

ARPA SUBRECIPIENT INTERGOVERNMENTAL AGREEMENT

WITH CARROLL COUNTY WATER AUTHORITY

North Carroll County Water Project

This ARPA Subrecipient Intergovernmental Agreement (“**Agreement**”) is dated as of the ____ day of _____, 2022, by and between **Carroll County, Georgia, acting by and through its Board of Commissioners**, a political subdivision of the State of Georgia (hereinafter referred to as the “**County**”), and **Carroll County Water Authority**, a political subdivision of the State of Georgia, created by action of the General Assembly of said state (hereinafter referred to as either “**CCWA**” or “**Subrecipient**”).

WHEREAS, the County and CCWA have determined that there is a public health need to provide clean drinking water in North Carroll County, and the parties desire to coordinate resources and efforts to construct water system infrastructure within the northern portion of Carroll County south of Interstate 20 and east and west of Highway 27 as shown on the drawing attached hereto as Exhibit “A” and by reference incorporated herein (the “**Target Area**”) as described in this Agreement; and

WHEREAS, the U.S. Department of the Treasury (“**Treasury**”) has allocated to the County federal stimulus funding from the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Funds under CFDA No. 21.027 (“**ARPA Funds**”) under Section 603(b) of the Social Security Act, as amended by Section 9901 of the American Rescue Plan Act (hereinafter referred to as the “**Act**”) for use by the County in furtherance of the eligible uses set forth in the Act, together with the Terms and Conditions executed by the County as a condition of acceptance of the ARPA Funds, and all Rules, Regulations and Guidelines promulgated by the Treasury and amended from time to time, including without limitation the Final Rule (“**Final Rule**”) and the Compliance and Reporting Guidance for State and Local Fiscal Recovery Funds (collectively, the “**ARPA Rules**”); and

WHEREAS, the Act authorizes the County to expend ARPA Funds awarded to the County for the eligible purposes outlined in the Treasury’s Interim Final Rule which include, *inter alia*, making necessary investments in water infrastructure (“**Eligible Uses**”); and

WHEREAS, pursuant to the Act, Eligible Uses under this federal program must be obligated no earlier than March 3, 2021 and no later than December 31, 2024, with final disbursement of all funds no later than December 31, 2026; and

WHEREAS, based on the prior project scope with a cost estimate of \$10,100,000, the County Board of Commissioners adopted a resolution on September 7, 2021, approving the allocation of \$3,900,000 of the ARPA Funds awarded to the County to further the County’s investment in water infrastructure, and such allocation of ARPA Funds is consistent with the Eligible Uses of ARPA Funds; and

WHEREAS, the CCWA Board of Directors approved Resolution 21-004, dated March 18, 2021, which recognized improving and expanding water service in the Interstate 20 and Highway 27 corridor as a noteworthy and important goal; and CCWA desires to allocate \$5,500,000 of its funds for the Project as set forth herein; and

WHEREAS, due to an additional line on the west side of Highway 27 and an increase to larger pipe size along certain planned lines as shown on Exhibit A, as well as market volatility resulting in significant price increases in materials and product shortages, the cost estimate of the Project has been revised to a total revised cost estimate of \$11,350,000; and

WHEREAS, based on the revised cost estimate of \$11,350,000, the County Board of Commissioners desires to allocate an additional \$2,300,000 of the ARPA Funds awarded to the County, such additional funds being previously considered for wastewater improvements within the Target Area, to increase the County's investment in water infrastructure to \$6,200,000 in ARPA Funds per this Agreement; and

WHEREAS, the parties hereto believe that the planned investment in water tanks and lines to service the Target Area is essential for the public health, safety and welfare of not just the Target Area, but for all of Carroll County; and

WHEREAS, such allocation of ARPA Funds is consistent with the Eligible Uses of ARPA Funds; and

WHEREAS, Article IX, Section III, Paragraph I(a) of the Georgia Constitution authorizes, among other things, any county, municipality or other political subdivision of the State of Georgia to contract, for a period not exceeding fifty years, with another county, municipality or political subdivision or with any other public agency, public corporation or public authority for joint services, for the provision of services, or for the joint or separate use of facilities or equipment, provided that such contract deals with activities, services or facilities which the contracting parties are authorized by law to undertake or provide;

NOW, THEREFORE, in consideration of the foregoing recitals which are incorporated herein by reference, and the terms and conditions set forth below, the parties agree as follows:

1. Effective Date and Term. This Agreement shall commence when last executed by all parties and remain in effect until December 31, 2026, together with such period thereafter required for reporting and record retention under the Act, unless terminated by the County, pursuant to Section 7 of this Agreement, in writing.

2. ARPA Funds and Proposed Project Use of ARPA Funds. The parties agree to cooperate to complete the Project (defined below). The County agrees to provide CCWA under the terms of this Agreement, conditioned on the requirement that such ARPA Funds will be disbursed by CCWA solely in furtherance of its development of water infrastructure within the Target Area no later than December 31, 2026, based on eligibility criteria of the Act and ARPA Rules, the sum of \$6,200,000 to be used for planning, development and construction of water infrastructure to improve and expand access to clean drinking water within the Target Area, including but not limited to elevated storage tank(s), pump station(s) and water mains generally as shown on

Exhibit “A” attached hereto (the “**Project**”). Exact locations, materials, sizes, and extent of improvements within the Target Area will be determined by CCWA during detailed engineering design by engineers retained by CCWA through a qualification based selection process to meet the objective of improving and expanding water service within the Target Area. Material changes to the scope of work or the improvements shown on Exhibit “A” (including changes for the proposed improvements to serve Bremen Mount Zion Road residents) shall be subject to the prior written approval of the Chairman of the Board of Commissioners. CCWA shall oversee the design and construction of the Project to ensure compliance with CCWA specifications and shall own and operate the Project after completion.

3. CCWA Project, Estimates of Cost and Fund Sources. CCWA estimates the total Project costs for the “proposed” improvements generally shown and outlined on Exhibit “A” to be \$11,350,000, and the parties agree that said costs shall be funded as follows:

CCWA Funds	\$5,500,000.00
County ARPA Funds	\$6,200,000.00

Should the County decide to apply for a CDBG Grant to fund a portion of the water related improvements within the Target Area and if the County is awarded the grant, the County intends to use up to \$150,000 of its ARPA Funds allocated for the Project for administrative costs of the CDBG grant. In the event the County determines that a portion of said \$150,000 amount is not needed for the CDBG Grant, then the County agrees to use such excess amount for the Project.

In the event the actual cost of the Project is higher than the \$11,700,000 funding total, then the CCWA, with the written approval of the Chairman of the County Board of Commissioners, shall reduce the scope of the Project taking into account the priorities of the public health needs. In the event the actual cost of the Project is lower than the \$11,700,000 funding total, then the CCWA, with the written approval of the Chairman of the County Board of Commissioners, may expand the scope of the Project or consider other water improvements to meet public health needs within Carroll County.

4. CCWA’s Use of ARPA Funds. CCWA shall ensure that the ARPA Funds received by it are used solely for the purpose of investment in the planning, development and construction of necessary water infrastructure within the Target Area to the benefit of the citizens of Carroll County, Georgia, and in compliance with all requirements of the Act and ARPA Rules.

5. Ineligible Uses. Non-allowable uses of ARPA Funds include, without limitation, the following: a) usage of funds to either directly or indirectly offset a reduction in net tax revenue resulting from a change in law, regulation or administrative interpretation during the covered period that reduces any tax or delays the imposition of any tax or tax increase; b) damages covered by insurance; c) usage of funds as a deposit into any pension fund; d) expenses that have been or will be reimbursed under any federal program; e) debt service costs; f) contributions to “rainy day” fund; and d) legal settlements (“**Ineligible Uses**”). CCWA shall not use any portion of the ARPA Funds received from the County for Ineligible Uses.

6. Delivery of ARPA Funds and Reporting Requirements. CCWA agrees to accept and account for all ARPA Funds received by it in compliance with this Agreement, the Act and the ARPA Rules. CCWA agrees to take all actions, on behalf of the County, required by the Act and the ARPA Rules regarding the maintenance of records, as well as preparation and filing of all reports. To facilitate the release of ARPA Funds by the County to the CCWA and the County's compliance with reporting requirements for usage of ARPA Funds under this IGA, CCWA may submit one request per month to the County on or before the 10th day following the end of each calendar month during the term of this Agreement, detailing the amounts to be disbursed by CCWA based on Eligible Uses received, reviewed and approved by CCWA with an attestation by an officer of CCWA that such disbursement requests are eligible in accordance with the eligibility requirements outlined in the ARPA Rules and this Agreement. The County shall then distribute ARPA Funds, as requested by CCWA, to CCWA to fund the expenses of the Project approved by the County subject to availability of County ARPA Funds (“**Requested Funds**”). Failure to provide any of the required documentation may result in the withholding and/or nonpayment of all or a portion of the request, and termination of the Agreement. Following receipt of the Requested Funds from the County, CCWA will disburse the Requested Funds to the approved recipients within ten (10) business days, and provide on a monthly basis a report to the County detailing the funds disbursed by CCWA pursuant to this Agreement. The County may require additional documents from CCWA in order to comply with the Act and ARPA Rules.

7. Termination. In the event the County makes a determination that CCWA use of the ARPA Funds is not in compliance with or in furtherance of the Eligible Uses set forth in the Act or it appears that CCWA will fall short of the required development and distribution dates set forth in the Act and APRA Rules, the County may upon said determination terminate this Agreement, for no consideration or damages, upon notice to CCWA, at which time, any unused portions of the ARPA Funds shall be reimbursed by CCWA to the County.

8. Independent Contractor. Each party under the Agreement shall be for all purposes an Independent Contractor. Nothing contained herein will be deemed to create an association, a partnership, a joint venture, or a relationship of principal and agent, or employer and employee between the parties. CCWA shall not be, or be deemed to be, or act or purport to act, as an employee, agent, or representative of the County for any purpose.

9. Indemnification. CCWA agrees to defend, indemnify and hold the County, its officers, elected officials, employees, agents and volunteers harmless from and against any and all claims, injuries, damages, losses or expenses including without limitation personal injury, bodily injury, sickness, disease, or death, or damage to or destruction of property, which are proven to be caused in whole or in part by an act or omission of CCWA, its officers, directors, employees, and/or agents relating to CCWA's performance or failure to perform under this Agreement, and development, operation and maintenance of the Project. This section shall survive the expiration or termination of this Agreement.

10. Compliance with Laws, ARPA Rules. The Parties hereto shall comply with all federal, state, and local laws and all requirements (including debarment and other required certifications

and audits) of this IGA, the Act, and ARPA Rules, the Uniform Administrative Requirements, Cost Principles, and Audit Requirements (2 C.F.R. Part 200) to the extent applicable, when using the ARPA Funds and designing, constructing, operating and maintaining the improved water sources for the Target Area as contemplated by this Agreement. CCWA shall include all contract provisions, if applicable, in contracts using the ARPA Funds as contained in 2 C.F.R. Part 200, Appendix II.

11. CCWA Maintenance and Audit of Records. CCWA shall maintain all records, books, documents, and other materials relevant to its performance under this Agreement as required by the Act and ARPA Rules. These records shall be subject to inspection, review and audit by the County or its designee, the Georgia State Auditor's Office, the Treasury and as required by this IGA, the Act and the ARPA Rules for a period of five (5) years (or such longer period as may be required by the ARPA Rules), following the end of the term of this Agreement or the early termination thereof in accordance with Section 7 above. If it is determined that CCWA used any of the ARPA Funds for Ineligible Uses, CCWA agrees to promptly reimburse the County for such payments upon request.

12. Notices. Any notice desired or required to be given hereunder shall be in writing, and shall be deemed received upon personal delivery or three (3) days after deposit with the U.S. Postal Service, postage fully prepaid, certified mail, return receipt requested, and addressed to the party to which it is intended at its last known address, or to such other person or address as either party shall designate to the other from time to time in writing forwarded in like manner. For convenience the parties may provide notice by electronic transmission (email) so long as receipt of any such electronic transmission is acknowledged by the other party, said notice shall be deemed effectively delivered as of the date and time of the acknowledgment of receipt. Notices shall be delivered to the parties and at the addresses set out below:

Carroll County, Georgia
ATTN: Michelle Morgan, Chairman
Historic Court House
323 Newnan Street, Room 200
Carrollton, GA 30117
Email Address: mmorgan@carrollcountyga.com

Carroll County Water Authority
ATTN: Matt Windom, Executive Director
556 Old Bremen Road
Carrollton, GA 30117
Email Address: mwindom@ccwageorgia.com

13. Improper Influence; Non-discrimination. Each party warrants that it did not and will not employ, retain, or contract with any person or entity on a contingent compensation basis for the purpose of seeking, obtaining, maintaining, or extending this Agreement. Each party agrees, warrants, and represents that no gratuity whatsoever has been or will offered or conferred with a

view towards obtaining, maintaining, or extending this Agreement. CCWA shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. section 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. section 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.

14. Conflict of Interest. The elected and appointed officials and employees of the parties shall not have any personal interest, direct or indirect, which gives rise to a conflict of interest.

15. Time. Time is of the essence in this Agreement.

16. Survival. The provisions of this Agreement that by their sense and purpose should survive expiration or termination of the Agreement shall so survive.

17. Amendment. No amendment or modification to the Agreement will be effective without the prior written consent of the authorized representatives of the parties.

18. Governing Law; Venue. The Agreement will be governed in all respects by the laws of the State of Georgia, both as to interpretation and performance, without regard to conflicts of law or choice of law provisions. Any action arising out of or in connection with the Agreement may be instituted and maintained only in a court of competent jurisdiction in Carroll County, Georgia.

19. Non-Waiver. No failure on the part of the County to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise by the County of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedy available to the County at law or in equity.

20. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors.

21. Assignment. CCWA shall not assign or transfer any of its interests in or obligations under this Agreement without the prior written consent of the County.

22. Entire Agreement. This Agreement constitutes the entire agreement between the County and CCWA for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the parties with respect to this Agreement.

23. No Third Party Beneficiaries. Nothing herein shall or be deemed to create or confer any right, action, or benefit in, to, or on the part of any person or entity that is not a party to this Agreement. This provision shall not limit any obligation which either party has to Treasury in

connection with the use of ARPA Funds, including the obligations to provide access to records and cooperate with audits as provided in this Agreement and the Act.

24. Severability. In the event that one or more provisions of this Agreement shall be determined to be invalid by any court of competent jurisdiction or agency having jurisdiction thereof, the remainder of the Agreement shall remain in full force and effect and the invalid provisions shall be deemed deleted.

25. Counterparts. This Agreement may be executed in one or more counterparts, any of which shall be deemed an original but all of which together shall constitute one and the same instrument.

26. Authorization. Each party signing below warrants to the other party, that they have the full power and authority to execute this Agreement on behalf of the party for whom they sign.

[The immediately following page is the signature page]

IN WITNESS WHEREOF, this Agreement is executed and shall become effective as of the last date signed below.

CARROLL COUNTY, GEORGIA
acting by and through its Board of Commissioners

BY: _____

NAME: Michelle Morgan

TITLE: Chairman

ATTEST: _____

NAME:

TITLE: County Clerk

(SEAL)

(Signatures continue on the following page.)

CARROLL COUNTY WATER AUTHORITY

BY: _____

NAME: Trey Wylie

TITLE: Chairman

ATTEST: _____

NAME: Teresa Adams

TITLE: Secretary

(SEAL)

EXHIBIT “A”
DRAWING OF TARGET AREA AND PROJECT
[See attached]