

OCONEE JOINT REGIONAL SEWER AUTHORITY REQUEST FOR PROPOSALS

Professional Services

PROJECT #2024-01 Regional Feasibility Planning Study



PROPOSAL SUBMITTAL DUE DATE/TIME: June 30, 2023 at 2:00 PM Local Time

Advertisement Date	On or before May 26, 2023 at 12:00 pm Local Time
Pre-submittal Conference	June 8, 2023 at 2:00 pm Local Time OJRSA Operations & Administration Building 623 Return Church Rd., Seneca, SC 29678
Deadline for Inquiries	June 16, 2023 at 3:00 pm Local Time
Submittal Deadline	June 30, 2023 at 2:00 pm Local Time
Interviews (if necessary)	To be scheduled for week of July 31, 2023
Project Award	August 7, 2023 OJRSA Board Meeting
Review of Contract and <i>Notice to Proceed</i> Issued by RIA	Following August 7, 2023 OJRSA Board Meeting
Begin Project	Upon notification of <i>Notice to Proceed</i> by OJRSA

Request for Proposals

Description of Project

The Oconee Joint Regional Sewer Authority (hereafter referred to as “Owner” or “OJRSA”) is requesting proposals from firms interested in providing a regional feasibility planning assessment. This project consists of the development of a comprehensive feasibility study to determine if regionalizing sewer collection, conveyance, and treatment in Oconee County, South Carolina and a portion of Anderson County will streamline service delivery and enhance the success of the community and its quality of life. The study must include analysis and recommendations in the following core areas: (1) governance structure; (2) revenues and finance; (3) environmental compliance, (4) utility resources, and (5) efficiency in operations and service.

Currently, sewer collection service in Oconee County is provided by multiple entities, including the cities of Seneca, Walhalla, Westminster, and the Town of West Union. The OJRSA also provides contractual operational and maintenance services for a small collection system owned by Oconee County. These satellite sewer systems discharge their wastewater to OJRSA at strategically located trunk sewer connection points for conveyance and treatment.

OJRSA will select one professional firm with experience in regional feasibility planning and engineering (hereafter referred to as “Firm”) to fully complete the project. The contract method will be a standard professional services contract.

Background and System Information

The OJRSA is a public organization as established by the Title 6 Chapter 25 of South Carolina Law (Joint Authority Water and Sewer Systems Act). The OJRSA actually consists of two (2) systems that operate independently of each other: the “wholesale” trunk-and-treat system and the retail system. Both utilize the Coneross Creek Water Reclamation Facility (WRF), permitted at 7.8 million gallons per day, for treatment.

OJRSA Wholesale Sewer System

The wholesale system, including the 7.8 MGD treatment facility, is what the OJRSA was initially created to own and operate. It consists of approximately 65 miles of gravity sewer, 15 pump stations, 24 miles of force mains, and four (4) permanent flow monitoring stations. The flow monitoring stations record flow that enters the OJRSA conveyance system from its three (3) member cities: Seneca, Walhalla, and Westminster (**NOTE:** West Union’s wastewater flow is upstream of some of Walhalla’s collection system; however, West Union is not a current a member of OJRSA as it does not currently meet the membership criteria. A copy of THE INTER-MUNICIPAL AGREEMENT AND JOINT RESOLUTION CREATING A JOINT AUTHORITY WATER AND SEWER SYSTEM BY SENECA, WALHALLA, WESTMINSTER, AND OCONEE COUNTY is included as Exhibit B of this RFP).

The OJRSA has 18 full-time employees to operate this system.

OJRSA Retail Sewer System

In 2018, it was determined that the OJRSA was the only eligible party to provide retail sewer collection services to the southern part of Oconee County.¹ Based on this ruling, the OJRSA was

¹ This determination was established by the Appalachian Council of Governments. Prior to the OJRSA’s involvement in this area of the county, Oconee County was seeking grants to establish a retail sewer service along I-85. According to a previous economic development director with Oconee County, Pioneer Rural Water District was approached to own and operate this retail sewer service, but they declined. By state statute, Pioneer can provide wastewater collection but not treatment services.

deemed the only party eligible to apply for a grant to construct a collection system for the area. The OJRSA was provided with funding by the South Carolina Rural Infrastructure Authority (“RIA”), United States Economic Development Administration (“EDA”), and Oconee County to construct a retail sewer system to serve Exit 2 on I-85 and the South Carolina Welcome Center, which includes two (2) pump stations and approximately 1.6 miles of gravity sewer and 3.1 miles of force main. Construction for this project is fully funded and is projected to start in 2023. The OJRSA, Oconee County, and Anderson County have also performed several sewer planning studies in the area over the last two (2) years.

The OJRSA does not have staff dedicated to operating the retail sewer system and performs necessary work after hours (non-exempt staff while paid overtime) or as worked into the schedule during the normal workday or afterhours (exempt staff). All emergency work is performed by non-exempt and exempt staff when it occurs, regardless of whether it is during normal hours or afterhours. Oconee County government is billed for all time and resources involved with operating and maintaining the retail system.

Satellite Sewer Systems

The satellite sewer systems served by the Coneross Creek WRF include (units are approximate):

- Seneca: 25 miles of gravity sewer, 28 pump stations, and 12 miles of force main
- Walhalla: 17 miles of gravity sewer, 3 pump stations, and 3 miles of force main
- Westminster: 14 miles of gravity sewer, 0 pump stations, and 0 miles of force main
- West Union: 1 mile of gravity sewer, 0 pump stations, and 0 miles of force main
- Oconee County: 0 miles of gravity sewer, 1 pump stations, and 11 miles of two parallel force mains (22 miles total) which pump flow to the Coneross Creek WRF for treatment
- Privately-owned DHEC Satellite Sewer Systems: 25± total systems. Infrastructure within unknown.

Pioneer Rural Water District, Town of Salem, and Anderson County (west of Seneca River portion of Lake Hartwell) currently do not provide wastewater collection and/or treatment services in the study area.

Privately Owned Treatment Systems

There are also several privately owned wastewater treatment utilities in the study area, including but not limited to: Keowee Key subdivision, Chickasaw Point subdivision, Foxwood Hills subdivision, I-85 Exit 4/Jacobb Utilities (serves a truck stop), Carolina Landing Campground, The Pier student housing development, and those owned and operated by School District of Oconee County. The OJRSA receives, treats, and disposes of all solids and sludge from most, if not all, privately owned treatment plants in the county.

Scope

The selected Firm will be required to conduct a feasibility study on the regionalization of sewer collection, conveyance and treatment in Oconee County and Anderson County (west of Seneca River portion of Lake Hartwell). The study must include analysis and recommendations in the following core areas: (1) governance structure; (2) revenues and finance; (3) environmental compliance, (4) utility resources, and (5) efficiency in operations and service (hereafter referred to as the “Core Focus Areas”).

Organizations

Organizations and territory (hereafter referred to as “Organizations”) to be included in this study:

- Oconee Joint Regional Sewer Authority (OJRSA)
- City of Seneca

- City of Walhalla
- City of Westminster
- Town of West Union
- Oconee County
- Pioneer Rural Water District
- Town of Salem
- Anderson County (for area west of Seneca River/Lake Hartwell)

In order to complete the objectives for this project, the Firm will be required to review technical, financial, managerial, and operational issues for each of the above-listed Organizations and make recommendations for all of the following tasks:

- Identify utility and water quality protection agencies, including the 208 Plan Administrator with the Appalachian Council of Government (ACOG), and other stakeholders (e.g., Anderson County, Pioneer Rural Water District, etc.) and conduct interviews and collect necessary data to complete the tasks defined within this scope.
- As they relate to the five (5) Core Focus Areas, review the following current information for each Organization:
 - Governance and organizational structure, board/council policies, and operating procedures;
 - Existing facilities and capabilities to achieve and/or maintain environmental compliance² and accommodate and fund growth using best wastewater operational and design practices;
 - Policies for funding and financing capital and maintenance needs;
 - Present user rates and other revenue sources to fund wastewater operations and system expansion to the unserved or underserved regions of their service areas;
 - Historical use of revenues and funds relating to operating, maintaining, and/or expanding sewer infrastructure; and
 - Current dedicated wastewater staffing levels and operational and technical capabilities, management, equipment, and other items to comply with applicable laws and regulations, to include OJRSA Sewer Use Regulation, as they relate to operating and maintaining a wastewater collection and/or treatment system.
- Evaluate other applicable items in the OJRSA’s grant application narrative as submitted to RIA (see Exhibit A) and identify other areas of concerns or opportunities for improvement within the scope of this project. Notes regarding Exhibit A:
 - Attachments/Enclosures mentioned in exhibit will be made available for download from link beneath project title at www.ojrsa.org/opportunities, and
 - Dates listed in certain sections related to estimated project timeline were required for inclusion in the grant application but are no longer considered valid for this project and have been struck through.

IMPORTANT NOTES:

1. OJRSA legal counsel will be a provided resource to the selected Firm and shall be paid directly for services by OJRSA. The Firm shall work with OJRSA’s counsel to review legally permissible governance options and formulate recommendations with rationale as to which are the most favorable for the region.

² A sewer system evaluation study (“SSES”) is not necessary; instead, develop a reasonable opinion on a system’s conditions using standard operating procedures (“SOP”), work orders, purchase orders, documentation of inspections and repairs, sanitary sewer overflow reports, interviews with frontline maintenance and operational staff, preventative maintenance records and procedures, etc.

2. This Project does not include completing the tasks identified in Paragraph 4 of the Deliverables section but they may be considered by OJRSA to implement in future if funding is available. If approved to proceed with these tasks, the OJRSA, at its sole discretion, reserves the right to enter into contract negotiations with the Firm selected without the requirement to readvertise.

The above is a general description of the tasks required. This is not intended to be all-inclusive, nor is it guaranteed that the above tasks will be utilized. A more defined Scope of Work will be developed during the negotiation with the selected Firm.

Once the study phase is complete, the Firm shall develop and present a draft report to the stakeholders and seek to identify any information gaps that may require further consideration. Once completed, the chosen firm will finalize a report that includes a summary of the issues and challenges observed, possible options and alternatives considered, and then present a recommendation (or a shortlist of several recommendations) for the stakeholders to consider.

Upon receipt of stakeholder feedback, the Firm shall then revise the report and forward to RIA for review. If RIA has questions or concerns, these should be addressed in a revision and resubmitted back for their review. Once the report is finalized by RIA, it will be presented to the legislative bodies of the OJRSA, Member Cities, Oconee County, and West Union. It is also a possibility to present the findings to the Oconee County Legislative Delegation, Pioneer Rural Water District, Town of Salem, Anderson County, and others as appropriate.

Deliverables

At a minimum, the final report shall include:

1. Background information on each Organization (e.g., government type, authority to provide wastewater conveyance and/or treatment services, governance structure and organization, etc.);
2. Findings of items as defined in the Scope; and
3. Recommend any reorganization and/or consolidation practices that would improve on services within the Core Focus Areas, including consolidation, merger and/or sale of assets, with focuses on the following:
 - a. Economic and revenue models that would best fit the immediate and future needs of the proposed organization(s);
 - b. How the system(s) are best suited to best comply with appropriate environmental laws and regulations;
 - c. Funding operations and financing capital projects, including gaining economies of scale in order to maximize efficiency and effectiveness; and
 - d. Project the future capital needs to comply with regulations and accommodate growth.
4. Firm shall provide the following information for next recommended steps or phases in the recommendations (**IMPORTANT NOTE:** This Project does not include completing the tasks beyond identifying following them as described below but they may be considered by OJRSA to implement in future if funding is available. If approved to proceed with these tasks, the OJRSA, at its sole discretion, reserves the right to enter into contract negotiations with the Firm selected without the requirement to readvertise.)
 - a. Details about recommended steps or phases;
 - b. Gantt chart with approximate timeframes and critical paths for recommendations; and
 - c. Approximate cost ranges to implement each phase/step.

Monthly progress reports and upcoming tasks are required to be distributed to the Owner until the study is complete.

Pre-Submittal Conference

A Pre-submittal Conference will be held on June 8, 2023 at 2:00 pm Local Time at the Oconee Regional Joint Sewer Authority Operations & Administration Building, located at 623 Return Church Road, Seneca, SC 29678. Representatives of all interested parties are encouraged to be present to discuss the Project.

Minutes from the Pre-submittal Conference will be posted on the OJRSA website (www.ojrsa.org/opportunities) under the project title within 2 business days of the meeting.

Project Start Date

Upon receiving notice from OJRSA that RIA has issued a Notice to Proceed.

Project Milestones and Completion Dates

It is important that this project must be completed on time to comply with terms of the RIA grant.

Establish Stakeholder Group of existing sewer partners, representatives of additional agencies/entities affected by sewer service, and key citizens.

Months 1-2

Structural Assessment Report:

Assessment of 5 Key Focus Areas

- Governance and organizational structure
- Existing facilities inventory and capabilities analysis
- Analysis of existing revenue and capital and maintenance financial needs
- User rates assessment and alternative revenue sources
- Assessment of wastewater services staffing levels and operational and technical capabilities.

Months 1-4

Facilitated Meetings with Stakeholders Group to review background information; identify deficiencies, conflicts, and opportunities; and explores future operational alternatives.

Months 3-9

Draft report on recommendation for Reorganization/Consolidation of sewer services in Oconee County
7 Months

Final draft for submittal to RIA after consultation with stakeholders and accompanying revisions
8-9 Months

Submittals

Interested, qualified Firms are requested to submit a detailed proposal in the conduct of similar work per the selection criteria/guidelines provided in this RFP. All proposals shall contain the following, at a minimum (NOTE: if required as an appendix, these pages shall not count in the maximum page counts):

1. Introduction (*Maximum 2 pages*): This section shall include a cover letter signed by an authorized representative of the offering Firm. The Table of Contents shall follow the cover letter. (NOTE: The Table of Contents does not count in the maximum page requirement)
2. Firm information (*Maximum 5 pages*): This section shall include the office location(s) where the work will be performed and business structure (sole proprietorship, partnership, or corporation).
 - a. Total number of staff and current/future workloads of the Firm.

- b. Prior ten (10) year (minimum) work history with OJRSA, Member Cities, or any of the Organizations to be included in the study.
 - c. List any unresolved claims or disputes with other clients to whom the firm has provided work in the last five (5) years.
3. Firm Experience and Qualifications (*Maximum 6 pages*): Describe the Firm-wide qualifications and resources specific to this RFP that will be available to support the performance of the work.
- a. Include at least one (1), *preferably up to three (3)*, recent projects in which your Firm provided regional feasibility planning services similar to the services requested in this RFP. Please include the following information:
 - i. Owner name, project name, and location
 - ii. General description of the regional feasibility project
 - iii. Date awarded and date completed (or date of anticipated project completion)
 - iv. Total fees for services provided
 - v. List of change orders, scope changes, etc. and the reason for the changes. Include fees or deducts associated with the changes.
 - vi. Firm's role in the project (work for which the Firm was responsible)
 - vii. Nature of the utility (regional wastewater conveyance and treatment system, re-tail collection system, etc.)
 - viii. Owner reference and contact information (phone, email, etc.)
 - ix. Proposed project team members who worked on these projects
 - b. Any licenses, certifications, or accreditations your Firm holds that would be relevant to the services to be performed.
4. Project Team and Resources (*Maximum 5 pages*): Briefly describe the project team and include the following information:
- a. An organizational chart showing staff available to work on the project, including office locations. Provide résumés (to be included in an appendix) for key staff that will have responsibility for the work.
 - b. Experience and qualifications of both the Project Manager and the key project team members (AICP planner, Professional Engineer, GIS analyst, financial analyst/rate consultant, human resources professionals, etc.) that are relevant to the services to be performed.
 - c. Identify proposed subconsultants utilized as part of your team and their role(s) in your approach to the project.
 - d. Any special employee training or certification of the project team members.
 - e. Current and projected workload of the project team.
5. Project Approach (*Maximum 6 pages*):
- a. Describe your company's general approach in executing the project, utilizing previous experience and highlighting specific characteristics that would differentiate your approach from other Firms.
 - b. Describe how the project will be managed.
 - c. Present consideration for project milestones (e.g., stakeholder kickoff meeting, data collection, interviews, progress reports, final presentation of report, etc.).

Selection Criteria

Applicants are encouraged to organize their submissions in such a way as to follow the general evaluation criteria listed below. Information included within the proposal may be used to evaluate your Firm as part of any criteria regardless of where that information is found within the submittal. Information obtained from the proposal and from any other relevant source may be used in the evaluation and selection process. Submittals will be evaluated according to the following criteria (maximum of 120 points):

1. Previous experience regarding quality of projects and demonstrated history of executing successful projects of similar scope. (one is valued at up to 40 points and each additional one deemed by

the Panel to be similar to services requested in this RFP is worth up to an additional 10 points each with maximum of two additional submittals [as stated in SUBMITTALS section 3.a)]

2. Technical expertise and competence, including education, registration, and years of experience of individuals with similar projects who will be assigned to this project. Demonstrated experience in projects where key personnel have knowledge, accuracy, availability, and ability to work together as a team. (up to 25 points)
3. Creativity and insight related to the project. (up to 15 points)
4. Firm's ability to meet time and budget requirements, including current and projected workloads for the project team specifically. (up to 15 points)
5. Current or prior history of work with OJRSA, Member Cities, Oconee County, Town of West Union, Pioneer Rural Water District, Town of Salem, and Anderson County. Such experience is not a prerequisite for selection. (up to 3 points)
6. Overall compliance with the RFP requirements. (up to 2 points)

Selection Process

The OJRSA will accept submittals that include, at a minimum, the items identified in this RFP. The anticipated selection process is as follows:

1. OJRSA Executive Committee, OJRSA Executive Director, OJRSA Operations Director, Oconee County Administrator, and ACOG 208 Plan Administrator (the "Panel") shall review submittals and recommend the Firm for OJRSA Board approval.
2. If there is not a clear top choice for the Firm, the Panel may conduct interviews with the three (3) top-ranked Firms. The purpose of the interview, if conducted, shall be to gain additional information to adequately evaluate the proposed methodology and qualifications based on the criteria identified in the Selection Criteria.
3. The Panel will recommend one (1) Firm to the OJRSA Board of Commissioners with which to enter contract negotiations. Upon award of the project, a professional services contract will be negotiated with the selected Firm. Should OJRSA and the selected Firm(s) not reach an agreement, OJRSA reserves the right, at its sole discretion, to release that Firm and move to the next qualified Firm and proceed with negotiations. NOTE: RIA must approve the OJRSA's method of selection prior to award.
4. Written notification of the selected Firm will be sent to all Firms that submitted proposals upon execution of final professional services contract for the project.

General Terms and Conditions

Proprietary/Confidential Information: The Firms are asked for any restrictions on the use of data contained in their responses and told that proprietary information will be handled in accordance with applicable law, regulations, and policy of the OJRSA. All proprietary/confidential information must be clearly marked as "Proprietary/Confidential"; however, it may be necessary for the OJRSA's to decide if information designated by the submitter in the RFP is indeed confidential in terms of compliance with the South Carolina Freedom of Information Act. In such cases, OJRSA counsel specializing in the state's Freedom of Information Act shall make final determination as to whether the documents meet the requirements to remain confidential.

South Carolina Domicile Requirement

This project does not have a domicile requirement.

Background Check

OJRSA reserves the right to conduct a background inquiry of each Firm which may include the collection of appropriate criminal history information, contractual business associates and practices, employment histories, and reputation in the business community. By submitting proposals to the OJRSA, the Applicant consents to such an inquiry and agrees to make available to the OJRSA such books and records as the OJRSA deems necessary to conduct the inquiry.

Insurance

Firm agrees to maintain and keep in force during the life of this Agreement, with a company or companies authorized to do business in South Carolina, Errors and Omissions Liability Insurance in the amount of \$1,000,000. Certificates for such policies shall be provided by the Firm's insurance agent or broker to OJRSA within ten (10) working days from the date of award with the OJRSA listed as additional insured on the policy. Firm will provide OJRSA a minimum of thirty (30) days advance notice in the event of the insurance policies or insurance policy is canceled. Subconsultants approved by OJRSA to perform work on this project are subject to the requirements in this section.

Determination of Responsibility

The OJRSA may make such investigation as it deems necessary to determine the ability of a Firm to provide full performance as outlined in their submittal. The Firm will furnish the OJRSA all such information and data for this purpose as the OJRSA may request. The OJRSA reserves the right to reject any Firm if the evidence submitted by or investigation of such Applicant fails to satisfy the OJRSA that such Applicant is properly qualified to carry out the obligations of a Contract.

Rights Reserved by OJRSA

The OJRSA reserves the right to amend its evaluation criteria at any time during the process.

In conjunction with RIA, the OJRSA, in its sole discretion, may utilize an independent review member or team. A review and evaluation of the responses contained in the previous section will serve as a basis of selection of the Firm judged best suited to meet the OJRSA's goals for the site and ask them to submit more detailed information.

The OJRSA reserves the right to reject any or all submittals; to waive any informality or irregularity not affected by law; and to evaluate, in its absolute discretion, the proposals submitted. The OJRSA may interview Firms as part of this selection process. Proposals should be complete as initially submitted.

Submittal Requirements

Applicants must submit one (1) scan-ready original, three (3) bound copies, and one (1) electronic version of the proposal package marked "Project #2024-01 RFP: Regional Feasibility Planning Study," to the OJRSA **no later than 2:00 pm Local Time on June 30, 2023**. The submittal should not exceed twenty-four (24) pages, not including cover letter, Table of Contents, résumés, audited financial statements, and any other documents required in the Submittals section that are to be located in the appendices. The pages shall be 8½-inches by 11-inches except for drawings or tables that may be submitted on pages not exceeding 11-inches by 17-inches, folded to 8½ inches by 11 inches.

LATE SUBMITTALS WILL NOT BE ACCEPTED

It is the Applicant's responsibility to verify the receipt of the submittal. Electronic submittals must be received in an Adobe Acrobat PDF format using common fonts.

Any questions regarding this RFP should be submitted by way of email to Chris Eleazer at info@ojrsa.org. Responses will be provided via email to all Firms requesting to receive them; they will also be posted under the Opportunities tab on the OJRSA website (www.ojrsa.org) as an addendum. Any representations made over the phone or in verbal conversations are non-binding and should be secured in writing through email.

Questions shall be addressed to and the RFP shall be submitted to:

Email: info@ojrsa.org
Address: Oconee Joint Regional Sewer Authority
Project #2024-01
623 Return Church Road
Seneca, South Carolina 29678

Exhibit A

OJRSA Regional Feasibility Planning Grant Application Project Narrative

Background

Under the terms of Act No. 950 of 1971, as amended, the Oconee County Sewer Commission, was formed for the purpose of determining the feasibility for a modern, consolidated wastewater treatment facility. That Commission determined there was a means and method to provide service to improve the environmental and economic climate in Oconee County.

Thereafter, and in in the aftermath of the Home Rule amendments to the South Carolina Constitution, 1895, as amended, Oconee County held its “going into the business” sewer referendum and the County, by ordinance No. 78-2 dated February 28, 1978, created the Oconee County Sewer Commission³ (OCSC), establishing a sewer utility in the County and constructing the new Coneross Creek Water Reclamation Facility (Coneross WRF), located southwest of Seneca.

On February 4, 1980, the OCSC began receiving flow at its pump stations and the Coneross WRF. Prior to becoming operational, OCSC entered into service agreement with the cities of Seneca, Walhalla, and Westminster (collectively referred to herein as “Member Cities” or “Cities”), as well as the town of West Union, under which the Cities would maintain ownership and maintenance of their existing satellite sewer systems and discharge their wastewater to the OCSC at strategically located trunk sewer connection points for conveyance to the Coneross WRF. This contract-based arrangement lasted until the mid-2000s, when it was decided the OCSC would best be served as its own organization without Oconee County’s oversight.

The Oconee Joint Regional Sewer Authority (OJRSA) was established as a Joint Authority Water and Sewer System in 2007 under the provisions of Title 6 Chapter 25 of the Code of Laws of South Carolina 1976, as amended. Upon creation, the Oconee County transferred all of its assets, including the Coneross WRF to OJRSA.

OJRSA was established, and is now governed, by the provisions of an agreement entitled “Inter-Municipal Agreement and Joint Resolution Creating a Joint Authority Water and Sewer System . . . Pursuant to Chapter 25, Title 6, South Carolina Code of Laws as Amended by Act No. 59, South Carolina Acts and Joint Resolutions, Effective June 6, 2007, and Assignment of Rights, Privileges, Duties and Obligations Previously Agreed to by the Parties, and Agreement of the Authority to Provide Sewer Services,” by and among the Member Cities, and filed in the offices of the Clerk of Court of Oconee County as of October 31, 2007 (Authority Agreement). OJRSA is governed by a commission consisting of nine commissioners (Authority Commission). Pursuant to the Authority Agreement, the Authority Commission is composed of four members appointed by Seneca, two members appointed by Walhalla, two members appointed by Westminster, and one member jointly appointed by Walhalla and Westminster (each a Commissioner).⁴

³ Same name, different government organization from the SPD.

⁴ The Walhalla/Westminster joint appointment and one of Seneca’s four are “at large” representatives, meaning they cannot be an employee for any Member City nor can they live inside the municipal boundary of one of the cities.

The Authority Commission serves as the legislative body for OJRSA and is responsible for hiring an executive director to oversee OJRSA's day-to-day operations and implement the policies adopted by the Authority Commission. Neither Oconee County Council nor the town of West Union⁵ have direct representation on the Authority Commission.⁶

Needs

Governance

Under the current structure, the Commissioners are appointed by their respective city councils and have the difficult task of establishing policies and making decisions for what is in the best interest of the OJRSA, while also being respectful to the conditions and needs of their respective Cities and elected officials. Occasionally, Commissioners are put into “no-win situations,” as they must decide between matters that may favor the OJRSA but are detrimental to their respective City or vice versa; it’s been said that Commissioners have to “wear two hats” at Authority Commission meetings—one for their City and the other for the OJRSA. The Commissioners serve entirely at the pleasure of the city councils and they can remove or replace them at any time, even if they are still within their appointed term.⁷ Also, it has been publicly recognized by the Commissioners, public, media, and even State-level elected officials (e.g., Oconee County Legislative Delegation members) that the existing governance structure does not work efficiently or effectively due to the conflicts between the Cities (and thus their Commissioners) as to how the OJRSA should operate. Currently, one of the Member Cities has threatened legal action against two of the other Cities and the OJRSA in a dispute over the number of seats they have on the Authority Commission.⁸

On May 14, 2021, the South Carolina Department of Health and Environmental Control (DHEC) issued Consent Order 21-025-W (Consent Order). The Consent Order addresses allegations of numerous sanitary sewer overflow (SSO) events within OJRSA's collection system, and requires OJRSA to undertake several corrective measures, as described in “Environmental Compliance Matters” below.

Environmental Compliance Matters

The OJRSA entered into a Consent Order with DHEC to address significant sanitary sewer overflows (SSO) that occurred across the conveyance system, as well as structural and operational issues identified during inspections of the Coneross WRF (NPDES SC0033553) and the wastewater trunk sewer over the last several years. Since January 2017, the OJRSA has documented 48 SSOs, accounting for 10.4 million gallons of untreated wastewater being released to the environment.⁹

As a result of the Consent Order, the OJRSA was required to:

1. Identify causes of the Significant SSOs;
2. Develop corrective actions to address the areas of structural issues;
3. Perform a Capacity, Management, Operation, and Maintenance (CMOM) audit;
4. Revise its Sewer Use Regulation (SUR); and

⁵ Under the Authority Agreement, West Union does not have a representative until they reach 10% of the cumulative flow to OJRSA per a IGA.

⁶ Both Oconee County and West Union own sewer infrastructure that is served

⁷ A result that is constitutionally suspect in light of Article VI, Section 1 of the South Carolina Constitution, 1895 as amended, which provides that “the terms of all officers must be for some specified period....”

⁸ September 8, 2022: <https://upstatetoday.com/seneca-no-agreement-yet-on-proposal-in-ojrsa-impasse/> (attached)

⁹ Of these, seven were classified as “Significant” in relative to SC Law 48-1-95; the remainder either did not meet volume categorizing them as Significant or were documented and justified as Acts of God (§ 48-1-95(A)(5)).

5. Recognize where Satellite Sewer Systems—those belonging to Member Cities as well as privately owned sewers—are contributing excessive inflow and infiltration (I&I) to the OJRSA’s trunk sewer.

Beyond correcting deficiencies on OJRSA’s system and the treatment facility, DHEC is also requiring the OJRSA to enforce its SUR on the largest contributors of I&I outside of the OJRSA’s system, which are the Member Cities’ sewer systems. Attorneys have recognized the difficult position the OJRSA has in enforcing its SUR on the Member Cities, as the Cities appoint the Commissioners, who then oversee policy development and have the ability to influence SUR enforcement against itself.

To date and other than certain rate adjustments, the Authority Commission has taken little action to comply with the Consent Order. As a result, OJRSA attorneys as well as the Executive Director has acknowledged that there is a remote but very real threat of the OJRSA being placed into receivership by the court if the organization did not promptly act on matters addressed in the Consent Order. The immediate concern of receivership was mitigated by a mid-year rate increase, but actions under the Consent Order are still required and outstanding.

Besides capital and equipment needs to maintain the conveyance system and treatment facility, it will likely be necessary for the OJRSA to hire additional staff and/or consultants to perform the jobs as required by the Consent Order and other DHEC requirements. OJRSA currently has 17 employees, and many are pulling double duty; for example, treatment plant operators sometimes have to serve as traffic control flaggers during emergencies, the Regulatory Services Coordinator¹⁰ manages capital projects, and the Office Manager serves as the human resources manager/accounts payable/accounts receivable/payroll administrator/sometimes accounting system software technology troubleshooter. Due to inadequate staffing, there are many inspections and/or preventative maintenance tasks that cannot be performed, along with sometimes lengthy plan reviews for potential developments. Ideally, an agency that has countywide responsibilities for regulatory, conveyance, and treatment would have either additional staff to adequately perform necessary tasks and/or funding to have consultants and contractors assist with these responsibilities.

The OJRSA is not aware of the staffing and equipment needs for the Member Cities (or their respective satellite sewer systems), nor is it aware of the conditions of their infrastructure. As previously mentioned, DHEC is expecting the OJRSA to require the Cities to meet minimum regulatory standards and has empowered the OJRSA to enforce the regulations on these systems, which can include requiring them to perform and implement a CMOM on their own systems, making capital improvements to reduce I&I that is impacting the OJRSA and/or the environment, and even paying civil penalties for failure to comply – a result that would prove difficult with an independent board, much less our Authority Commission, which as noted, struggles with its competing obligations to the Member Cities and OJRSA.

Funding

Beyond the challenges mentioned above, the OJRSA, Member Cities, and Oconee County are at a crossroads in terms of making needed repairs to their respective systems and supporting the growth that is occurring in the service area – while trying to find the funding to do so. State law requires all three Member City councils to approve any debt issue proposed by the OJRSA; the Authority Board has no independent authority to do so.¹¹ Every time the Authority Board has considered borrowing for capital projects over the last few years, one of the Member Cities opposed the measure, a result that meant OJRSA was not able to issue bonds to finance much needed capital like pump stations and other dilapidated facilities. This limitation requires the agency to take a “pay as you go” (“PAYGO”) approach to funding projects, one that takes years to save for and causes fees to be higher on users, because debt

¹⁰ Primarily serves as the Pretreatment Coordinator.

¹¹ Includes SRF Loans, bond issue, traditional loan, capital leases, and the like.

service cannot be amortized over an extended period of years. Also, the Authority Agreement expires in March 2042, meaning that even if all Cities agreed to borrow funds, then the term cannot extend beyond the expiration of the Authority Agreement since it controls all funding for OJRSA.

In 2019, the Authority Commission elected to return approximately \$4.75 million back to the Member Cities, of which \$1.95 million was unrestricted for operational and maintenance (O&M) use. This allowed for \$2.99 million to remain in the O&M Fund and reduced the restricted Capital Replacement Fund¹² to \$0.86 million. The OJRSA was reliant on the O&M fund balance to offset rate increases for the Cities. On July 1, 2021, the OJRSA had approximately \$241,000 in unrestricted cash and cash equivalents to support its operations, and its auditor remarked to the Authority Commission that the agency no longer had the ability to rely on fund balance in lieu of rate increases, as the savings have dwindled to dangerous levels – making PAYGO impossible and operations financially shaky.

In late 2021, a rate consultant presented a plan to the Authority Commission, and recommended they adopt an immediate 20% rate increase, which they passed in January 2022, and additional 20% increases over each of the next four fiscal years (which did not pass for FY 2023).¹³ Besides establishing additional funding that can be used to support O&M immediately, implementing such increases would prove to potential creditors that the OJRSA would raise rates to support debt service and meet the debt service covenants, including coverage. In a teleconference with Ms. Trish Comp, Loan Program Director at the Office of Local Government – SRF, to discuss the potential to obtain an SRF loan, she mentioned that the OJRSA would need to implement the recommended rate increases over at least an 18 month period to reach the point where they *should even be able to consider applying* for a State Revolving Fund loan.

With so many small municipal wastewater conveyance systems in Oconee County providing identical services to their customers,¹⁴ there is not much in the way of an economy of scale to be experienced by the Cities – creating significant frustration at the options available to sustain OJRSA. While one City has shared that they feel they have adequate funding (although they may be subsidizing the wastewater operations with water system or other revenues), another City, acting through one of their appointed Commissioners, publicly stated in a recent OJRSA meeting that they would be willing to give up their sewer system to the OJRSA.¹⁵ This result is untenable and something must be done.

Capital Improvements and Preparing for Growth

Much like many other sewer utilities that have been in the news lately due to their failing infrastructure, the majority of the OJRSA's pipelines, pump stations, and treatment works are 40 or more years old, much of which is approaching or has exceeded its useful life.¹⁶ There are portions of the treatment plant where equipment is missing or where obsolete equipment is placed into the "boneyard" so components can be taken from it to repair old equipment still in operation because its manufacturer stopped producing its parts decades ago. While OJRSA is applying for South Carolina Infrastructure Investment Program (SCIIP) funds to aid in repairing and replacing up to \$11 million in pipes, pump stations, and treatment process equipment, that amount represents only a portion of the major capital needs for the OJRSA System.

¹² This fund is used to replace or repair capital assets. It used to be funded at a rate of 57% of the book value of depreciation annually; however, the OJRSA Board elected to no longer fund depreciation beginning FY 2022.

¹³ The Board elected not to impose the 20% rate increase recommended by the consultant for Fiscal Year 2023 until further needs were identified so the Cities and their customers could be presented with possible other funding options (e.g., bond issue, loan, etc.).

¹⁴ Of which the OJRSA should be included in this as it owns, operates, and maintains includes approximately 56 miles of gravity trunk sewer, 16 pump stations and 15 miles of force mains.

¹⁵ It was advised that the Regional Feasibility Planning Study be performed and that the agencies follow the recommendations as identified in the study.

¹⁶ <https://www.wsj.com/articles/jackson-water-crisis-aging-infrastructure-11662132216>

After considering capital needs for several years, the Commissioners were presented with a draft capital improvement plan (CIP) early in FY 2022. The CIP list prioritized the projects and weighted safety and regulatory compliance as the highest factors when determining what to install, repair, or replace. Growth-only projects were a low factor in the ranking process because the OJRSA had so many capital needs that had to be repaired (as a result of the Consent Order that it was to use funds to replace what had to be fixed first, then consider growth-related projects). It should be noted that if a project had safety or compliance issues, the initial draft included growth considerations when replacing infrastructure. At an Authority Commission meeting in September 2021, the Commissioners discussed whether they should pay for growth to pump stations and the like because we—the OJRSA and Cities—were not receiving any benefit from these growth-related expenditures that took place outside a city limit and the only ones who stood to gain anything was Oconee County by increasing their *ad valorem* tax base. The Commissioners felt it would be beneficial for the county to contribute to pay to upside pipes and pumps; otherwise, they would strongly consider like-for-like replacement that would allow the agency to return to compliance but would not be able to handle additional flow for future growth.

Ultimately the Authority Commission adopted a CIP in December 2021 that included two options—one that could accommodate new users, and the other that was for in-kind replacement only. Some of the requirements identified in the CIP overlap with items the engineers performing the CMOM and Preliminary Engineering Report (PER) submitted to DHEC as part of the Consent Order; however, there were over \$10 million in additional considerations documented in the PER and associated Work Plan (and the possibility of tens of millions of dollars that will be identified once the CMOM is fully completed and implemented).

Growth in Oconee County seems to be occurring at a rapid pace, with most interest taking place in the unincorporated areas of the county. Oconee Economic Alliance has recently landed several industries, with some promising prospects showing serious interest across the county. A number of subdivision and other housing developments are currently under construction, with even more in design or various stages of due diligence consideration. The Coneross WRF has nearly 1.5 million gallons per day of capacity that can be used for future growth before an expansion or new plant must be considered; however, the weak link lies in a few significant areas of the system where capacity in the pipes or pumps is lacking, and there is no room remaining within them to move more wastewater for treatment without risking or experiencing overflows.

The Positives

Not all is dire at the OJRSA and there are many good things that have happened over the previous five years. Following the hire of a new executive director in 2017, there was an immediate emphasis placed on staff and public safety. Voluntary inspections were completed by SC OSHA over the next several months and all deficiencies were promptly addressed. Employees began seeing the emphasis on safety as not being a burden that made their jobs more difficult, but that their employer cared about their wellbeing, which seemed to lift employee morale. As a result of the agency's safety program and the sharp reduction of work-related injuries, the OJRSA received the SC OSHA Gleaming Star Award in 2022 and was recognized by the Water Environment Association of South Carolina as its annual Safety Award winner for 2022, an honor that has not been given to any utility by the organization in the state in a number of years.

Although under a Consent Order due to matters previously mentioned, the OJRSA's Coneross WRF has been recognized by DHEC with its 2021 Facility Excellence Award, and the National Association of Clean Water Agencies (NACWA) conferred its Gold Peak Performance Award for 2021 on the facility. This was the first year the OJRSA has applied for such awards; otherwise, the agency would likely have received many, many more, as it has been a number of years since the last effluent violation occurred. The

OJRSA's Pretreatment Program, which is the oldest such approved program in South Carolina, has recently been reapproved by DHEC and is in good standing.

The Authority Commission also recently adopted mission, vision, and values statements to provide guidance in the agency's decision-making and focus.

In the coming few months, the OJRSA plans to revise its Sewer Use Regulation, Procurement and Financial Policy, and Standard Specifications and Details Policy, all of which have been several years in the making while administration and staff have tackled the more urgent needs.

Perhaps the most glowing phrase of the work that the OJRSA is performing, in light of the challenges stated within this narrative, is that Joel Jones, Chief Executive Officer for Renewable Water Resources (ReWa) of Greenville, SC, has taken notice of the efforts and accomplishments made by the OJRSA Leadership Team and staff from afar. As a nationally recognized wastewater utility, Mr. Jones's statement made several months ago really strikes home with Chris Eleazer, OJRSA Executive Director. During a meeting, Mr. Jones commented that he had been watching the matters of the OJRSA for a while, and he was amazed by how the Authority was able to accomplish so much in so little time with so few staff and resources. The greatest compliment that anyone in the industry can receive can only come from those who know what it takes to perform at a high level, and there's no doubt that no better praise can be bestowed on the OJRSA than what Mr. Jones stated.

Retail Sewer Service

Other positive news coming from the Golden Corner of the state is the OJRSA just received notice from the US Economic Development Administration (EDA) that it has been cleared to proceed with advertising the bid for Phase II of its "Sewer South" project, which will bring sewer service to exits 1 and 2 along I-85 in Oconee County; EDA's clearance marked the final hurdle as RIA approved the project earlier this summer. The RIA/EDA grant combines for about \$4.64 million to fund this project, which was first presented to funding agencies in 2018, but has been discussed as a desire by those within the county since the 1980s. It's quite the honor for the RIA and EDA to recognize the OJRSA as a worthy partner to carry out this endeavor, as well as faith bestowed by Appalachian Council of Government when it entrusted the OJRSA to establish its first-ever venture into retail sewer into this unserved area.

The OJRSA has partnered with Oconee County to perform a sewer basin master plan for the southern portion of Oconee County and the western portion of Anderson County.¹⁷ The goal is to create a strategy to stage wastewater infrastructure construction in five-year increments for the next 20 years in this area. Another deliverable from the study will be to establish user rates for these future OJRSA retail customers.

Feasibility

Although there are many things that can be analyzed in regard to the OJRSA's system, those belonging to the Member Cities, and the relationship between all parties, there are three core problems that need to be the focus on the evaluation: governance structure, revenues and finance, and efficiency. Most of the other issues experienced by the OJRSA are impacted by one or more of those three.

The matters stated earlier in this narrative present the case for why the governing body of the organization should be assessed. Current and former Commissioners, Member City elected officials and administrators, and other key stakeholders such as Oconee County have all publicly stated the system needs to

¹⁷ South of Lake Hartwell near exit 11 on I-85, west to Townville community, south to Oconee County line, and east to Lake Hartwell.

be evaluated to see if there's a way to operate more harmoniously while still looking out for the interests of the community. A summary list of options was presented by attorneys Lawrence Flynn and Sara Weathers at the request of the OJRSA, which is included as an attachment to this document.

Because of the governance structure and its propensity to not discourage territorialism amongst the Commissioners, it is only natural that generating revenues would be difficult. Cities feel they should not have to fund repairs, replacement, or pay for growth associated with OJRSA pipes or pump stations they do not receive any direct benefit from, especially when they also have their own collection systems to maintain. When this is coupled with the primary revenue mechanism implemented by the OJRSA that requires the Authority to bill the three Member Cities as the users based on percentage of flow rather than volume used by individual customers, the Cities are less inclined to raise the base rate charged to all cities rather than smaller, incremental rate adjustments for each user.¹⁸ ¹⁹ It has also been noted about the difficulty to borrow funds as it has to be approved by all Cities, meaning that even if there is a pressing regulatory matter or action required by a Consent Order that could cost millions to repair, if all three City councils do not approve the borrowing of funds, the OJRSA is left with two options—(1) raise rates and “PAYGO” or (2) face the repercussions of enforcement action by DHEC and EPA while also exposing itself to possible lawsuits from stakeholders.

Efficiency is the final function to be reviewed. There are numerous public wastewater collection agencies within Oconee County, all with their own staff and equipment. Perhaps it is possible for the systems to assist one another with maintenance efforts, for instance: City A can own and operate the equipment necessary to perform all pipeline inspections for all the Cities and OJRSA, City B can perform all easement maintenance and construction-related activities (e.g., point repairs, manhole rehabilitation, and creekbank restoration), and City C can maintain all pump stations for all utilities. Or perhaps there is only one collection system utility that provides all these services across the entire system, or maybe there is only one wastewater agency that performs all treatment and collection system operations (thus eliminating the “wholesale” model and operating entirely as a one “retail” provider). No matter what, there are likely some efficiencies to be gained by looking at consolidating functions and services, and when efficiencies are gained, then economies of scale are also achieved and ultimately the costs are lower for the users.

The OJRSA's plan of action and schedule²⁰ for the feasibility study are as follows:

1. Identify a multi-jurisdictional team of qualified stakeholders, which may include representatives from the OJRSA, Member Cities (elected and/or staff), Oconee County, and West Union. Consideration for representation should also include other communities with the county (e.g., town of Salem), Keowee Key resort (who own and operate a private treatment plant), Pioneer Water District, Appalachian Council of Governments, and The Pier (private development on Lake Hartwell with a 0.5+ MGD WWTP).

¹⁸ As required by the Authority Agreement, the OJRSA uses pro rata share as its primary revenue generator. This method works as follows: Flows from the Cities are metered and compared to the total flow going to the treatment plant, which is then converted to a percentage. When the OJRSA develops its proposed budget for the following budget year, a base “Member City Fee” is developed after all other anticipated revenues are calculated; this base fee is then used to make the budget “whole.” The base fee is then multiplied by the percent of flow seen for each City during the previous calendar year, which determines what each City will pay for the coming year. Contrary to opinion, this model disincentivizes removal of I&I as it is much less costly for Cities to pay for a year's treatment of I&I (possibly in the tens of thousands of dollars range) versus making substantial capital improvements to remove I&I (likely in the hundreds of thousands or even millions of dollars for even “small” projects).

¹⁹ According to Willdan Financial Consultants, the OJRSA is one of very few systems they're aware of that employ the pro rata share revenue model. When asked by OJRSA to name another, the representatives were not able to readily provide the name of another utility without having to perform research.

²⁰ Dependent on the date of grant award.

2. Develop a Request for Qualifications and publicly advertise. A team will review submittals and select the firm which is identified as the most qualified to meet the specific needs for the assessment. The OJRSA will then execute a contract with the consultant and begin planning the necessary tasks. As neither the OJRSA nor any other utility in close proximity as ever performed a similar regionalization study, the OJRSA will rely on consultants and their experience to assist the agency in developing and ordering the tasks.
3. Consultant to collect data, conduct interviews and investigations with supporting agencies and other key stakeholders, coordinate with appropriate legal experts to research governance options and make recommendations as to which are the most favorable, review existing facilities and future capital needs to comply with regulations and accommodate growth, determine economic and revenue models that would best fit the immediate and future needs of the proposed organization(s), seek ways to gain economies of scale to maximize efficiency and effectiveness.
4. Once the study phase is complete, the consultant shall develop and present a draft report to the stakeholders and seek to identify any information gaps that may require further consideration. Once completed, the consultant will finalize a report that includes a summary of the issues and challenges observed, possible options and alternatives considered, and then present a recommendation (or a shortlist of several recommendations) for the stakeholders to consider.
5. Once the report is finalized, it will be presented to the legislative bodies of the OJRSA, Member Cities, Oconee County, and West Union. It is also a possibility to present the findings to the Oconee County Legislative Delegation, Pioneer Water District, Salem, Anderson County, and others as appropriate.
6. While it is not believed to be a requirement imposed by the granting agency (RIA), it is understood by the OJRSA Commissioners, Member Cities, and Oconee County that it is highly encouraged for all parties to implement the recommendation(s) as presented.

The total project is reportedly to cost approximately \$100,000, which evenly covers the following costs (\$25,000 each): Legal evaluation of models, financial review, analysis of current situation, and recommendation of options and alternatives. If there are any cost overruns beyond the amount requested in the Regional Feasibility Planning Grant Application, the OJRSA plans to cover these overages, within reason, from its O&M Fund.

Impact

Effective wastewater treatment is vital to the success of a community and its quality of life.

When a water reclamation system is operated as it should be and overseen by policy makers that keep the best interest of the organization's mission at the forefront, very few people realize the fine job the utility's staff and governors do each day—and that's a good thing. Ineffective sewer service, which some argue is what has been going on in Oconee County for years, even decades, is the frequent target of critics, the media, and regulators; along with these things, the health of the citizens and the environment are at an elevated risk of hazards.

In many ways, Oconee County's sewer infrastructure is no worse than many others across the nation; however, the local wastewater agencies have been blessed not to be located directly in or adjacent to a major city where the chance of systemwide failures are well documented in the news. There have been large cities in South Carolina that have gone under the regulatory microscope of DHEC or the EPA in recent years and were required to spend hundreds of millions of dollars to comply with Clean Water en-

forcement actions. Fortunately for the OJRSA and the Member Cities, news of its SSOs that have resulted in millions of gallons of untreated wastewater has been isolated to the local newspaper and radio, but just because it isn't making national news doesn't make it right not to fix the problems.²¹

There are approximately 80,000 citizens in Oconee County, and of those, about 20,000 are currently served by the OJRSA sewer system, which includes the Cities. West Union, and several privately-owned Satellite Sewer Systems.²² Wastewater service is about to be expanded to users in the southern portion of the county when the next phase of the retail sewer system is completed in late 2023. As evidenced by this narrative, it is safe to say that all 20,000 existing users shall benefit from an improved wastewater organization. And as Oconee County continues to grow, it will be much easier to address these issues sooner rather than later.

Attachments/Enclosures

Service Area Maps

- County map showing OJRSA and Member City service areas with overview of sewer infrastructure locations
- Localized OJRSA and Member City system map
- Water service boundaries within Oconee County with sewer infrastructure overlaid. Since the drinking water provider has right of first refusal to provide retail sewer service, this is an important document to include. NOTE: The area marked as "Pioneer Rural Water" is currently considered as OJRSA's retail sewer service area by ACOG.
- Countywide census tracts
- Fair Play/Oconee County/Townville/Anderson County/I-85 Sewer Basin Study area

Regulatory Compliance Documentation

- Most recent DHEC WRF Compliance Evaluation Inspection (June 3, 2021) and OJRSA response letter (September 17, 2021), *submitted as one document with response letter following inspection report*
- Most recent DHEC Collection System Inspection Report (January 23, 2021) and OJRSA response letter (June 9, 2020), *submitted as one document with response letter following inspection report*
- DHEC Consent Order 21-025-W as fully executed on May 14, 2021
- Preliminary Engineering Report as submitted per Consent Order requirement
- Work Plan as submitted per Consent Order requirement

Financial Documents

- Rate schedule for users – SEE ATTACHMENT FOR IMPORTANT INFORMATION
- Operating budget for FY 2023
- Audits for FY 2021 and FY 2020, which contain actual revenues and expenditures for most recent two years OJRSA is in the process of working with auditor for FY 2022 information. This data and report is not anticipated prior to early November 2022.
- Capital improvement plan Note: Preliminary Engineering Report and Work Plan mentioned above also contain anticipated expenditures beyond those listed in the CIP.

²¹ The OJRSA documents all SSOs, even those that are not considered "reportable" by DHEC requirements; however, all spills that exceed 500 gallons of non-recovered wastewater or that reach a waterbody are reported and are subject to FOIA review by the public.

²² This does not include others that are served by private sewer treatment facilities, such as Keowee Key, Chickasaw Point, Foxwood Hills/TESI, The Pier, and a few others.

Letters of Support

- Oconee County
- City of Seneca
- City of Walhalla
- City of Westminster
- Town of West Union

Other

- OJRSA Board Meeting Minutes confirming Commissioners approved for agency to apply for Regional Feasibility Planning Grant, June 6, 2022
- Governance and Structural Options legal memo from Pope Flynn, LLC; March 28, 2022
- “Seneca: No agreement yet on proposal in OJRSA impasse” article from *The Journal* (Seneca, SC) September 8, 2022
- “Scenarios if OJRSA doesn’t comply with DHEC” article from *The Journal* (Seneca, SC), December 10, 2021

Exhibit B

The following pages contain the

INTER-MUNICIPAL AGREEMENT AND JOINT RESOLUTION CREATING A JOINT AUTHORITY WATER AND SEWER SYSTEM ("OCONEE JOINT REGIONAL SEWER AUTHORITY") PURSUANT TO CHAPTER 25, TITLE 6, SOUTH CAROLINA CODE OF LAWS AS AMENDED BY ACT NO. 59, SOUTH CAROLINA ACTS AND JOINT RESOLUTIONS EFFECTIVE JUNE 6, 2007, AND ASSIGNMENTS OF RIGHTS, PRIVILEGES, DUTIES, AND OBLIGATIONS PREVIOUSLY AGREED TO BY THE PARTIES AND AGREEMENT OF THE AUTHORITY TO PROVIDE SEWER SERVICES

BY

SENECA, WALHALLA, WESTMINSTER, AND OCONEE COUNTY

as filed with the Oconee County, South Carolina Clerk of Court on October 31, 2007.

COPY

2007 OCT 31 A 9:03

FILED OCONEE, SC
SALLIE C. SMITH
CLERK OF COURT

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

INTER-MUNICIPAL AGREEMENT AND JOINT RESOLUTION
CREATING A JOINT AUTHORITY WATER AND SEWER SYSTEM
("OCONEE JOINT REGIONAL SEWER AUTHORITY")
PURSUANT TO CHAPTER 25, TITLE 6, SOUTH CAROLINA CODE OF LAWS
AS AMENDED BY ACT NO. 59, SOUTH CAROLINA ACTS AND JOINT
RESOLUTIONS EFFECTIVE JUNE 6, 2007, AND ASSIGNMENTS OF RIGHTS,
PRIVILEGES, DUTIES, AND OBLIGATIONS PREVIOUSLY AGREED TO BY
THE PARTIES AND AGREEMENT OF THE AUTHORITY TO PROVIDE SEWER
SERVICES

BY

SENECA, WALHALLA, WESTMINSTER, AND OCONEE COUNTY

OCTOBER 8, 2007 - SENECA
OCTOBER 18, 2007 - WALHALLA
OCTOBER 18, 2007 - WESTMINSTER

TRUE COPY
OCT 31 2007
SALLIE C. SMITH
CLERK OF COURT - OCONEE COUNTY

INTER-MUNICIPAL AGREEMENT AND JOINT RESOLUTION
 CREATING A JOINT AUTHORITY WATER AND SEWER SYSTEM
 (“OCONEE JOINT REGIONAL SEWER AUTHORITY”)
 PURSUANT TO CHAPTER 25, TITLE 6, SOUTH CAROLINA CODE OF LAWS
 AS AMENDED BY ACT NO. 59, SOUTH CAROLINA ACTS AND JOINT
 RESOLUTIONS, EFFECTIVE JUNE 6, 2007, AND ASSIGNMENT OF RIGHTS,
 PRIVILEGES, DUTIES AND OBLIGATIONS PREVIOUSLY AGREED TO BY
 THE PARTIES, AND AGREEMENT OF THE AUTHORITY TO PROVIDE SEWER
 SERVICES

INDEX	Page
PREAMBLE	1
AGREEMENT	3
ARTICLE 1. DEFINITIONS	4
ARTICLE 2. NAME	6
ARTICLE 3. POWERS	6
ARTICLE 4. ORGANIZATION OF AUTHORITY APPOINTMENT OF COMMISSIONERS	6
ARTICLE 5. OFFICERS AND COMMITTEES	7
ARTICLE 6. MEETINGS	8
ARTICLE 7. AGREEMENTS BY THE MEMBERS	8
ARTICLE 8. AGREEMENTS BY THE AUTHORITY	11
ARTICLE 9. EVENTS OF DEFAULT	12
ARTICLE 10. REMEDIES OF THE AUTHORITY ON DEFAULT	13
ARTICLE 11. MUTUAL AGREEMENTS BY THE MEMBER-MUNICIPALITIES AND AUTHORITY	13
ARTICLE 12. SPECIAL COVENANTS	15
ARTICLE 13. AGREEMENTS INCORPORATED IN THIS AGREEMENT	17

ARTICLE 14.	MISCELLANEOUS	17
ARTICLE 15.	MUTUAL AGREEMENTS BY THE MEMBER- MUNICIPALITIES, THE AUTHORITY, AND OCONEE COUNTY	18
ARTICLE 16.	TERMS OF AGREEMENT - AMENDMENT	19
ARTICLE 17.	EXECUTION-WHEN EFFECTIVE	19
ARTICLE 18.	ARBITRATION	19
EXECUTION	CITY OF SENECA	20
	CITY OF WALHALLA	21
	CITY OF WESTMINSTER	22
	OCONEE COUNTY	23
	OCONEE COUNTY SEWER COMMISSION	24

THIS AGREEMENT CONTAINS A PROVISION FOR ARBITRATION

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

INTER-MUNICIPAL AGREEMENT AND JOINT RESOLUTION
CREATING A JOINT AUTHORITY WATER AND SEWER SYSTEM
("OCONEE JOINT REGIONAL SEWER AUTHORITY")
PURSUANT TO CHAPTER 25, TITLE 6, SOUTH CAROLINA CODE OF LAWS
AS AMENDED BY ACT NO. 59, SOUTH CAROLINA ACTS AND JOINT
RESOLUTIONS EFFECTIVE JUNE 6, 2007, AND ASSIGNMENTS OF RIGHTS,
PRIVILEGES, DUTIES, AND OBLIGATIONS PREVIOUSLY AGREED TO BY
THE PARTIES AND AGREEMENT OF THE AUTHORITY TO PROVIDE SEWER
SERVICES

This Agreement entered into between the City of Seneca, October 8, 2007, the City of Walhalla, October 18, 2007, the City of Westminster, October 18, 2007 (referred to collectively as "Member-Municipalities") and Oconee County, _____.

PREAMBLE:

1. The City of Seneca, the City of Walhalla, and the City of Westminster are each a body politic existing by virtue of the constitution and laws of the State of South Carolina.
2. Oconee County owns a wastewater treatment plant, including real property, along with sewer lines, pump stations, apparatus, and equipment, which collects and treats wastewater discharged by the Municipalities and other customers ("Sewer System").
3. The Municipalities and the Town of West Union are the primary users of the Sewer System.
4. The construction of the Sewer System was authorized by a Referendum held on April 13, 1976:

That the Oconee County Council acting through the Oconee County Sewer Commission, be authorized to acquire, purchase, construct and operate a wastewater treatment facility to serve portions of Oconee County, consisting of a treatment plant, trunk lines, connector lines and other necessary and appropriate apparatus. Provided that and upon condition that the sole funds utilized for the acquisition, purchase, construction, maintenance and operation of such facilities shall be obtained and derived from: (1) Grants from Federal and State agencies; (2) Revenue earned and derived from the operation of the facilities to be constructed and paid only by users thereof.

5. Seneca, Westminster, and Walhalla entered into separate but identical Agreements with Oconee County, dated March, 1978, and the Town of West Union entered into a similar Agreement with Oconee County, dated October 2, 1979, ("the Agreements") whereby the Municipalities and West Union ("Cities") agreed to use the Sewer System for the transportation and treatment of wastewater generated by its utility customers, located inside and outside the cities' corporate limits for a term of 40 years. The Cities agreed to pay for the cost of transportation and treatment of the wastewater equal to the cost per thousand gallons of such treatment as determined by the County, employing accepted accounting practices. The Agreements provide that the cost per thousand gallons include the operation and maintenance of the Sewer System, the debt services on the County's sewer revenue bonds, reasonable depreciation, a reasonable reserve, taking into consideration other income which the Sewer System might earn from non-municipal customers, industrial waste surcharge and other sources of revenues available to the Sewer System. The Agreements provide that the Sewer System shall be owned by Oconee County.

6. Oconee County and the Cities entered into an Amended Agreement, dated 4 April, 2006, incorporated herein by reference, which preserved the basic provisions of the 1978 Agreement, but eliminated obsolete language and provisions and extended the Agreement until March 31, 2042.

7. Oconee County enacted Ordinance 78-2, dated 28 February, 1978, to be effective January 1, 1980 ("Ordinance 78-2"), which is incorporated herein by reference, by which the County recognized that the cities of Seneca, Walhalla, and Westminster would be the major customers of the Sewer System and that the burden of insuring the financial success and feasibility of the operation of the Sewer System would rest upon those three municipalities and their sewer customers. The Ordinance further provides that Oconee County recognized that it was desirable for the Municipalities to take an active role in conducting the affairs and establishing the policies by which the Sewer System would be operated. By Ordinance 78-2, the County established that the Oconee County Sewer Commission would be composed of nine (9) members, three (3) appointed by the City of Seneca, two (2) from the City of Walhalla, two (2) from the City of Westminster, and two (2) appointed by Oconee County.

8. In accordance with the Agreements and Ordinance 78-2, the Oconee County Sewer Commission has operated the Sewer System since the effective date of the Ordinance.

9. In accordance with the Agreements and Ordinance 78-2, the Oconee County Sewer Commission bills each Municipality monthly and each Municipality pays to the Oconee County Sewer Commission a pro-rata share of the budget based on the volume sum based on the cost of the transportation and treatment of wastewater produced by each City, respectively.

10. Except for one residential customer, (on a well) the Municipalities are the exclusive users of the Sewer System. There are four (4) customers on Pioneer Water connected directly to the County Sewer who are upstream of the Westminster sewer meter. Pioneer collects sewer fees from these customers and remits the same to Westminster directly.

11. Except for grants from state and federal agencies, the cost of operation, maintenance, and improvement of the Sewer System has been paid by the Municipalities, billed to and collected from customers of the Cities, respectively.

12. In June 1993, because of industrial growth, the industrial capacity of the wastewater treatment plant was nearing full capacity. In order to provide additional industrial capacity, it became desirable to upgrade the sewer treatment plant to add treatment capacity. Oconee County, through the Sewer Commission, obtained from the South Carolina Budget and Control Board a low-interest loan in the sum of \$8,200,000 for the cost of upgrading the system. In 1996, the Commission began making annual payments on the loan in the sum of \$609,947. These payments are billed to and collected from the Cities, respectively, pro-rata in their annual charge.

13. Because of the population growth of Oconee County, new technology, and new State and Federal regulations, the Municipalities, individually and collectively, find it necessary to again upgrade and improve parts of the Sewer System to adequately serve the Cities, their customers, and provide for future growth.

14. The Municipalities, individually and collectively, find that it is desirable and in the best interest of the residents and citizens of each Municipality, respectively, to provide sewer services to areas of Oconee County not now served by sewer but which has potential for industrial, commercial, or residential development, and further find that in order to adequately serve existing and future customers of each Municipality, respectively, and provide for economic growth, and the welfare of the residents and citizens of each Municipality, respectively, it is in the best interest of the Municipalities, individually and collectively, that they form a "Joint Authority Water and Sewer System" under the Joint Authority Water and Sewer Systems Act, Act No. 59, South Carolina Acts and Joint Resolutions effective June 6, 2007.

15. The Municipalities, individually and collectively, further find that Oconee County desires to convey and transfer title to the entire Sewer System (described by Exhibit A) to the Authority, provided the Authority agrees to operate the Sewer System for the benefit of the residents of the Municipalities and the citizens and residents of Oconee County in accordance with the agreements and understandings set forth in this Agreement and in accordance with the principles set forth in the Intergovernmental Agreement dated 18 April, 2006, the Intergovernmental Agreement (SWAG) dated 28 February, 2005, and the Memorandum of Understanding dated 24 February, 2005. It is understood and agreed that by conveying title to the Sewer System to the Authority, the County relinquishes any title, rights, or control of the Sewer System to the Authority.

WHEREFORE:

AGREEMENT

IT IS AGREED by the City of Seneca, the City of Walhalla, and the City of Westminster, each having passed a Resolution finding that entering into this Agreement is in the best interest of the residents, citizens, and customers of each Municipality, respectively, and authorizing that each Municipality enter into this agreement, which Resolutions are attached to and made a part of this Agreement, and each Municipality with

the other Municipalities, do hereby agree to and hereby create a **JOINT AUTHORITY WATER AND SEWER SYSTEM** under the provisions of the Joint Authority Water and Sewer Systems Act, **Act No. 59, South Carolina Acts and Joint Resolutions, effective June 6, 2007**, (“the Act”) and agree as set forth:

**ARTICLE 1.
DEFINITIONS**

In this Agreement, unless a different meaning appears from the context:

Section a. “Act” or “Joint Authority Water and Sewer Systems Act” shall mean Act No. 59, South Carolina Acts and Joint Resolutions, effective June 6, 2007, the “Joint Authority Water and Sewer Systems Act”, amending Chapter 25, Title 6, South Carolina Code of Laws as amended.

Section b. “Agreement” shall mean this document, duly executed by the parties, with all attachments, and all amendments hereafter made.

Section c. “Articles,” “Sections” and “Paragraphs” mentioned by number are the respective Articles, Sections, and Paragraphs so numbered.

Section d. “Authority” means the Oconee Joint Regional Sewer Authority unless the context requires a different definition or interpretation. (The Act sometimes defines “Authority” as a governmental body - see Section 6-25-20-(6)).

Section e. “Bylaws” shall mean the rules and regulations authorized by Section 6-25-100(5) of the Act which govern the Joint Authority Water and Sewer System or Joint System entitled the “Oconee Joint Regional Sewer Authority” “OJRSA”.

Section f. “Cities” shall mean the City of Seneca, the City of Walhalla, the City of Westminster and the “Town of West Union” unless some other meaning is dictated by the context in which the term is used.

Section g. “Cost” shall mean all expenditures required for the service, operation, purchase of material, transportation of effluent, including depreciation as determined by accounting methods defined in the Bylaws and/or as is defined by Section 6-25-20, Act 59, South Carolina Acts and Joint Resolutions, effective June 6, 2007.

Section h. “County” shall mean Oconee County.

Section i. “Debt Services” shall be the financial obligation of the Authority to pay for any outstanding bonds or other debts related to the Sewer System.

Section j. “DHEC” shall mean the South Carolina Department of Health and Environmental Control.

Section k. “EPA” shall mean the Environmental Protection Agency, an agency of the United States Government.

Section l. “Incorporated Agreements” means the Agreements and Memoranda of Understanding set forth in Article 13.

Section m. “Joint Authority Water and Sewer System” or “Joint System” shall mean the organization created pursuant to the Act as defined herein, chartered by the South Carolina Secretary of State for the purpose of operating water and sewer projects or systems named “Oconee Joint Regional Sewer Authority” or “OJRSA”.

Section n. “Member” shall mean either the City of Seneca, the City of Walhalla, or the City of Westminster.

Section o. “Members” or “Member-Municipalities” or “Municipalities” shall mean the Cities of Seneca, Walhalla, and Westminster.

Section p. “MGD” shall mean million gallons per day as applied to a measurement of the effluent to be discharged.

Section q. “Oconee Joint Regional Sewer Authority” or “OJRSA” shall mean this organization.

Section r. “Party” or “Parties” shall mean the signatories to this Agreement and their successors and assigns.

Section s. “Process Wastewater Surcharge” shall mean a charge, in addition to all other charges, for processing non-residential wastewater which contains chemicals, metals, or other substances which adds to the cost of treatment.

Section t. “Sewer Commission” shall mean the commission created by Legislative Act in 1971 and organized pursuant to Oconee County Ordinance 78-2 and is the predecessor entity which operated the Sewer System.

Section u. “Sewer System” shall mean the wastewater treatment facilities, the land on which the wastewater treatment plant is located, all other real property owned by Oconee County but dedicated to the Sewer System, all rights-of-way, including the trunk and connector lines conveyed to and all additions and improvements thereto to be constructed or acquired by the Authority, which provide transportation and treatment of wastewater.

Section v. The term “System's Cost” shall include expenditures for operation and maintenance costs (including, but not limited to, personnel, power, equipment replacement, chemicals, materials, et cetera), debt service, reserve, depreciation and all related expenses necessary to provide operational self-sufficiency and payment of principal and interest on sewer revenue bonds to be issued by the Authority, and any other debt incurred or assumed by the Authority.

Section w. The term “System's Net Cost” means the System's Cost, less net revenue derived from users outside any Municipality, Process Wastewater Surcharges levied by the Authority against certain industrial and/or commercial users, and any other net revenue which may be derived from users who are not served or billed by the Municipalities.

**ARTICLE 2.
NAME**

The name of the JOINT AUTHORITY WATER AND SEWER SYSTEM shall be the "OCONEE JOINT REGIONAL SEWER AUTHORITY" ("OJRSA") or ("Authority").

**ARTICLE 3.
POWERS**

THE JOINT AUTHORITY WATER AND SEWER SYSTEM, to be known as OCONEE JOINT REGIONAL SEWER AUTHORITY, is hereby organized as a public body corporate and politic as authorized by Act No. 59 , South Carolina Acts and Joint Resolutions, effective June 6, 2007 (Chapter 25, Title 6, South Carolina Code of Laws, as amended) and shall have all the power authorized and granted by the Act and by the Constitution and Laws of South Carolina, which is incorporated herein by reference, including the power and authority to purchase, construct, acquire by purchase or by eminent domain, own, operate, maintain, repair, and improve any and all works, improvements, facilities, plants, equipment, transportation lines, pump stations, sewage treatment plants, apparatus, appliances, vehicles, land, and technical equipment necessary, incidental, helpful, or to the operation of a water and/or sewer system for its members, and for such other entities as authorized by law and as agreed upon by the Authority in accordance with this Agreement or the Bylaws of the Authority, provided however, that the Authority will not purchase, own, or operate any water system in any area served by a Member without the consent of such Member. In addition, the Authority is authorized to issue revenue bonds to finance the upgrade of the Sewer System, purchase equipment, land or property, and all technical, engineering, legal, and other services necessary or incidental thereto and the Authority is authorized to pledge or assign revenue to collateralize revenue bonds or other debt. The Authority may not pledge any property or assets of the Members of the Authority, provided however, the Authority may pledge the anticipated revenue to be derived from payment from the Members for the treatment of effluent discharged by the Members. **All pledges of assets of the Authority, issuance of revenue bonds, and the creation of any debt of the Authority shall be approved by the Members.** In addition, the Authority may set rates and charges for collection, transportation, storage, treatment and distribution of water or sewer and to collect fees and charges therefor and to charge for any other services provided. The Authority shall establish bylaws, rules and regulations as are necessary or desirable to carry out its mission set forth herein and authorized by the Act.

**ARTICLE 4.
ORGANIZATION OF AUTHORITY
APPOINTMENT OF COMMISSIONERS**

Section a. Initially for the first five years, Oconee Joint Regional Sewer Authority shall be managed by nine (9) Commissioners who shall be appointed by the Members as follows:

Seneca shall appoint four (4) Commissioners, one (1) of whom shall reside outside any of the Member-Municipalities and who is not an employee of any Member.

Walhalla shall appoint two (2) Commissioners.

Westminster shall appoint two (2) Commissioners.

Walhalla and Westminster shall jointly appoint one (1) Commissioner who shall reside outside any of the Member-Municipalities and who is not an employee of any Member.

Section b. Commissioners shall serve terms of four (4) years, provided however, that any Commissioner may be removed by the appointing Member. (§ 6-25-60 (B)).

Section c. It is recognized that as the population of Oconee County increases and the demographics change, it will be necessary to change the makeup of the Authority. It is agreed that after the initial five (5) year period the make-up of the Authority may be changed so that the number of Commissioners appointed by each Member may be representative of the number of customers each Member has and the payments made by each Member to the Authority for the treatment of effluent.

Section d. No Commissioner shall be entitled to compensation, but may be paid per diem, mileage, and subsistence expenses, as provided by law for state boards, committees, and commissions, while engaged in the performance of official duties of the Authority.

Section e. Actions taken by the Authority shall be memorialized by resolution.

Section f. Any required approval by the Members of any act, rule, regulation, or bylaw of the Authority shall be made by resolution passed by a majority of the city council of each Member and filed with the Authority.

ARTICLE 5. OFFICERS AND COMMITTEES

Section a. The appointed Commissioners shall meet within thirty (30) days, after all Commissioners have been appointed, at the Coneross Wastewater Treatment Plant for the purpose of organizing the Authority. At such initial meeting, the Commissioners shall elect from the appointed Commissioners a chairman and vice chairman and shall also appoint a secretary-treasurer and an assistant secretary who may or may not be an appointed Commissioner. The Commissioners may also appoint the following:

Executive Director or Director
Consulting Engineer
General Counsel, Attorney
Accountant-Auditor, CPA

The Commissioners may appoint other officers or consultants as needed.

Section b. The Commissioners may appoint the following standing committees, which shall give fair representation to the Members:

Executive Committee, consisting of three (3) Commissioners
Finance
Facilities & Administrative
Planning and Policy

and such other committees as determined by the Commissioners.

ARTICLE 6. MEETINGS

Section a. Commissioners shall meet monthly on a day as established by the Commissioners and shall meet at the call of the Chairman or upon the request of three (3) Commissioners. Notice of all meetings (except the regular monthly meeting) shall be given in writing, (or by such other method as established and agreed to by each Commissioner, respectively) to each Commissioner at least five (5) days prior to such meeting. Notice of any meeting may be waived, provided such waiver is recorded. Public notice of all meetings of the Commissioners shall be given as provided by law for state boards, committees, and commissions.

Section b. Minutes of all meetings of the Commissioners shall be recorded by the Secretary or Assistant Secretary, which shall be sent to each Member as set forth in the Bylaws.

Section c. A majority of the Commissioners shall constitute a quorum and a majority of the votes taken at any meeting, with a quorum present, shall be sufficient to take any action or to pass any resolution.

ARTICLE 7. AGREEMENTS BY THE MEMBERS

Section a. Appropriate federal rules and regulations require, and it is agreed, that all users of the Sewer System pay their proportionate share of operation and maintenance costs, based upon waste load contribution in terms of volume, flow rate and/or strength, provided that on a case by case basis, industrial users may be subsidized by Oconee County and/or by the State of South Carolina and/or by grants and/or by some other funding source, but in no event shall the cost of any such user be charged to the customers of the Members.

Section b. The Municipalities, respectively, agree to exclusively use the Sewer System for the transportation and treatment of wastewater generated by its utility customers, including its water and its sewer customers located both within and without the Municipality's corporate limits, during the term of this agreement.

Section c. The Members agree:

(1) To pay to the Authority for the treatment of their domestic and industrial wastewater a sum equal to the cost per thousand gallons of such treatment as determined by the Authority, employing good and accepted accounting practices. In arriving at such cost per thousand gallons for treatment, the following cost factors will be considered, to wit: the operation and maintenance of the Sewer System, the debt service on the Authority's sewer revenue bonds secured by a pledge of the revenues of the Sewer System, reasonable depreciation based upon the expected life of the Sewer System together with a reasonable reserve, taking into consideration other income which the Sewer System might earn from non-municipal customers, industrial waste surcharge, and other sources of revenues available to the Sewer System. In determining the quantity of effluent being discharged into the Sewer System, meter readings shall be made at strategic points in order to measure the municipal flow to the Sewer System and the maintenance of such meters will be made by the Authority in accordance with good and accepted engineering principles. Such payments shall be made at least quarterly or more often as the parties may hereafter agree.

(2) Notwithstanding the provisions of Section c.(1) above, the Municipalities agree to pay their pro-rata share of the "System's Net Cost", hereinafter called "the Annual Charge", as a minimum. In this regard, the Municipalities, respectively, will pay to the Authority, at least monthly one twelfth (1/12th) share of the minimum Annual Charge of the "System's net cost", which shall be allocated among the Member's customers of the Sewer System in direct proportion to such customer's share of the total effluent discharged by all such Member's customers into the Sewer System during the preceding calendar year. Such payments shall be due and payable fifteen (15) days after receipt of the Authority's computation of such quarterly or monthly costs, or more often as the parties agree, allocable to each respective customer; provided however, such proportionate shares shall be redetermined and recomputed annually. Such pro-rata share shall be determined by dividing each of the Member's customers' annual volume of wastewater by the entire System's annual volume, multiplied by the "System's net cost" as defined herein, in order to determine the minimum which the Member herein agrees to pay.

(3) Notwithstanding any other provision(s) of this Agreement, the Authority or Municipalities may charge commercial and/or industrial customers different rates and fees based on the make-up of effluent discharged, cost of installing sewer lines to the customer, the impact of the discharge on the Sewer System, or other factors which dictate a different rate.¹

¹ See Section 1.01(d), Intergovernmental Agreement, dated 28 February, 2005.

(4) Charges incurred by the Municipalities determined by the meter readings as provided in Article 7, Section c.(1) hereof, shall be applied toward the minimum, and any excess over the minimum incurred by the Municipalities, respectively, in any quarter of the operation of the Sewer System will be credited against the minimum which the Municipality will pay in the succeeding three quarters of such operation year. Provided however, any charges incurred by the Municipality, respectively, as a result of such meter readings which are in excess of the Municipality's minimum share of the System's Annual Cost at the end of any operational year, will be considered surplus funds and earnings on the books of the System, and such funds shall be taken into consideration in determining the "System's net cost" requirement for the preceding year as it relates to all its customers, and the same may not be carried over.

(5) In order to facilitate the Members' determination of their budgetary requirements for their fiscal year, the Authority will furnish each Municipality the information provided for in Article 7, Section c.(1), (2) hereof on or before the 1st day of May of each year after the first year.

Section d. The Municipalities, respectively, agree to apportion the Annual Charge in accordance with appropriate state and federal rules and regulations, to all users or customers, in proportion to flow. Each user will be on the basis of uniform rates, to fairly reflect the Municipalities' proportionate share of the "System's net cost" as required under Article 7, Section a. hereof, as well as any other charges which the Municipalities, respectively, may desire.

Section e. Each Municipality, respectively, agrees to maintain a Sewer System Rehabilitation program as described in the Municipality Sewer System Evaluation Survey performed under the federal grant provisions of EPA Project Number C 450 366 011. See Article 8, Section d.

Section f. Each Municipality agrees to enforce a Sewer Use Rule, established by the Authority, which prohibits sources of inflow (illegal connections from sump pumps, foundation drains, roof leaders, et cetera) from being connected to any sewer system which discharges effluent into the Sewer System, and which requires proper design and wastewater techniques for new connections.

Section g. Any Member, city, or entity who has an Agreement with the Authority agrees to open its books for inspection by Authority officials and/or officials of DHEC, and EPA, so as to enable such officials to determine whether or not sewer users (customers) of the entity are paying their pro-rata share of the Annual Charge or Cost, as provided herein.

Section h. If requested, each Municipality agrees to assist the Authority in the establishment and implementation of an Industrial Cost Recovery Rate and a user charge for industries, and in this regard, the Municipalities agree to furnish information to the Authority concerning the amount of water sold to an industry or commercial establishment during the Municipality's normal billing period.

Section i. Each Municipality agrees to measure by sewer meter, bill and collect, a Process Wastewater Surcharge directly from the commercial and industrial users involved; the said sewer meter shall be built or procured according to Authority standards, and its installation shall be likewise subject to approval of the Authority. The cost of such meter and its installation shall be borne solely by the industrial or commercial users.

Section j. In the event a Municipality or other entity who has an agreement with the Authority shall fail to make payments of any charge required herein, the payment so in default shall continue to be an obligation of the respective Municipality or entity until the amount in default shall have been fully paid, and the Municipality or entity agrees to pay the same, with interest thereon from the date of such default at the rate of six (6%) per cent per annum until fully paid.

Section k. Each Municipality waives any right of sovereign immunity it may have as to any actions brought by the Authority and/or its successors, to collect payments due the Authority by reason of the Municipalities' portion of the System's Costs which are in default.

Section l. Each Municipality covenants that it will at all times maintain in effect rates for the use of its water and sewer system in an amount sufficient, together with other funds available therefor, to discharge its obligation under its outstanding revenue bonds and general obligation bonds additionally secured by a pledge of sewer revenues and all bonds hereafter issued on a parity therewith, and to discharge its obligations under this Agreement and any amendments thereto. In addition, each Municipality agrees that it will at all times maintain in effect rates, in addition to all other rates and charges, sufficient to pay to the Authority its pro-rata share of obligations of the Authority for debt of bonds which were issued with the consent of each Municipality, respectively.²

ARTICLE 8. AGREEMENTS BY THE AUTHORITY

Section a. The Authority agrees to maintain the Sewer System in such a manner as to provide satisfactory wastewater treatment to the Member-Municipalities, and to maintain the Sewer System so as to keep the inflow/infiltration (I/I) into the Sewer System within reasonable limits, and to allow the Municipalities to discharge wastewater into the Sewer System pursuant to the terms of this Agreement.

Section b. The Authority agrees to operate the Sewer System in accordance with the requirements of DHEC and the EPA.

Section c. The Authority agrees to furnish each Municipality in May of each operating year, estimates of the "System's Cost", "System's Net Cost", and the Municipality's Annual Charge for the succeeding year.

Section d. The Authority agrees to provide technical assistance to each Municipality in establishing a User Charge System for distribution of its Annual Charge, in developing a Sewer Use Ordinance, and in undertaking the Sewer System Rehabilitation Program.

² See Prior agreements relating to pre-treatment.

Section e. The Authority agrees to read one or more sewer master meters which will measure the wastewater discharged by each Municipality into the Sewer System, at least monthly, and to furnish the Municipality the information disclosed by such reading.

Section f. The Authority agrees to open its books for inspection by appropriate officials of DHEC, EPA and by each Municipality.

Section g. The Authority agrees not to charge the Member-Municipalities for any costs or expenditures incurred for the construction, operation, and/or maintenance of any sewer system which does not serve the Municipalities or their customers.

ARTICLE 9. EVENTS OF DEFAULT

Section a. The following shall be “events of default” under the Agreement as applied to each Municipality and the terms “events of” or “default” shall mean, whenever they are used in this Agreement any one or more of the following events:

- (1) Failure by any Municipality to pay the sums required to be paid under Article 7 of the Agreement at the times specified therein, and continuing for a period of thirty (30) days after written notice by mail or personal delivery.
- (2) Failure by any Municipality to observe and perform any covenant or agreement in this Agreement on the part of such Municipality to be observed and performed for a period of thirty (30) days after receipt of written notice, specifying such failure and requesting that it be remedied, given to the defaulting Municipality by the Authority, unless the Authority shall agree in writing to an extension of such time prior to its expiration (or in case of any such default which cannot with due diligence be cured within such 30-day period, if the Municipality shall fail to proceed promptly to cure the same and thereafter prosecute the curing of such default with due diligence, it being intended in connection with a default not susceptible of being cured with due diligence within thirty (30) days, that the time of the Municipality within which to cure the same shall be extended for such period as may be necessary to complete the curing of the same with all due diligence).

Section b. Notwithstanding the provisions of any other paragraph of this Agreement, if or in the event any of the major users of the Sewer System (i.e., Seneca, Walhalla, Westminster) fail to pay their pro-rata share of the “System's Net Cost”, as provided herein, then and in such an event within forty-five (45) days of such default, the Authority agrees to institute legal action to enforce such collection including, but not limited to, the prayer and petition to a Court of competent jurisdiction for the appointment of a Receiver of the sewer system of the defaulting Municipality so as to compel payment of such defaulting Municipality's share and to prevent undue burden being placed upon the other major users of the Sewer System.

Section c. In the event of default by any of the Municipalities (i.e., Seneca, Walhalla, Westminster) any monies which may from time to time be declared available by Oconee County for the use of such Municipality under the “Aid to Subdivisions or other Revenue

Sharing Program” shall be and the same is herewith irrevocably assigned by each of the Municipalities for application toward the payment of the obligation which such Municipality may have to the Authority by reason of its pro-rata share of the “System's Net Cost” as provided herein, and such defaulting Municipality's share of such funds shall be claimed by the Authority and each Municipality agrees that such funds may be paid by the County to the Authority to defray the cost of the defaulting Municipality's charges. This remedy shall be nonexclusive and in addition to all other remedies provided for in this Agreement.

**ARTICLE 10.
REMEDIES OF THE AUTHORITY ON DEFAULT**

Section a. Whenever any event of default referred to in this Agreement hereof shall have happened and be subsisting, the Authority may take whatever further action at law or in equity as may appear necessary or desirable to collect amounts then due and thereafter to become due hereunder, or to enforce performance and observance of any obligation, agreement or covenant of the defaulting Municipality under this Agreement, to the extent of the sewer system of the defaulting Municipality and the revenues derived therefrom.

Section b. No remedy herein conferred upon or reserved to the Authority is intended to be exclusive of any other available remedy but each and every remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, except as provided by appropriate statutes of limitations, but any such right and power may be exercised from time to time as often as may be expedient. In order to entitle the Authority to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

Section c. In the event any agreement contained in this Agreement should be breached by any party hereto, and thereafter waived by any other party hereto, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

**ARTICLE 11.
MUTUAL AGREEMENTS BY THE MEMBER-MUNICIPALITIES
AND AUTHORITY**

Section a. The computation of the “System's Cost”, the “Process Wastewater Surcharge” and each Municipality's Annual Charge shall be the responsibility of the Authority.

Section b. The sewer master meter readings of the wastewater flow from each Municipality will be used as a primary basis for determining the payment to the Authority by the Municipality for services furnished the Municipality by the Sewer System.

Section c. Unmetered domestic users will be billed by the Authority on the basis of an assumed usage of One Hundred gallons of wastewater discharged to the Sewer System per day for each person living in such user's dwelling or as otherwise determined by guidelines by DHEC. In this regard, unmetered commercial customers, that is, a commercial enterprise employing more than three (3) persons, shall be required to furnish and install at its own expense a master sewer meter or establish some other acceptable proof of usage of the Sewer System to the satisfaction of the Authority. The Authority agrees to further adopt policies relating to the acceptance of wastewater effluent from subdividers and/or subdistricts in keeping with the general requirements of this Agreement, including, but not limited to, a method of determining reasonable usage of the Sewer System, a method of collection from such subdivider and/or subdistrict to insure the financial stability of the Sewer System, and an assessment of a charge which reflects the fair user concept required by the EPA. The revenues produced by such customers, industries, unmetered domestic users, both residential and commercial, and subdistricts will reduce the "System's net cost" and Annual Charge which is the basis of the minimum guarantee by the Municipality.

Section d. Each Municipality, respectively, agrees to maintain its lateral lines and to promulgate such regulations as may be desirable to minimize I/I into the Municipality's system (in accordance with Oconee County Ordinances 79-4 and 95-7 and with the Rules and Regulations of the Authority). Each of the parties hereto recognize the impossibility of complete elimination of I/I. Therefore, the Authority agrees that it will treat such I/I determined according to the standards and practices hereinafter set forth, for a cost equal to that cost per thousand gallons which would be to pay the "System's Net Cost", as defined in Article 1, Section w. hereof, less that percentage reflecting the debt service on the revenue bonds to be issued by the Authority included in such formula, conditioned, however, upon the following factors:

- (1) That such reduced cost shall be applied to effluent in excess of the minimum amount necessary to pay the respective Municipality's pro-rata share of the "System's Net Cost";
- (2) The amount of such I/I does not amount to more than the percentage determined by the Authority to be put into the Sewer System by the Municipality and as to such excess, the same shall be treated in the same manner and amount as all other effluent;
- (3) If required from time to time by the Authority, to determine what amount or portion of the effluent transmitted by the Municipality to the Sewer System is I/I, the parties agree to conduct I/I determination tests by measuring by the flow meters in three separate twenty-four hour periods during which there is no precipitation, the amount of effluent which the Municipality discharges into the System's lines, divided by a like measurement of effluent on three separate twenty-four periods when there is significant precipitation. The resulting percentage, hereinafter called "the normal effluent input rate" shall be the benchmark used to determine the I/I into the Municipality's lines in periods of wet or rainy weather;

(4) In any event, at all times during the term of this Agreement, each Municipality agrees to adopt such appropriate Ordinances and take whatever steps necessary to minimize any inflow of surface water and infiltration of groundwater to its lateral transmission lines.

Section e. Each Municipality, individually and collectively, and the Authority agree that the Sewer System will be operated in accordance with the principles set forth in the Agreement between Oconee County and the Municipalities, dated April 18, 2006, filed with the Oconee County Register of Deeds in Deed Book 1496 at page 306 and the Intergovernmental Agreement between Oconee County and the Municipalities, (SWAG) dated 28 February, 2005, the Memorandum of Understanding, dated 10 March, 2004, and the Memorandum of Understanding, dated 24 February, 2005, all to the effect that the Sewer System will be operated to serve the citizens of Oconee County in a fair and impartial manner and in the best interest of the citizens of Oconee County.

Section f. The Authority agrees to provide sewer services as requested by customers outside the municipal limits as provided under existing agreements, provided the cost of connecting, transporting and treating the wastewater is paid by the customer being served or by some other entity, excluding the Members, on behalf of such customer or the cost is funded by federal and/or state grants or some other source other than the Member-Municipalities. In no event shall the cost of extending sewer service outside municipal limits or the cost of transporting and treating sewer be billed to or paid by customers of the Member-Municipalities.

ARTICLE 12. SPECIAL COVENANTS

Section a. The Authority will, at all times, operate and maintain the System in good repair and working condition, unless prevented therefrom by force majeure which term, as used herein, shall mean without limitation, the following:

Acts of God; strikes, lockouts, and other industrial disturbances; acts of public enemies; orders of any kind of the government of the United States or of South Carolina or any of their departments, agencies, or officials; or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquakes; fire; hurricanes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accident to machinery or transmission pipes or lines; partial or entire failure of utilities; or any other cause or event not reasonably within the control of the Authority. Provided, however, that nothing herein contained shall be construed to empower any party to this Agreement to issue an order which could be construed to be a force majeure.

Section b. The Authority will give each Municipality such notice as the Authority may have of unscheduled interruptions of service. The Authority will exert its best efforts and all diligence to anticipate and to correct interruptions of service.

Section c. The Authority agrees to give each Municipality seven (7) days notice of any known or scheduled interruptions of normal access to the Sewer System, whether partial or complete, and to make suitable alternative provisions for the disposal of each Municipality's effluent. The Authority also agrees to consult with each Municipality concerning the extent of scheduled service interruptions so as not to interfere unreasonably with the Municipality's normal operating schedule.

Section d. The Authority shall make available to each Municipality, upon request, any and all operating and flow records.

Section e. Should the Authority fail to observe the covenant to operate and maintain the Sewer System, any Municipality, or all of the Municipalities, or any combination, may, after ten (10) days written notice:

- (1) Take such steps as may be necessary to place the Sewer System in good condition and working order at the expense of the Authority, whereupon the Authority, upon demand, shall repay the respective Municipality or combination thereof for all expenses incurred; OR
- (2) Bring an action against the Authority for specific performance to enforce the covenants of the Authority relating to the operation and maintenance of the Sewer System.

Section f. Should the Authority fail to observe any other covenant or agreement herein made, any Municipality may, after ten (10) days written notice, bring an action against the Authority for the specific performance by the Authority of such other covenant or agreement.

Section g. The remedies herein granted to the Municipality shall be exclusive and shall be in lieu of all other remedies that the Municipalities may have at law or in equity; and notwithstanding, if the Authority shall become indebted to any Municipality, the respective Municipality shall have no right to offset its obligations to make payment under the provisions of this Agreement hereof.

Section h. Notwithstanding any other provisions of this Agreement, nothing herein contained shall be construed to obligate or encumber the general fund of Authority and any and all liability assumed by the Authority relates to the revenues derived and contracted for by said Authority relative to the operation of the System.

Section i. The Municipalities will not be charged for: the transportation or treatment of any wastewater which is not discharged by the respective Municipality; for the cost of the operation of the Sewer System which is not attributable to the transportation or treatment of wastewater by the respective Municipality; nor shall any Municipality be charged for the installation or operation of any system which is not described in this Agreement.

Section j. The Authority agrees so long as each Municipality, respectively, shall fully and punctually pay all of the sums provided to be paid hereunder by each Municipality, and shall fully and punctually perform all of its other covenants and agreements hereunder, the Authority agrees to treat sewer discharged by each Municipality, respectively.

**ARTICLE 13.
AGREEMENTS INCORPORATED IN THIS AGREEMENT**

Section a. The following Agreements are incorporated herein and the principles set forth are adopted by the parties to this Agreement: Intergovernmental Agreement dated 18 April, 2006, the Intergovernmental Agreement (SWAG) dated 28 February, 2005, the Memorandum of Understanding, dated 10 March, 2004, and the Memorandum of Understanding, dated 24 February, 2005; Agreement with the Town of West Union as set forth in the Intergovernmental Agreement dated 18 April, 2006.

Section b. The Authority is bound by the obligations or responsibilities undertaken by Oconee County as set forth in the Agreements listed in Section a., unless the context indicates otherwise.

**ARTICLE 14.
MISCELLANEOUS**

Section a. The Sewer System shall at all times be the sole and absolute property of the Authority.

Section b. This Agreement shall inure to the benefit of and shall be binding upon the Authority, and Seneca, Walhalla, and Westminster, and their respective successors or assigns.

Section c. Notices given by one party hereto to another shall be effective only when received by the party being noticed as evidenced by signed receipt therefor.

Section d. Any party hereto may, but shall not be required to, record this Agreement in the Office of the Register of Deeds of Oconee County, South Carolina.

Section e. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section f. This Agreement is prepared and entered into with the intention that the law of the State of South Carolina shall govern its construction.

Section g. The Members agree that when the Town of West Union discharges ten (10%) percent of the total effluent into the Sewer System or pays ten (10%) percent of the total payments for the treatment of sewer to the Authority created, it shall be entitled to become a member of the Oconee Joint Regional Sewer System.

ARTICLE 15.
MUTUAL AGREEMENTS BY THE MEMBER-MUNICIPALITIES,
THE AUTHORITY, AND OCONEE COUNTY

Section a. The Member-Municipalities and Oconee County agree, in consideration of the formation of the Joint Authority and the transfer of the sewer assets to the Authority by Oconee County, the Member-Municipalities agree that they will cause the Authority to agree to extend sewer transportation lines, build pump stations, acquire rights of way, build treatment facilities, and perform all other and all acts to provide sewer and/or water service to such area or areas as designated by Oconee County as is authorized by a vote of Oconee County Council, provided that such extension/construction and or operation of such facilities is in conformity with this Joint Agreement and the Agreements and Memoranda of Understanding incorporated herein by Article 13 (“Incorporated Agreements”) and further provided that the cost of such extension/construction and operation of sewer facilities is not charged to the Member-Municipalities or their customers. Oconee County agrees that when it designates facilities to be constructed and or operated, it will provide adequate funding for such construction and/or operation, to be determined on a case by case basis.

Section b. The parties agree that all rights, privileges, duties and obligations of the parties set forth in the Incorporated Agreements set forth in Article 13 will enure to the parties respectively, and that the privileges, duties, obligations, and rights conferred upon the Oconee County Sewer Commission or upon the cities of Seneca, Walhalla, or Westminster by the Incorporated Agreements which enure to the Oconee County Sewer Commission, are hereby assigned to the Oconee Joint Regional Sewer Authority, its successors and assigns, and such rights and privileges vested in the Oconee County Sewer Commission by the Incorporated Agreements are assigned to and will enure to the Oconee Joint Regional Sewer Authority, its successors and assigns, provided however, that all rights and privileges vested in the Municipalities by such Incorporated Agreements are not abrogated by the assignment of rights, and privileges to the Oconee Joint Regional Sewer Authority.

Section c. It is recognized that there are some powers relating to enforcement of rules, regulations, and policies inherent with Oconee County which will not be inherent in the Oconee Joint Regional Sewer Authority. Oconee County agrees to cooperate with the Member-Municipalities and the Authority to pass and adopt Ordinances as necessary or desirable to comply with the rules and regulations of DHEC, EPA, and the Oconee Joint Regional Sewer Authority to provide for enforcement of appropriate rules, regulations, and policies of the Authority which is beyond the jurisdiction or power of the Authority but within the jurisdiction and power of Oconee County. Oconee County may adopt policies for the adoption of such ordinances as shall be sought by the Oconee Joint Regional Sewer Authority.

**ARTICLE 16.
TERM OF AGREEMENT
AMENDMENT**

This Agreement shall remain in force and effect from the date of this Agreement until March 31, 2042. This agreement is automatically renewed for four (4) terms of ten (10) years each, unless notice of non-renewal is given by any signatory at least twelve (12) months before the expiration of either the term of the Agreement or any renewal. This Agreement may be amended, changed, modified, or terminated by Agreement of all of the Members.

**ARTICLE 17.
EXECUTION - WHEN EFFECTIVE**

This Agreement may be executed in counterparts and when combined shall constitute an integrated document. This Agreement shall become effective when all signatories have executed this Agreement and have filed an executed copy with the other signatories and with the Clerk of Court for Oconee County. If executed copies of all parties have not been filed with the Clerk of Court for Oconee County by November 1, 2007, this Agreement shall be null and void as to any party who has executed the Agreement.

**ARTICLE 18.
ARBITRATION**

Any dispute arising out of this Agreement shall be settled by Arbitration in accordance with the Uniform Arbitration Law of South Carolina, provided however, that only one arbiter shall be appointed by a resident judge of South Carolina. An arbiter may be (but is not required to be) selected from lists provided by each of the parties to the dispute. A decision of an arbiter is final and may be entered as a judgment.

Signed sealed and delivered
in the presence of:

[Signature]
William M Kelly

CITY OF SENECA (SEAL)

By: [Signature]
Its Mayor

Attest: [Signature]
Its Clerk

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE
ACKNOWLEDGMENT

I, Carol Hall, a Notary Public for the State of SC, do hereby
certify that James W. Alexander as Mayor and Belinda S. Harper as
Clerk for City of Seneca, personally appeared before me this date and acknowledged the
due execution of the foregoing instrument.

Witness my hand and official seal this 8th day of October, 2007.

Carol Hall (SEAL)
Notary Public of SC
My commission expires 3/10/15

Signed sealed and delivered
in the presence of:

CITY OF WALHALLA (SEAL)

Rachel Malister
Ashley Jones

By: [Signature]
Its Mayor
Attest: Nancy Goekle
Its Clerk

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE
ACKNOWLEDGMENT

I, Bernie G. Cords, a Notary Public for the State of SC, do hereby
certify that James Bales as Mayor and Nancy Boehle as
Clerk for City of Walhalla, personally appeared before me this date and acknowledged the
due execution of the foregoing instrument.

Witness my hand and official seal this 18 day of October, 2007.

Bernie G. Cords (SEAL)
Notary Public of SC
My commission expires Aug 18 2015

Signed sealed and delivered
in the presence of:

CITY OF WESTMINSTER

Larry Baker
Patricia R. Case

By: Derek Hodgin
Its Mayor

Attest: Jennifer Adams
Its Clerk

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE
ACKNOWLEDGMENT

I, Rebecca Anderson, a Notary Public for the State of SC, do hereby
certify that Derek Hodgin as Mayor and Jennifer Adams as
Clerk for City of Westminster, personally appeared before me this date and acknowledged
the due execution of the foregoing instrument.

Witness my hand and official seal this 18th day of October, 2007.

Rebecca Anderson (SEAL)
Notary Public of SC
My commission expires 8/27/2011

FILED OCONEE, SC
SALLIE C. SMITH
CLERK OF COURT
2007 OCT 31 A 9:03