

STATE OF GEORGIA
COUNTY OF FULTON

May 27, 1986

AGREEMENT

THIS AGREEMENT, made and entered into this 28th day of May, 1986, by and between FULTON COUNTY, a political subdivision of the State of Georgia, hereinafter referred to as "Fulton", and the CITY OF ATLANTA, a municipal corporation of the State of Georgia, hereinafter referred to as "Atlanta".

WITNESSETH:

WHEREAS, the construction and operation of a water treatment plant and appurtenances in North Fulton County, Georgia, is necessary to serve the joint needs of Atlanta and Fulton in assuring an adequate supply of potable water for their citizens; and

WHEREAS, Atlanta and Fulton are each willing to share in the expense of constructing and operating said water treatment plant, and further wish to undertake joint planning and development enterprises for the efficient utilization of water resources generally; and

WHEREAS, it is agreed that the most desirable form for conducting the aforementioned enterprises is a joint venture; and

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WHEREAS, pursuant to the authority granted by Article IX, Section III, Paragraph I and Section II, Paragraph III of the Constitution of Georgia of 1983, Atlanta has approved this joint venture agreement by ordinance adopted May 20, 1985, as amended on May 28, 1986, and Fulton has approved this joint venture agreement by resolution adopted May 28, 1986, copies of which are attached hereto as Exhibits A and B respectively, and incorporated herein by reference.

NOW, THEREFORE, in consideration of the premises, and of the mutual covenants hereinafter set forth, Atlanta and Fulton agree as follows:

ARTICLE I
DEFINITIONS

1. As used in this agreement, the following terms shall have the following meanings:

1.1 Coverage. The required minimum percentage by which Net Operating Revenues, as defined in subparagraph 1.7, must exceed the highest annual principal and interest payment on the debt instruments used to finance the project. Such coverage requirement shall be contained in a contract between the borrower and the lender(s).

1.2 Facilities (or the Project). The raw water intake, raw water supply line(s), raw water reservoir, water treatment plant, and other related

appurtenances in Fulton, to be jointly constructed, owned and operated by the parties to this agreement.

1.3 Indirect Costs. Those reasonable and necessary costs incurred for a common or joint purpose benefiting more than one cost object, and such costs are not readily assignable to the cost objectives specifically benefited without effort disproportionate to the results achieved.

1.4 Net Interest Rate. The aggregate interest rate for debt instruments with several principal maturity dates and several coupon interest rates. The net interest rate is determined by multiplying each principal maturity amount by its corresponding number of years to maturity; and dividing the sum of these products into the total interest (plus or minus discounts or premiums, respectively) to be paid over the entire life of such debt instruments.

1.5 Operating Costs. Those reasonable and necessary direct costs (including depreciation) and indirect costs of operating and maintaining the Facilities. Indirect costs shall be determined in accordance with generally accepted accounting principles. Depreciation shall be calculated on a straight line basis over estimated useful life.

1.6 Project Costs. Those costs which are reasonable and necessary for the completion of the project including, but not necessarily limited to: 1) the cost of acquiring land, rights-of-way, and easements; 2) amounts paid for materials, equipment, labor, bond issuance, professional and other services,

insurance and bonds under contracts awarded in connection with the Project; 3) any additional staff within either government necessary for Project administration and contract management; and 4) payment for temporary utilities and utility relocations related to and incurred during the project-in-progress period as may be agreed to by Atlanta and Fulton. Project costs incurred by Atlanta and Fulton shall be free of any and all handling charges or special fees beyond those normally included in the conduct of business within the respective governments.

1.7 Net Operating Revenues. Those remaining revenues generated by the sale of potable water produced by the facilities after all reasonable and necessary direct costs (including depreciation) and indirect costs of operating and maintaining such facilities have been paid.

ARTICLE II
NAME AND PURPOSE

2.1 Name. The name of the Joint Venture is the Atlanta-Fulton County Water Resources Commission.

2.2 Purposes. The purpose of the Joint Venture is to develop plans for, acquire the necessary sites and governmental permits for, and to construct and operate a water treatment plant and appurtenances in North Fulton County, Georgia to serve the joint needs of Atlanta and Fulton in assuring an adequate supply of potable water for the citizens of Atlanta and Fulton. The water

produced by the plant shall be delivered to the parties to this contract for their use. Additionally, the Joint Venture shall make investigations and coordinate additional joint planning and development for the efficient utilization of the water resources.

ARTICLE III

CONDUCT OF THE JOINT VENTURE

3.1 Responsibilities of the Joint Venture. The Joint Venture shall fulfill the purposes set forth in Section 2.2, and in so doing the Joint Venture shall have, subject to the terms, conditions and limitations hereinafter set forth, the following powers and duties.

3.1.1 To plan, develop, construct and operate, maintain and keep or cause to be maintained and kept, the Facilities in good repair, working order and condition, and from time to time to make, or cause to be made, all needed and proper repairs, renewals, replacements and improvements, so that the Facilities may be properly and advantageously operated at all times for the benefit of the citizens of Atlanta and Fulton.

3.1.2 To make long range plans for the joint development, management and utilization of water resources.

3.1.3 To provide, in accordance with the terms of the Joint Venture Agreement, all funds and financial arrangements necessary to carry on the functions of the Joint Venture.

3.1.4 To faithfully observe, perform and discharge all of the conditions, actions, liabilities and obligations that are or will be imposed upon it.

3.1.5 To perform all other lawful acts and functions necessary to accomplish the purposes of the Joint Venture.

3.2 Management of the Joint Venture. The decision-making body of the Joint Venture shall be a management Commission.

3.2.1 Management Commission. There shall be a Management Commission of the Joint Venture (The "Commission"), which shall consist of seven members, three from Atlanta and three from Fulton, with each member having one vote. Membership shall include: the Mayor of Atlanta, the President of the City Council of Atlanta, and one council member appointed by the President of the City Council and approved by the Mayor; the Chairperson of the Fulton County Board of Commissioners and two Commissioners selected by the Fulton County Board of Commissioners; and one person employed by neither Atlanta nor Fulton who shall be known as the "independent member" of the Commission. Said independent member shall be elected by vote of the other members to a term of two years, with the ability to serve successive terms, and shall at all times be a resident of Fulton or forfeit membership. Officials of Atlanta and Fulton

who are members of the Commission shall serve without compensation. Should any of the members representing the respective parties die, become disabled, resign, or for any reason cease to be connected with the governmental entity which appointed him or her, the appointing party shall promptly, by written notice served upon the other party, name his or her successor. Upon the resignation or inability of the independent member to complete a term, the other members shall elect a new independent member to a full term.

3.2.2 Commission Meetings. The first meeting of the Commission shall be prior to July 1, 1986, on a date agreed upon by the Mayor of Atlanta and the Chairperson of the Fulton County Commission. At the first meeting, a temporary chairperson shall be elected, and nominations submitted for an independent member. An organizational meeting of the Commission at which the independent member shall be elected, shall be convened by the temporary chairperson as soon as is practicable following the first meeting. Thereafter, the Commission shall meet at a minimum within February, May, August, and November of each year and at such times as the Commission shall determine for consultation and transaction of the Commission's business. Special meetings may be called by the Chairperson or by any three members of the Commission upon ten (10) days' written notice.

3.2.3 Conduct of Meetings. No action shall be taken unless approved by a majority of members present and voting, except as hereinafter provided. A quorum of five (5) members of the Commission shall be required to conduct the business of the Joint Venture. In the event that the vote of the Commission upon any proposition should result in a tie, then such proposition shall be

submitted in writing to the members following the meeting at which the vote was taken. Said members shall record their votes in writing and mail same to the chairperson within five (5) days of receipt of the proposition. If such balloting still results in a tie, then such proposition shall be submitted to the senior Judge of the Fulton County Superior Court who shall refer the proposition to any disinterested person whom said Judge may deem qualified to decide such proposition and the decision of said person to whom said judge refers said proposition shall be final and conclusive on the Commission.

3.2.4 Officers. The Commission shall elect from among its members a chairperson, one or more vice chairpersons, a secretary and a treasurer. The office of secretary and treasurer may be combined. The Commission may also elect an assistant treasurer who need not be a member of the Commission. The treasurer and any assistant treasurer shall be bonded, at the expense of the Joint Venture, in such amount as the Commission shall determine.

3.2.5 Committees. The Commission shall appoint an Advisory Committee composed of no more than four staff members from Atlanta and no more than four staff members from Fulton. The Advisory Committee shall attend all meetings of the Commission and provide advice and consultation to the Commission. The Commission may appoint such committees as it may determine from its membership or from the professional staff of each Joint Venturer and from the personnel of its consulting engineers to assist it in the performance of its duties, and prescribe the purpose, responsibilities, duties and procedures of such committees and the times of meeting.

3.2.6 Powers of the Commission Generally. As agent for the Joint Venturers, the Commission shall have the following powers and duties:

3.2.6.1 To formulate the plans for the acquisition of sites and all necessary easements for the Facilities; to formulate developmental plans, including engineering, construction and financing plans, for the construction and use of the Facilities.

3.2.6.2 To contract with either Joint Venturer or a private entity for the operation of the Facilities.

3.2.6.3 To select a general manager as provided hereafter.

3.2.6.4 To establish, review, update and implement plans and procedures for such orderly additions and improvements to the Facilities as are necessary to carry out the purposes of the Joint Venturers.

3.2.6.5 To make long-range plans for additional joint efforts in utilization and management of water resources.

3.2.6.6 To establish the policies and procedures for the operation and maintenance of the Facilities.

3.2.6.7 To establish the cost allocation to be charged for the water delivered to the respective distribution systems of Atlanta and Fulton, based upon metered water flows and finished water pumping costs.

3.2.6.8 To apply for and hold the necessary state permits, to be issued independently to and in the name of Atlanta and Fulton.

3.2.6.9 To apportion any annual deficits from operations to Atlanta and Fulton in proportion to the amount of water delivered from the Facilities to each.

3.2.6.10 To develop financial plans and procedures to insure efficient operation of the Facilities.

3.2.6.11 To submit an annual budget which includes personnel positions, classifications, and salary ranges, and an emergency reserve by September 15 of each year to Atlanta and Fulton for approval. An amended budget may be submitted from time to time to Atlanta and Fulton for approval.

3.2.6.12 To coordinate operation of the Facilities with the operation of the Atlanta and the Fulton water systems.

3.2.6.13 To contract for goods and services, subject to the following limitations:

a. The funds for such goods and services are available to the Commission in line item appropriations of the budget approved by Atlanta and Fulton;

b. Such contracts or purchases do not exceed \$50,000.00, except that contracts exceeding that amount are hereby authorized (1) for goods or services

for which the entity providing same is listed by name in the budget approved by Atlanta and Fulton or (2) when the chairperson of the Commission certifies that emergency circumstances exist and that failure to contract for goods or services to correct such circumstances would result in the loss of operations of the facilities and that insufficient time is available to secure specific approval of the contract by Atlanta and Fulton.

c. Such contracts are made pursuant to purchasing and minority participation procedures as determined by the Commission.

3.2.6.14 Regardless of the amount and when authorized by Atlanta and Fulton to execute all contracts that are reasonable and necessary for the construction of the facilities, including professional and consultant contracts, provided that the funds for same are available to the Commission in specific line item appropriations of the budget approved by Atlanta and Fulton.

3.2.6.15 Without limiting the generality of the above and when authorized by Atlanta and Fulton, to contract for, acquire and hold, lease and dispose of real and personal property of every kind and character for its corporate purposes in the joint name of Atlanta and Fulton pursuant to this agreement as contained in subparagraph 3.2.6.14.

3.2.6.16 To undertake such other responsibilities as shall be agreed upon from time to time by Atlanta and Fulton.

3.2.7 Subject to the provisions of this agreement, the Commission shall determine the procedures and methods by which it will act, and shall cause its actions to be recorded in books kept for that purpose. No action of the Commission related to the following responsibilities shall be taken unless approved at a regularly scheduled quarterly meeting, or unless approved by a majority of those voting at a meeting at which all members of the Commission are present, or unless approved at a meeting which has been duly called on ten (10) days' notice and a quorum is present:

3.2.7.1 The establishment of compensation, within the range established in the approved budget, and employment of a general manager.

3.2.7.2 The establishment of compensation, within the limits established in the approved budget, and the authorization of contracts for the services of consulting and design engineers.

3.2.7.3 The establishment of compensation, within the limits established in the approved budget, and the authorization of contracts for the services of any consultant.

3.2.7.4 The establishment of policies for the operation and maintenance of the Facilities.

3.2.7.5 The establishment of the cost allocation for water delivered to the respective water distribution systems of Atlanta and Fulton, on the basis of metered water flows.

3.2.7.6 The selection of an outside certified public accountant to conduct the annual audits of the Joint Venture.

3.2.8 Prohibited Actions. The Commission is hereby expressly prohibited from performing the following acts, which are understood and agreed to be authorized only through legislation adopted by Atlanta and Fulton.

3.2.8.1 Execution of contracts and contract amendments having a cost exceeding \$50,000.00 unless otherwise provided for in Sub-paragraphs 3.2.6.13, 14, or 15.

3.2.8.2 Application for and acceptance of loans or grants-in-aid unless otherwise authorized by legislation adopted by Atlanta and Fulton.

3.2.8.3 Increasing the overall annual operating and capital budgets.

3.2.8.4 Incurring any liability in excess of the amount appropriated in the operating and capital budgets unless otherwise provided for by legislation adopted by Atlanta and Fulton.

3.3 General Manager. The Commission shall provide for a general manager for the Facilities, who shall be responsible for implementing the programs, policies, plans and decisions formulated or made by the Commission, and for supervising the day-to-day operations of the Facilities.

3.3.1 The Commission shall employ by contract a general manager. The Commission shall select compensation for, and employ by contract, such person, who shall be the chief administrative officer of the Facilities. He or she shall serve at the pleasure of the Commission and shall report to, and be responsible to, the Commission, a committee, or subcommittee, as designated by the Commission.

3.3.2 The general manager shall be an employee of the Joint Venture by contract. If the Joint Venture decides to operate the Facilities rather than to contract out its operations, all members of the staff of the general manager and the operating personnel of the Facilities shall be selected by the general manager, pursuant to employment policies established by the Commission and shall be employees of the Joint Venture, but shall be covered by a civil service system and pension program as determined by the Commission.

3.3.3 If a private entity is selected to undertake the day-to-day operation of the Facilities, it shall be employed by contract and be subject to the direction of the General Manager.

3.4 Consulting Engineers. The Commission shall utilize the services provided by the current contract between Atlanta and Williams-Russell and Johnson, Inc. and Jordan, Jones & Goulding, Inc. Consulting Engineers (the "Engineers") for consultation, analysis, investigation, projections, design and construction services for the Facilities. The assignment of all terms, conditions, and obligations of said current contract to the Commission shall be effective without further action of Atlanta 90 days after the execution of this

agreement, or at such earlier date as the General Manager may designate in writing to Atlanta.

3.5 Legal Counsel. The Commission shall utilize the legal services of the Atlanta and Fulton legal departments in a form to be determined by the Commission.

3.6 Compensation of Joint Venturers. Except as specifically provided in this agreement, neither Atlanta nor Fulton shall charge the Joint Venture for any services rendered, or for any expenses incurred by the other Joint Venturer.

3.7 Construction Contract Procedures. - Following its formulation of the plans for acquisition of the necessary site locations and easements and for financing and construction of the Facilities, including the estimated costs of said construction, the Commission shall submit the plans to the governing bodies of Atlanta and Fulton for final approval and for the adoption of the financial plans for funding the construction. After such approval, and after advice in writing from Atlanta and Fulton that plans for the necessary funding have been made, the Commission, through the general manager, shall provide for the necessary bidding process and letting of the construction contracts. This may consist of the letting of a joint contract obligating both Atlanta and Fulton to the contractors, or it may consist of the execution of a contract with either Atlanta or Fulton as the agent of the Joint Venture to let the contract. In any event, the bidding process and contracting procedure shall comply with all federal and state laws.

ARTICLE IV

FUNDING, OWNERSHIP OF AND FINANCIAL
OPERATIONS OF THE JOINT VENTURE

4.1 Funding of the Joint Venture Prior to the Generation of Operating Revenue. Atlanta and Fulton, each agrees to appropriate and pay to the Joint Venture one-half of all funds as are necessary to enable the Joint Venture to perform its responsibilities throughout the period of planning and construction and until appropriate cost allocation formulas are approved and in place, based on a temporary budget to be submitted to and approved by Atlanta and Fulton.

4.1.1 All funds of the Joint Venture shall be maintained in an account or accounts as determined by the Commission and such funds as are within the discretion of the Commission shall be disbursed under such procedures as the Commission shall determine.

4.1.2 During the period of planning and construction and prior to the establishment of cost allocation formulas, the Commission may, at its discretion, appoint either Atlanta or Fulton or both as Agent or Agents to hold and disburse the funds of the Joint Venture subject to the direction of the Commission.

4.2 Capital Cost of Facilities.

4.2.1 All mutually agreeable capital costs associated with the Facilities, including the reasonable and necessary cost of site acquisition,

easements, legal services, planning, engineering and construction shall be shared equally by Atlanta and Fulton. All such costs shall be agreed upon by Atlanta and Fulton before liability for sharing shall accrue, except that, in the event either Atlanta or Fulton shall have incurred any of the said direct cash outlay costs before the date of this agreement, then the party which has incurred such costs, as the case may be, will be credited with such costs in accounting for its share of the total cost of the Facilities.

4.2.2 The cost of any enlargement, improvement, or modification of the Plant, intake or reservoir which requires capital investment, shall not be undertaken until recommended by the Commission and approved by Atlanta and Fulton.

4.2.3 It is mutually agreed that Atlanta will be credited its full share of the costs for the purchase of the plant/reservoir site of the Facilities, in consideration of its release and dismissal of all claims against Fulton for water and sewer services provided to agencies of Fulton from January 1, 1978 through December 31, 1984, and in consideration of Fulton's agreement to pay all charges for water and sewer services accrued on and after January 1, 1985; provided that Fulton will be credited \$2,531,485.00 toward the payment of sewer charges from the principal and interest held by Atlanta and derived from the South Fulton Surcharge Program. The sum shall be paid from an account to the city to cover the outstanding sewer charges on Fulton facilities from January 1, 1985 to present, and the balance of such sum shall be used and applied as a credit against future sewer charges. Fulton agrees to pay all future charges within 15 days after receipt of a bill for water and sewer services.

4.2.4 It is mutually agreed that Fulton will reimburse Atlanta for one-half of the direct land and appraisal costs paid by Atlanta for the acquisition of the intake site of the Facilities, within 30 days of receipt of an invoice detailing such costs, which invoice will be transmitted promptly upon the conclusion of pending litigation for such acquisition.

4.3 Ownership of the Facilities.

4.3.1 Atlanta and Fulton shall jointly own the land, treatment plant, intake, raw water lines, and reservoir of the Facilities on a fifty-fifty basis, as tenants in common.

4.3.2 Immediately upon execution of this agreement, Atlanta shall deed Fulton an undivided one-half interest in the water intake site, and Fulton shall deed to Atlanta an undivided one-half interest in the primary site of the Facilities.

4.3.3 Both parties agree to seek permits equal to the design rate of production and further agree to operate the Facilities at the maximum permitted rate of production.

4.3.4 Atlanta and Fulton shall each own, and be entitled to receive and distribute through their respective distribution systems, fifty percent (50%) of the total supply of water treated by the plant at any time or fifty percent (50%) of capacity whichever is greater. To the extent that the share of Atlanta or Fulton shall exceed its needs, Atlanta or Fulton or Atlanta and

Fulton jointly through the Commission, shall be entitled to enter into short term agreements with, and sell to, any other governmental entity the excess of such share. If either Atlanta or Fulton desires to sell any surplus supply, it shall first offer the surplus to the other, which shall have a right of first refusal, for a period of 30 days after receiving the offer, according to allocation formulas; and the terms of such agreement to sell surplus water shall not exceed a period agreed to by Atlanta and Fulton.

4.4 Operating Costs.

4.4.1 The Commission shall allocate the monthly operating costs of the Facilities to Atlanta and Fulton on the basis of the pro rata share of water delivered to each party. The pro rata shares shall be determined by monthly meter readings.

4.4.2 The Joint Venture shall bill to Atlanta and Fulton monthly, at the allocated cost for all water delivered to the distribution system of each, which invoice shall be paid within fifteen (15) days after receipt to the Joint Venture.

4.5 Support Services. The Commission may contract with Atlanta or Fulton or a private contractor to provide purchasing, payroll, accounting, legal and other support services required for the operation of the Facilities. The cost of the services will be treated as an operating cost of the plant and shall be treated as all other operating costs.

4.6 Financial Management. The Commission may contract with either Atlanta or Fulton or a private contractor as financial manager for all functions related to the construction and operation of the Facilities.

4.7 Accounting Methodology. The designated entity agrees to accumulate all costs associated with construction and operation of the Facilities in a set of accounts separate and apart from any other activities and to maintain such accounts in accordance with generally accepted accounting principles.

4.8 Capital Financing. The parties hereby agree that each shall be responsible for financing fifty percent (50%) of the Project Costs as such costs are defined in Paragraph 1.6. Nothing contained herein shall be construed to preclude one party from initially financing the other party's share of Project Costs, or a portion thereof, provided that the party providing such financing shall be entitled to recover from the other party the amount financed, plus coverage, if any, for the Facilities, at an interest rate equivalent to the net interest rate, as defined in Paragraph 1.4, on the debt instruments used to finance the Project or at an interest rate to be mutually agreed upon by both parties. Notwithstanding the foregoing, it is acknowledged and agreed that the financing of the plant/reservoir site, and the intake site, of the facilities will be undertaken as provided in subparagraphs 4.2.3. and 4.2.4.

4.9 Grants-in-Aid.

4.9.1 The parties hereby agree to make their best efforts to obtain available federal and/or state grants-in-aid funding for the Project. Irrespective of the amount of grant-in-aid funding each individual party may obtain for the Facilities, total grant-in-aid received shall be credited equally to each party's share of Project Costs.

4.9.2 It is further agreed that any portion of Project Costs funded from grant-in-aid proceeds shall be excluded from the computations required to determine the amount of Project Costs to be recovered by one party from the other if such party provides financing of the Project on behalf of the other party.

4.10 Depreciation Reserve Account. The parties hereby agree that an amount equal to the monthly depreciation expense shall be deposited monthly into a depreciation reserve account. These funds shall only be used to renew and/or replace capital components of the Facilities.

ARTICLE V
MISCELLANEOUS

5.1 Term. The Joint Venture shall continue for a term of 50 years, unless terminated by mutual consent of the parties or by an order of a court of competent jurisdiction.

5.2 Default. Each of the following shall constitute an event of default by either party to this agreement.

5.2.1 If such party shall fail to pay promptly any of its financial obligations under the terms and conditions of this agreement when such financial obligations shall become due and payable, and such default continues for a period of 90 days after the receipt of notice from the Joint Venture of such non-payment.

5.2.2 If such party shall fail to be represented by any Commission members (or alternates) at two consecutive regularly scheduled meetings of the Commission when at least three (3) of the other Joint Venturer's Commission members are present.

5.2.3 If such party shall fail to keep, perform or observe any other material term, covenant or condition of this Agreement and such default continues for a period of 30 days after the receipt of written notice from the other party of such failure.

5.3 Remedies for Events of Default. Upon the occurrence of an event of default by a party to this agreement other than the event of default contained in subparagraph 5.2 in the preceding section, the Joint Venture, besides any other rights or remedies it may have, shall have the right to deny such party the use of the Facilities either in whole or in part until such event of default has been cured. Moreover, Commission members of the party

which committed an event of default shall not participate in the vote of the Commission regarding remedies to be pursued following an event of default by such party.

With respect to the occurrence of an event of default by either party to this agreement as contained in subparagraph 5.2 in the preceding section, the Commission members who are in attendance for the regularly scheduled meeting which constituted an event of default are hereby granted authority to conduct the business of the Joint Venture and make decisions which shall be legally binding on both parties in accordance with the terms and conditions of this agreement.

5.4 No Prejudice to Other Agreements. Both Atlanta and Fulton have other agreements with other entities touching the subject of this Agreement. It is the intention of the parties that this agreement is limited solely to the covenants and agreements expressly set forth herein and that it shall not, by implication or otherwise, prejudice any existing rights of either party or any covenants, contracts, agreements or arrangements which now exist between Atlanta and Fulton or other parties, nor the right of either Atlanta or Fulton to enter into such covenants, contracts, agreements, or arrangements in the future.

5.5 Enabling Action. Atlanta and Fulton agree that they will each enact such ordinances and resolutions as may be necessary to carry out the purposes and intent of this agreement. Further, the parties pledge to each other their support and assistance, and agree to take such action as may be

necessary, in order to obtain from the General Assembly, and if necessary, the people of Georgia by constitutional amendment, such further additions to the authority now vested in them by virtue of the constitution and laws of Georgia, as may now or may hereafter become necessary to carry out the intent of the parties hereto, whether expressed or implied.

5.6 Saving Clause. Should any subparagraph, paragraph or other portion of this agreement be held for any reason to be unconstitutional or otherwise void, the remaining portions of this Agreement shall not be affected thereby, but shall continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto, acting by and through their duly constituted officers, have caused their hands and seals to be hereunto affixed on this 28th day of May, 1986.

CITY OF ATLANTA

FULTON COUNTY

By: _____
Mayor

By: [Signature]
Chairman, Board of Commissioners

ATTEST:

Clerk of Council

ATTEST: ITEM # 25 SW. 5/28/86 A.M.

[Signature]
Clerk of Commission

RECOMMENDED:

Chief Administrative Officer

RECOMMENDED:

County Manager

APPROVED AS TO INTENT:

Commissioner, Department of Water and
Pollution Control

APPROVED AS TO INTENT:

Director, Public Works

APPROVED AS TO FORM:

Assistant City Attorney

APPROVED AS TO FORM:
YOUNG AND MURPHY
[Signature]
Associate County Attorney

EXHIBIT A

ORDINANCE OF CITY OF ATLANTA
APPROVING JOINT VENTURE AGREEMENT

STATE OF GEORGIA
COUNTY OF FULTON

AGREEMENT

THIS AGREEMENT, made and entered into this 28th day of May, 1986, by and between FULTON COUNTY, a political subdivision of the State of Georgia, hereinafter referred to as "County", and the CITY OF ATLANTA, a municipal corporation of the State of Georgia, hereinafter referred to as "City".

W I T N E S S E T H:

WHEREAS, the City and the County are in the process of working out a joint venture agreement to construct and operate a water treatment plant and appurtenances in North Fulton County, Georgia; and

WHEREAS, contemporaneously with the execution of such agreement, the City and County are desirous of executing an additional agreement disposing of certain claims made by the City for water and sewer services rendered to Fulton County and its agencies; as well as making an appropriate disposition of certain escrow funds held by the City in connection with surcharges rendered against South Fulton water users.

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained, and the public benefits to flow therefrom, the parties herein do agree as follows:

1. The County agrees to pay to the City all outstanding charges for water and sewer on County facilities from the date of January 1, 1985, and to continue until this agreement is amended or superseded.

2. That the City shall place the full amount of the South Fulton water surcharges, including principal and interest, in a separate account. Disbursements shall be made from such fund only for the following:

EXHIBIT "A"

(a) The sum of \$2,531,485.00 shall be paid from such account to the City to cover outstanding sewer charges on County facilities from January 1, 1985, to the present and the balance of such sum shall be used and applied as a credit against future charges. When such credit is used up, the County will pay sewer charges on its facilities to the City as the same accrue.

(b) The remaining portion of the amount held by the City from the collection of the surcharges from the South Fulton water users, after deducting the amount set forth in subparagraph (a) hereunder, shall be placed in a separate account and sums shall be disbursed from time to time at the direction of the Board of Commissioners of the County for the benefit of water service facilities in South Fulton County.

(c) The County Manager shall be authorized to verify the amount in such account at all times and to secure an audit of the same, if he deems such audit necessary.

3. It is understood that the sum set forth in subparagraph 2(a) is an amount which would be approximate to or less than general fund expenditures made by the County for South Fulton water main construction since 1955. Nevertheless, if any claim or legal action is brought to contest such payment, the parties will defend the same, and the County will reimburse the City for any cost, exclusive of legal fees, resulting from an adverse judgment or a settlement jointly agreed to by the governing authorities of the City and County.

4. It is agreed that charges for sewer and water on County facilities referred to in this agreement apply to charges and facilities in South Fulton County and in other portions of the County not subject to the services of the Atlanta-Fulton County Water Resources Commission in North Fulton County.

5. It is agreed that the County will direct its attorneys to dismiss Count Seven in Civil Action File No. C-34568, Fulton Superior Court.

IN WITNESS WHEREOF, the parties hereto, acting by and through their duly constituted officers, have caused their hands and seals to be hereunto affixed on the day and year set forth above.

FULTON COUNTY

By: [Signature]
Chairman, Board of Commissioners

ATTEST: ITEM # 25 SM 5, 28, 86 A.M.

[Signature]
Clerk, Board of Commissioners

APPROVED AS TO FORM:

County Attorney

CITY OF ATLANTA

By: _____
Mayor

APPROVED AS TO FORM:

ATTEST: _____
Clerk of Council

City Attorney

Appellate
5-27-86

A RESOLUTION

WHEREAS, the City of Atlanta and Fulton County are desirous of executing an agreement pertaining to the City's claim for water and sewer charges to Fulton County facilities made after January 1, 1985, as well as the disposition of an escrow fund held by the City in connection with surcharges rendered against South Fulton water users; and

WHEREAS, it is in the best interests of the County and its citizens to enter into a contractual agreement to dispose of these matters.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF FULTON COUNTY, GEORGIA, AS FOLLOWS:

SECTION 1: That the Chairman be and is hereby authorized to enter into an appropriate contractual agreement with the City of Atlanta covering disposition of certain escrow funds held by the City in connection with surcharges rendered against South Fulton water users, including dismissal of Count Seven in Civil Action File No. C-34568, Fulton Superior Court, as well as the disposition of claims of the City for water and sewer charges to County facilities from January 1, 1985, in substantially the form attached hereto, marked Exhibit "A", and incorporated herein by reference.