to take all reasonable measures to ensure that such projects do not exceed their respective or total estimated bonded costs;

(4) Fourth, Sales Tax collections received by the County shall be distributed to the City on an annual basis for a total distribution up to, and no less than, $6,500,000, beginning July 15$^{th}$ , 2020, or as soon as practicable thereafter, to the City to fund the City Projects ratably;

(5) Fifth, the following percentages of the remaining Sales Tax collections received by the County shall be ratably applied as soon as practicable to the following purposes:

(A) 38.7% shall be paid to the City to fund the City Projects ratably, to the extent not funded as set forth above, and

(B) 61.3% shall be applied by the County to fund the County Projects and the Development Authority Project ratably, to the extent not funded from proceeds of the Bond.

All capital outlay projects included in this Agreement shall be funded from proceeds from the Sales Tax, except as otherwise agreed in this Agreement.

(b) The City agrees to defend, indemnify and hold harmless the County from any and all claims asserted by any third person or entity, relating to or arising out of this Agreement and the County's obligations with respect to the Bond.

**Section 6. Use of Sales Tax Proceeds**. The proceeds received from the Sales Tax shall be used by the County and the City exclusively for the related capital outlay projects specified in the recitals hereof or to repay obligations that finance such capital outlay projects. Such proceeds shall be kept in separate accounts from other funds of the County and the City and shall not in any manner be commingled with other funds of the County and the City prior to expenditure.

**Section 7. Record-Keeping and Audit Requirements**. The County and the City shall maintain a record of each and every project for which the proceeds of the Sales Tax are used. A schedule shall be included in each annual audit of each party hereto that shows for each such project the original estimated cost, the current estimated cost if it is not the original estimated cost, amounts expended in prior years, and amounts expended in the current year. Each party's auditor shall verify and test expenditures sufficient to provide assurances that the schedule is fairly presented in relation to each party's financial statements. The auditor's report on each party's financial statements shall include an opinion, or disclaimer of opinion, as to whether the schedule is presented fairly in all material respects in relation to the financial statements taken as a whole.

**Section 8. Entire Agreement**. This Agreement expresses the entire understanding and all agreements between the parties hereto with respect to the subject matter hereof.

**Section 9. Severability**. If any provision of this Agreement shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses, or

sections contained in this Agreement shall not affect the remaining portions of this Agreement or any part hereof.

**Section 10. Counterparts**. This Agreement may be executed in several counterparts, each of which shall be an original, and all of which shall constitute but one and the same instrument.

**Section 11. Amendments in Writing**. No waiver, amendment, release, or modification of this Agreement shall be established by conduct, custom, or course of dealing, but solely by an instrument in writing only executed by the parties hereto.

**Section 12. Limitation of Rights**. Nothing in this Agreement, express or implied, shall give to any person, other than the parties hereto and their successors and assigns hereunder, any benefit or any legal or equitable right, remedy, or claim under this Agreement.

**IN WITNESS WHEREOF,** the Parties hereto have duly approved this Agreement and have authorized their respective officers specified below to execute their names and affix their entity's respective seals hereto.

Baldwin County, Georgia

By: _____
Chairman, Board of Commissioners

Attest: _____
Clerk, Board of Commissioners

[seal]

The Mayor and Aldermen of the
City of Milledgeville, Georgia

By: _____
Mayor

Attest: _____
City Clerk

[seal]

**[END]**

STATE OF GEORGIA,
COUNTY OF BALDWIN.

**INTERGOVERNMENTAL AGREEMENT**
**BETWEEN**
**CITY OF MILLEDGEVILLE, GEORGIA**
**AND**
**BALDWIN COUNTY, GEORGIA**
**REGARDING WATER AND SEWER SERVICE**
**WITHIN UNINCORPORATED BALDWIN COUNTY**

THIS AGREEMENT, is made this 6 day of February, 2020 by the CITY OF MILLEDGEVILLE, a Georgia municipal corporation wholly situated within Baldwin County, Georgia (hereinafter, the "City") and BALDWIN COUNTY, a political subdivision of the State of Georgia (hereinafter, the "County"; collectively, the City and County shall be referred to as the "parties").

IN CONSIDERATION OF THE COVENANTS AND MUTUAL PROMISES HEREIN MADE AND OTHER CONSIDERATION RECEIVED, THE RECEIPT AND SUFFICIENCY OF WHICH IS HEREBY ACKNOWLEDGED, THE PARTIES AGREE TO BE BOUND, EACH TO THE OTHER, AS FOLLOWS:

1.

LEGAL AUTHORITY: This writing (hereafter referred to as "the Agreement" or "IGA") shall constitute a binding, legal contract by and between the parties hereto, in accordance with the authority granted by Article IX, Section III, Paragraph I of the 1983 Constitution of the State of Georgia. Each of the parties herein covenants that it has the requisite legal authority to provide the services, perform the functions, construct,

operate and maintain the facilities and equipment, and otherwise do all things necessary, ancillary and convenient, to carry out the obligations and responsibilities herein set forth, either expressly or by reasonable implication. Said parties further covenant that all conditions precedent or actions required by law to authorize said agreement have been taken or performed in proper form. This agreement shall constitute a valid, binding and enforceable obligation of each party. The parties covenant that they will uphold and defend the validity and enforceability of this agreement in any proceeding in which it may be contested or challenged by a third party.

2.

PURPOSE AND INTENT: The purpose of this Agreement is to evidence the parties' mutual agreement as to future service delivery for potable water distribution and sanitary sewage collection, treatment and disposal to customers located in unincorporated Baldwin County lying outside of the present City of Milledgeville. The material terms hereof have been negotiated during mandatory Service Delivery Strategy mediation in 2019 and early 2020. The City has agreed to sell and convey to the County a portion of its current service area north of the present City along the shores of Lake Sinclair, consisting of water distribution lines, sanitary sewage collection lines, and related infrastructure required for the County to provide water distribution and sewer collection to customers in the unincorporated County; provided, for the term of this Agreement the County shall purchase not less than 11.0 million gallons per month (mpm) of treated drinking water from the City, on a "take or pay" basis, and the City will provide sanitary sewage treatment and disposal for the County on the terms and

conditions hereinafter set out. This Agreement supersedes the current sewer contract between the parties, effective as of its date of commencement as set forth below.

3.

TERM: This Agreement shall commence at 12:01 a.m. on February 7, 2020 and terminate at Midnight on February 6, 2040, unless terminated sooner by mutual agreement of the parties. The parties covenant that this Agreement is in their mutual best interest and should govern the parties as to its subject matter for its full term, unless both parties, by a majority vote, agree to future modification, which would best mutually serve both parties' future delivery strategy for retail Water Service and Sewer Service to customers located in unincorporated Baldwin County; provided however this provision shall not apply in the event of a material breach which is uncured after following the procedures of Paragraph 10.

4.

GENERAL DEFINITIONS:

A. *Water Service.* "Water Service" shall mean the provision of properly treated, potable drinking water and the operation and maintenance of associated infrastructure in accordance with applicable state and federal laws, regulations and standards.

B. *Sewer Service.* "Sewer Service" shall mean the collection and treatment of sewerage (i.e., wastewater) and the operation and maintenance of associated infrastructure in accordance with applicable state and federal laws, regulations and standards.

C. *County Water and Sewer System.* "County Water and Sewer System" shall mean the County Service Area and all the accounts, assets, customers, equipment, infrastructure and interests used in the provision of Water Service and Sewer Service

within the County Service Area, as shown on Exhibit "B". As provided in this agreement, the City of Milledgeville has the authority to provide Water Service and Sewer Service to serve certain customers in the unincorporated area as shown on Exhibit "A". The County Water and Sewer System will be operated, maintained, and provided exclusively by the County or by or with such other entity as the County chooses to contract.

D. *City Water and Sewer System*. "City Water and Sewer System" shall mean the City Service Area and all the accounts, assets, customers, equipment, infrastructure and interests used in the provision of Water Service and Sewer Service to customers in the municipal limits of the City of Milledgeville and those certain customers in the unincorporated area of Baldwin County served by the water or sewer lines as shown on Exhibit "A" of the City Service Area. For the duration of and in accordance with the transfer of customer and assets as contemplated in the Transition Period as defined below, the City Water and Sewer System shall include the customers, accounts, interests, infrastructure and equipment associated with the water and sewer service area depicted in Exhibit "C", incorporated herein and collectively referred to as the "Water and Sewer Transfer Territory"; provided, however, the Water and Sewer Transfer Territory does not include the City's water mains located on Log Cabin Road, Sinclair Dam Road, or the area currently located inside the City's incorporated area east of PA Johns Road. The City Water and Sewage System will be operated, maintained, and provided exclusively by the City or by or with such other entity as the City chooses to contract.

E. *County Service Area.* "County Service Area" shall mean the unincorporated area of Baldwin County, Georgia, as shown in Exhibit "B", less and except those water lines

and sewer lines in the area shown in Exhibit "A" incorporated herein.

F. *City Service Area.* "City Service Area" shall mean the incorporated area of Baldwin County, Georgia as well as the water and sewer lines in the unincorporated area as shown in Exhibit "A" attached hereto and collectively referred to as the City Service Area.

5.

CITY TRANSFERS & COUNTY PAYMENT:

A. *Transition.* The City and County agree to a transition and phase-in period for the transfer of the Water and Sewer Transfer Territory, as shown on Exhibit "C". The transition period will be for 365 consecutive days beginning on the Effective Date (hereinafter "Transition Period"). During each 3-month quarter of the Transition Period, the County shall pay for and take over from the City, a minimum of 25% of the Water and Sewer Transfer Territory. (The percentage shall be based on the total number of billing accounts within the Water and Sewer Transfer Territory. All customers and accounts with present and future service located within the addresses listed in Exhibit D shall be included in the transition and no transition period will commence or occur until a definitive number of accounts is determined and agreed upon by both the City and the County.) The County has sole discretion in the selection of which portion of the Water and Sewer Transfer Territory it will take over during each 3-month quarter. In the event the County decides to take over more than 25% of the Water and Sewer Transfer Territory during one of the first three quarters, the County will take over the remaining Water and Sewer Transfer Territory during the fourth quarter. (For instance, if the County takes over 33% of the Water and Sewer Transfer Territory during the first quarter and 25% in both the second and third quarters, the County would take

over the remaining 17% in the fourth quarter.) The entire purchase and transfer of the Water and Sewer Transfer Territory shall be completed on or before the last date of the Transition Period. At the end of each 3-month quarter during the Transition Period, the total number of customers and their respective accounts transferred from the City to the County will be identified and the total water consumption of those customers will be applied to the minimum of 11 million gallons of water per month the County is required hereunder to purchase from the City as described in Paragraph 6 below.

B. *Service.* During the Transition Period, the City shall continue to provide Water Service and Sewer Service to the rate payers located in the Water & Sewer Transfer Territory until these customers are transferred to the County Water and Sewer System. Upon the transfer of customers and accounts in the Water and Sewer Transfer Territory, the County shall provide Water Service and Sewer Service to the applicable rate payers. Following the Transition Period, the City shall provide Water Service and Sewer Service in the City Service Area, and the County shall provide Water Services and Sewer Service in the County Service Area. The City shall provide Water Service and Sewer Service to the County as provided for in Paragraph 6 of this Agreement. This agreement shall serve as an effective repeal of any service area agreements previously entered into or agreed to by the parties.

C. *Water and Sewer Asset Transfer and Payment.* By execution of this Agreement, the City agrees to transfer to the County by quitclaim deed and bills of sale, and the County agrees to accept, any and all interest the City has in the accounts, assets, control, customers, equipment, infrastructure and land interests in the Water and Sewer Transfer Territory. Said transfer in the Water and Sewer Transfer Territory shall take place during the Transition Period, as described above. Prior to County's payment

discussed below, the City agrees to approve and sign any document necessary to effectuate this transfer of that portion of the City Water and Sewer System in the Water and Sewer Transfer Territory. In exchange for said transfer, the County shall pay to the City a total of $4.25 million within one year from the execution of this Agreement. The County will use general obligation bond funds backed by the County's share of SPLOST proceeds to fund the $4.25 million transfer price. The purchase price shall be paid in four quarterly installments during the Transition Period based upon the percentage of the Water and Sewer Transfer Territory transferred to the County. (For example, if the City transfers to the County 25% of the Water and Sewer Transfer Territory during the first quarter of the Transition Period, then the County will pay to the City $1,062,500.00 on or before the last workday of first quarter of the Transition Period.)

D. The City grants to the County the express right to tap on to and install meters on the City Water and Sewer System in order to service the County Water and Sewer System customers. To service the County Water and Sewer System customers, the City consents to the County installing water or sewer lines alongside the City's existing water or sewer lines located on Log Cabin Road, Sinclair Dam Road, and PA Johns Road; in the unincorporated areas of the City's Service Area; the City consents and waives any objection to the County doing so.

6.

CITY AND COUNTY PAYMENTS / RATES:

A. *Water Purchase and Rates.* The County shall purchase Water Service from the City at the rate of $1.60 per thousand gallons of water (inclusive of any and all fees or other charges) subject to increases as provided for herein. The City shall not charge additional fees or charges to the County for Water Service. Both retail and wholesale

water rates (inclusive of all fees and charges) imposed on the County and the City's unincorporated area customers by the City shall not increase by more than the same percentage as the rates (inclusive of all fees and charges) are increased by the City to its incorporated area water customers. (For instance, if the City raises said rates by 10% on incorporated area customers, then the City may only raise the rates it charges to the County and/or the City's unincorporated area customers by a maximum of 10%.). At least thirty (30) days prior to the effective date of any such increase, the City shall provide to the County written notice of any such increase. The City agrees to provide Water Service to the County through master meters installed by the City and County at locations jointly determined by the parties for connection of the City Water System to the County Water System. The City and County shall share equally in the cost of these meters, their installation, and periodic calibration.

B. *Water Purchase.* During each month of the one-year Transition Period described in Paragraph 5 above, the County shall purchase a percentage of 11 million gallons of water per month (hereafter abbreviated as "MGM") which corresponds to the percentage of the customers transferred from the City to the County in the Water and Sewer Transfer Territory. (For instance, if at six months into the Transition Period, the County has taken over half of the Water and Sewer Transfer Territory, the County shall purchase at least 5.5 million gallons per month thereafter.) At the end of the Transition Period, if the County has paid the City for less than the full 11.0 million gallons of water per month, the County shall remit to the City the monetary difference between what was purchased and what is owed by no later than the forty-fifth (45th) day following the end of the Transition Period. Following the Transition Period and for the duration of this Agreement, the County shall purchase no less than 11 million gallons of water per month

from the City. If following the Transition Period, the County purchases less than 11 million gallons of water per month from the City, then the County shall remit to the City the monetary difference between what was actually purchased and what is owed, within fifteen (15) days of the close of the following month. If, based on master meter readings for the prior month, actual monthly consumption exceeds 11.0 million gallons per month, payment shall be based on the current wholesale rate per thousand gallons times actual monthly volume of water consumed and following the same remittance schedule.

C. *Sewer Rates.*

i. *County Sewer Rates.* The City shall provide Sewer Service to the County at the wholesale rate of $4.14 per thousand gallons (inclusive of any and all fees) through the end of 2020. Beginning in 2021, the rate will be $4.50 per one thousand gallons (inclusive of any and all fees). For each five-year period thereafter, the City shall increase said wholesale sewer rate at a maximum of 5% per each five-year period inclusive of the first year of this Agreement. At least thirty (30) days prior to the effective date of any such increase, the City shall provide to the County written notice of any such increase. Nothing herein should be construed to prevent the City from increasing its sewer rates on exclusively the sewer ratepayers within the incorporated area of the City.

ii. Retail sewer rates (inclusive of all fees and charges) imposed on the City's unincorporated area customers by the City shall not increase by more than the same percentage as the rates (inclusive of all fees and charges) are increased by the City to its incorporated area sewer customers. (For instance, if the City raises said rates by 10% on incorporated area customers, then the City may only raise the rates it charges to the City's unincorporated area customers by a maximum of 10%.).

iii. Sewer Service charges shall be based on the water consumption of those customers in the County Service Area that are also connected to the County Sewer System and follow the same remittance schedule as used in the Water Purchase section.

*(D) County Special Limited Obligation.* The County agrees that its obligation to pay for Water Service and Sewer Service to be provided to retail customers within the County Service Area, as shown on Exhibit "B", constitute special, limited obligations of the County which, pursuant to O.C.G.A. §36-70-24, shall be borne by the unincorporated area residents, individuals, and property owners who receive the services from the County. Payments to the City may be generated from any of the revenue sources from the County's unincorporated special district, including taxes, as defined in DCA Form 2's agreed upon by the City and County in the Service Delivery Strategy.

7.

OPERATION AND COVENANT NOT TO COMPETE: As provided above, the City retains the right to own and operate its existing water lines in the rights-of-way of Log Cabin Road and Sinclair Dam Road, and sanitary sewer mains in road rights-of-way or easements adjacent thereto, with the right to repair, replace and extend such water lines and sewer mains; provided, however, during the term of this Agreement, the City covenants not to compete against the County for retail water or sewer customers outside the City Service Area as depicted on Exhibit "A". The County, to serve customers located within the County Service Area depicted on Exhibit "B" shall have the right to tap into City water lines between the master meters that will be installed on Log Cabin Road as

well as on the delivery side of master meters installed on North Jefferson Street, PA Johns Road, and on service lines for The Club at Lake Sinclair, and Legacy at Lake Sinclair

and to install water meters within the right-of-way of Log Cabin Road, and/or to install its own water lines within the right-of-way of Log Cabin Road.

8.

MINIMUM STANDARDS: The City represents to the County that treated drinking water sold to supply County water customers shall meet minimum regulatory standards of the Georgia Department of Natural Resources, Environmental Protection Division, be provided in accordance with sound engineering design standards and practices, and that the City will, at all times relevant hereto, hold and maintain all required permits, licenses and certifications required by law and in good standing, for public water supply, treatment and distribution. The City further represents to the County that its operation of the City Water and Sewer System shall, at all times relevant hereto, meet minimum regulatory standards of the Georgia Department of Natural Resources, Environmental Protection Division, be provided in accordance with sound engineering design standards and practices, and that the City will hold and maintain all required permits, licenses, and certifications required by law and in good standing.

9.

EXTENSION OF COUNTY SYSTEM(S) AND COOPERATION: The County represents and warrants to the City that it will design, construct, operate and maintain the County Water and Sewer System in accordance with sound engineering design standards and practices, and that it will hold and maintain all required permits, licenses, and certifications required by state law. The parties agree that the City Water and Sewer

System and the County Water and Sewer System shall not be operated as an integral system and that each party shall be separately permitted; provided, however, if required by law or regulations, all connections between the County Water and Sewer System and City Water and Sewer System, existing or future, shall be designed by a professional engineer, licensed and in good standing in the State of Georgia, subject to approval by Georgia EPD to the extent required by law. Construction shall be performed only by Georgia-licensed utility contractors. All sewer users connected onto the County Water and Sewer System shall be metered for water usage and the County shall maintain the meters in good working order.

As a wholesale purchaser of water from the City and in order to discharge sewage to the City's treatment plants, the County will promulgate and enforce all environmental and operational regulations pertaining to operation of the County Water and Sewer System, including restrictions on illicit discharges to its sewer collection system, cross-connections to its drinking water system, and drought management policies. The County agrees to notify the City, as far in advance as possible, of any new water user locating within the County, whose estimated consumption is 100,000 gallons or more per day. The parties agree to work cooperatively in the interest of and protection of their customers and the environment at all times.

10.

BREACH AND DISPUTE RESOLUTION: The parties agree that in the event of any alleged breach of this Agreement, the partying contending the breach shall first serve written notice, in sufficient detail, of the condition(s) that created the alleged breach on the opposite party, who shall have ten (10) days in which to take affirmative measures to cure the breach, if any, or show cause why no breach has occurred. Should

the dispute not be resolved to the parties' satisfaction by this process, the parties agree, before filing a lawsuit, to first submit the dispute to mediation with the parties sharing the costs of the mediator and any related costs. The mediator's findings and conclusions shall be non-binding on the parties. Selection of the mediator shall be the joint decision of the Mayor of the City and Chairman of the Board of County Commissioners; however, if the two are unable to agree on selection of a mediator, the parties shall jointly petition the Chief Judge of the Superior Court of Baldwin County, who shall make the selection.

11.

MUTUAL RELEASES

A. Both the County and City have alleged claims in the following lawsuits (SUCV2019049244, SUCV2019049322, and SUCV2019049428), including challenging how each local government used their funds with respect to Water Service and Sewer Service. After much productive discourse and review of the circumstances, both parties have forever resolved and dismissed these respective claims against each other. This dismissal and statement is intended to move the County and City forward on a positive path of cooperation. This statement is not in any way intended nor shall it be interpreted to be a waiver of any kind by either party of any future claims that may arise from and after the implementation of the new 2020 Service Delivery Strategy and the associated intergovernmental agreements.

B. The County waives and forever releases the City, its officers, agents or employees from any and all liability or causes of action whatsoever pertaining to any and all transfers from the City's water and/or sewer fund to the City general fund prior to the effective date of this Agreement.

C. The City waives and forever releases the County, its officers, agents or employees from any and all liability or causes of action whatsoever pertaining to any and all transfers from the County general fund to the County's water and/or sewer fund prior to the effective date of this Agreement.

12.

INDEMNIFICATION AND HOLD HARMLESS: If a claim is brought against the County arising out of failure of the City to perform its obligations and/or the City's negligent operation of the City's Water and Sewer System, to the extent allowed by law, the City agrees to indemnify and hold the County harmless from such claim, suit or action. If a claim is brought against the City arising out of failure of the County to perform its obligations and/or the County's negligent operation of the County's Water and Sewer System within the County Service Area, to the extent allowed by law, the County agrees to indemnify and hold the City harmless from such claim, suit or action. It is the intention of the parties that this indemnification provision shall exclude any administrative proceedings brought against either party by Federal or State regulators for violation of permits, licenses, and certifications.

13.

GENERAL TERMS:

A. This writing supersedes any prior contract, agreement, or negotiation between the parties regarding its subject matter. No amendment or modification hereof shall be effective unless in a writing signed by both parties, dated subsequent to this Agreement, and spread upon the Minutes of the respective party.

B. Time is of the essence of this Agreement.

C. For purposes of interpretation, all terms shall have their common or usual meaning or significance, unless such term is a term of art defined herein, used in a specialized field, or has been statutorily defined for a specific application, in which event it shall have such technical meaning as assigned thereto. Whenever statutes or regulations require specific acts to be performed, including conditions precedent to specific acts, or dictate a specific manner of performance, such specification shall be deemed the minimum standard governing performance.

D. Notices given pursuant to this Agreement shall be effective if either personally served and delivered, or if sent by certified mail, return receipt requested, addressed as shown below, with adequate postage thereon:

TO: BALDWIN COUNTY

County Manager
121 N. Wilkinson Street
Milledgeville, GA 31061

TO: CITY OF MILLEDGEVILLE

City Manager
119 E. Hancock Street
Milledgeville, GA 31061

E. The parties to this Agreement hereby certify that they are in compliance with the Georgia Security & Immigration Compliance Act of 2006, as amended, and will maintain compliance throughout the term of this Agreement.

F. The provisions of this Agreement are hereby deemed and declared to be severable. If any provision of this Agreement, or the application of any provision to any circumstance, is held to be unconstitutional, unenforceable, or invalid, for any reason, the remaining provisions, terms, conditions, and obligations contained herein shall not be affected thereby, and this Agreement shall otherwise remain in full force and effect.

G. Unless otherwise stated in this Agreement, the laws of the State of Georgia

shall govern the validity, interpretation, performance and enforcement of this Agreement and any dispute involving the terms of this Agreement without regard to conflicts of laws principles.

WHEREFORE, THE PARTIES HAVE SET THEIR HANDS AND AFFIXED THEIR SEALS TO THIS AGREEMENT, BY AND THROUGH THEIR DULY AUTHORIZED OFFICIALS, THE DAY AND YEAR ABOVE WRITTEN.

BALDWIN COUNTY, GEORGIA

By: _____
Chairman, Board of Commissioners

Attest: _____
County Clerk

(SEAL)

CITY OF MILLEDGEVILLE, GA

By: _____
Mayor

Attest: _____
City Clerk

(SEAL)

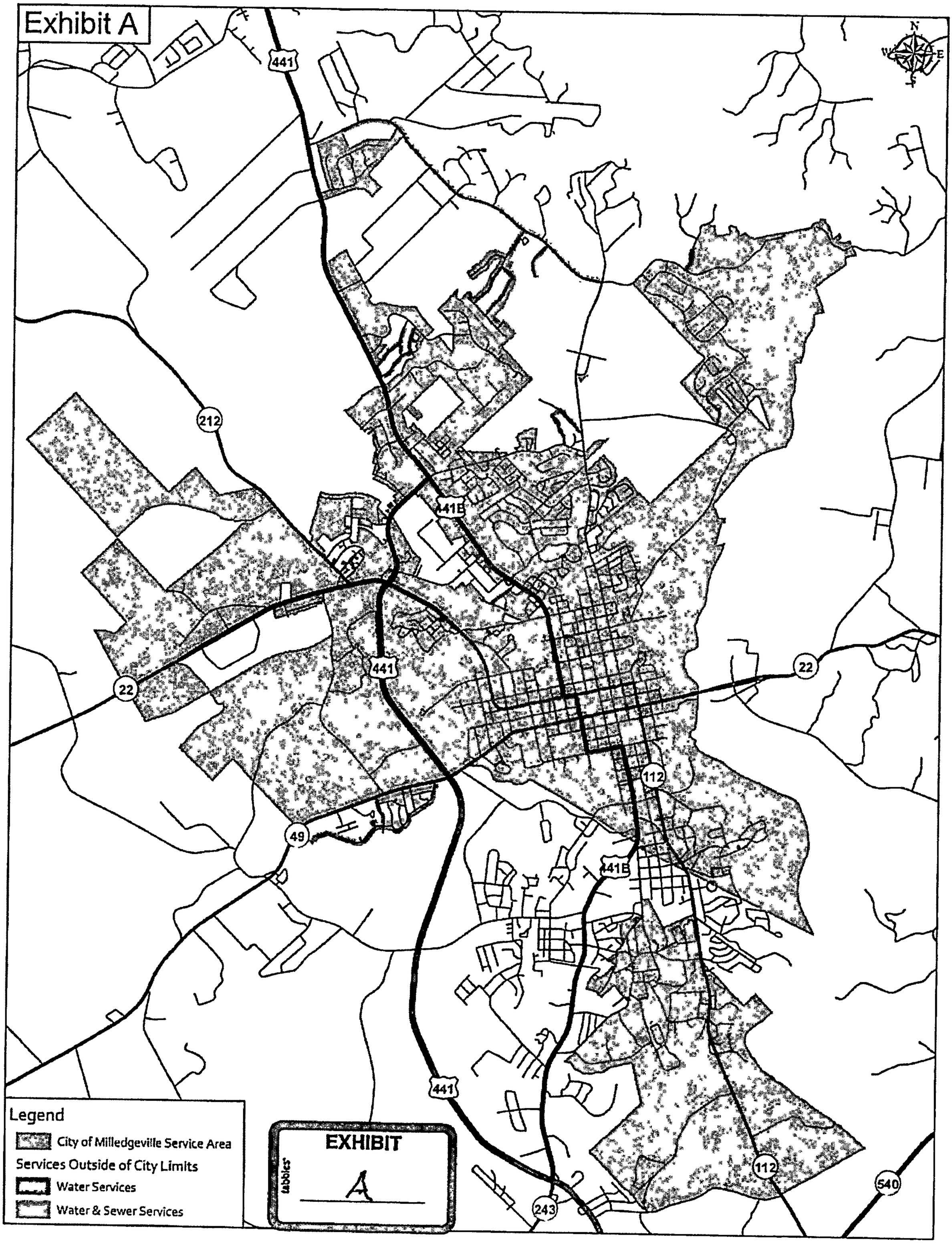
Approved as to form:

By: _____
County Attorney

Approved as to form:

By: _____
City Attorney

# Exhibit A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City of Milledgeville Service Area
Services Outside of City Limits
Water Services
Water & Sewer Services
EXHIBIT
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