COUNTY DEPARTMENT AGENDA REQUEST

Department:	County Commissioners	Presenter(s):	Jack Krakeel
Meeting Date:	Thursday, May 13, 2010	Type of Request:	New Business

Wording for the Agenda:

Consideration of an agreement between Fayette County and the Town of Brooks allowing the County to assume operational responsibility of the Brooks Water System.

Background/History/Details:

The Town of Brooks owns and operates a small water system with less than 200 customers. Over time, the system has developed problems and relies on the County to provide adequate water to back up the supply from their well.

The agreement under consideration would allow the Fayette County Water System to fully operate and manage the Brooks Water System. The County would assume full responsibility for the provision of water service in Brooks, including expansions or extensions for future needs. The County will assume responsibility for replacing, upgrading, and updating meters, equipment, lines, and all other appurtenances needed to operate the Brooks Water System. This is a 50 year agreement.

The Town of Brooks will remain the owner of the Brooks Water System.

There will be a transition period during which the Town and County will work together to transfer the operation of the Brooks Water System from the Town to the County.

What action are you seeking from the Board of Commissioners?

The Town has already taken action on the agreement under consideration and has authorized their Mayor to execute same. Following discussion, the Board may take a similar action.

If this item requires funding, please describe:

The Fayette County Water System will take over the responsibility of billing Brooks' water customers. Operational costs as well as revenues will be integrated into the County's Water System. Asset values will be maintained for expenses related to the Brooks System.

Has this issue come before the Commissioners in the past?	No	If so, when?	
Do you need audio-visual for the presentation?	No	Back-up Material Submitted?	Yes

STAFF USE ONLY

Approved by Finance	Yes	Reviewed by Legal	
Approved by Purchasing	Not Applicable	Approved by County Clerk	Yes
Administrator's Approval	Yes		

Staff Notes:

TOWN OF BROOKS

Post Office Box 96
Brooks, GA 30205

MAYOR
Daniel C. Langford, Jr.

COUNCILMEN
Lewis B. Harper
Bob Rolader
Steve F. Hayne
Scott A. Israel

April 20, 2010

Jack Krakeel, Fayette County Administrator
Fayette County Administration Building
140 Stonewall Avenue West
Fayetteville, GA 30214

Dear Mr. Krakeel:

For more than six (6) months, we have worked with Fayette County to develop a mutually beneficial Agreement for Fayette County to Assume Operational Responsibility for the Water System of the City of Brooks, GA (hereinafter the "Water Agreement"). We greatly appreciate the time and effort that you have devoted to this project on behalf of the County.

Last night, at the request of the Fayette County Commission, the Town Council held its final discussion regarding the current version of the Water Agreement. This discussion was followed by a vote wherein the Town Council voted unanimously to accept the Water Agreement in its current form and authorized me to execute the Water Agreement on behalf of the Town of Brooks.

I am pleased to enclose two (2) executed ORIGINALs of the Water Agreement. It is my understanding that the Commissioners will vote on the Water Agreement at the next meeting. Assuming the vote results in the County's acceptance of the Water Agreement, kindly execute both ORIGINAL documents and return on fully-executed ORIGINAL to my attention.

We look forward to working with Fayette County with regard to this matter.

Sincerely,
TOWN OF BROOKS

D C Langford Jr.

Daniel C. Langford, Jr., Mayor

Agreement

For
Fayette County to Assume Operational
Responsibility for the
Water System of the City of Brooks, Georgia

March, 2010

STATE OF GEORGIA

COUNTY OF FAYETTE

AGREEMENT

This Agreement is made and entered into by and between the City of Brooks, a Georgia municipal corporation, duly organized and existing under the laws of the State of Georgia, hereinafter referred to as "Brooks", and Fayette County, a Georgia municipal corporation, duly organized and existing under the laws of the State of Georgia, hereinafter referred to as "Fayette County".

The purposes of this Agreement are to:

Assure the continued provision of high quality, reliable, economical, safe and sanitary water service within the present and future corporate limits and service area of Brooks;

Provide for the orderly transfer of responsibility for the construction, operation, maintenance, management, and financing of Brooks' water system from Brooks to Fayette County; and

Assign the managerial, operational, and financial responsibility of operating, maintaining, and expanding the water systems serving the present and future corporate limits and service area limits of Brooks from Brooks to Fayette County.

Nothing within this agreement removes ownership of the Brooks Water System from the Town of Brooks.

WHEREAS, in order to promote effective and efficient water services, programs and facilities in the City and County and to avoid duplication of services, the parties hereto have reached the agreement herein specified pursuant to the provisions of Article IX, Section III, paragraph I of the 1983 Constitution of the State of Georgia;

WHEREAS, Brooks owns, operates, and maintains a water system within its corporate limits;

WHEREAS, Brooks desires to enter into an exclusive operating agreement for its water systems with Fayette County in accordance with the terms and conditions hereinafter stated;

WHEREAS, Fayette County agrees to assume full responsibility for the provision of water services in Brooks, including responsibility for Brooks' water system and related equipment and property rights; and

WHEREAS, Fayette County further agrees to operate, maintain and expand said water systems to accommodate planned growth and development within Brooks' planning and zoning jurisdiction in accordance with the terms and conditions hereinafter stated;

NOW, THEREFORE, for the considerations hereinafter stated, the parties do agree as follows:

(a) This Agreement shall be for a period of forty-nine (49) years unless terminated or extended as provided herein. Brooks and Fayette County hereby agree that such duration is reasonable and necessary in light of the purposes of this Agreement.

(b) No joint agency is established by this Agreement.

(c) Fayette County shall have the sole responsibility and authority to appoint or otherwise employ the personnel necessary for the implementation of this Agreement.

(d) The responsibility for financing the construction, operation and maintenance of the Brooks water system and any extensions thereof shall be in accordance with the terms of this Agreement. Fayette County shall be entitled to the receipt of all revenues from the Brooks water system and any extensions thereof.

(e) Brooks agrees and grants the authority for appropriate employees of Fayette County to work and act in Brooks as necessary to carry out the purposes of this Agreement as appropriate under the ordinances and regulations of both Fayette County and Brooks.

(f) For the purposes of operating the water system, Brooks shall assign to Fayette County and its assignees or successors, for the term of this Agreement and Fayette County and its assignees and successors shall receive from Brooks, in accordance with the terms and conditions set forth in this Agreement:

(i) All pipes, water lines, hydrants, pump stations, force mains, mains, meters, meter boxes, and service laterals, elevated water tanks, maintenance facilities, and all other appurtenances normally associated with, and owned by Brooks, and presently in use within Brooks' water system;

(ii) All of Brooks' rights, titles and interests in land, easements, and encroachment agreements necessary to own and operate Brooks' water system. All of the property and rights described above shall be hereafter referred to as "the Property";

(iii) All property currently used in the operation of the water system, but that is to be retained by Brooks, will be identified prior to the Assignment Date as defined in this Agreement (See Exhibit A);

(g) Fayette County shall have the right to exercise its power of eminent domain within the current and future municipal and planning limits of Brooks for activities necessary to fulfill Fayette County's water service obligations defined in this Agreement; and

(h) Cost of the assignment/operating transfer of the system from Brooks to Fayette County will be borne by Fayette County, and will be recovered through the water rates, fees, and charges that will be charged to Brooks customers as set forth in this Agreement.

I. Definitions

The following words and phrases are defined as set forth below when used in this Agreement, unless a contrary meaning is clearly required by the context in which the word or phrase is used:

(a) *Brooks' Service Area:* That service area allocated to Brooks in the Service Delivery Strategy as agreed between the parties or as may be amended hereafter.

(b) *Effective Date*: The date on which all of this Agreement is approved and signed by all parties.

(c) *Assignment Date or Closing Date*: The date on which title or leasehold to the subject water system passes from Brooks to Fayette County, which shall be a reasonable time after the Effective Date of this Agreement.

(d) *Systems*: The real and personal property comprising Brooks' water system which is to be assigned to Fayette County.

(e) *Inside City Rate(s)*: The rate(s) charged by Fayette County to the water customers inside the corporate limits of Brooks.

(f) *Outside City Rate(s)*: The rate(s) charged by Fayette County to the water customers outside the corporate limits of Brooks.

II. Assignment Date

The County Administrator of Fayette County and the Mayor of Brooks, or their designees, shall be responsible for determining all implementation details related to this Agreement not specifically addressed in this Agreement. The Assignment Date for this Agreement is _____ ____, 2009. The Assignment Date shall not be delayed unreasonably by either party.

III. Responsibility for Brooks System

Upon the Assignment Date, Fayette County shall assume immediate and sole duty and responsibility for financing, operating, maintaining, improving, and expanding the water systems serving Brooks' existing and future corporate limits and services area. Prior to the Assignment Date, Brooks will be responsible for the operation and maintenance of Brooks' water system. During the period after the Effective Date, but prior to the Assignment Date, Brooks will be responsible for the expansions to the Brooks water system, but will solicit participation from Fayette County staff regarding design standards and utility operations planning, to ensure that future expansions are in accordance with Fayette County policies, standards, and procedures. After the Operational Transfer Date, Brooks' water system shall be fully incorporated into the water system operated and maintained by Fayette County. Said duty and responsibility shall be in accordance with current and future policies, standards, and procedures of Fayette County, and shall be applied in the same extent and in the same manner as applied to other inside city customers of Fayette County.

IV. Right to Operate

Brooks hereby grants to Fayette County during the term of this Agreement, the right to design, construct, operate, maintain and perform all related activities required to operate, maintain, expand, upgrade and improve Brooks' water system in accordance with Fayette County's water system standards and policies for operation and performance, level of service, reliability, and redundancy. Said Right to Operate includes the encroachment authority for Fayette County to operate in all public rights-of-way over which Brooks has the sole authority or joint authority with the Georgia Department of Transportation. Said water system standards and policies shall be applied in Brooks to the same extent and in the same manner as applied to other customers of Fayette County's water system.

In all instances, Fayette County or its authorized contractor shall be required to restore and repair any street or other property of Brooks upon the completion of any construction, operation, maintenance, replacement, improvement or related activity causing damage thereto. Said restoration or repair shall be to the standards acceptable to Brooks.

V. System Upgrades and Improvements

Fayette County shall undertake and complete all activities relating to the design, construction, startup, and operation of the system upgrade and improvement projects agreed upon as a part of this Agreement. Said upgrade and improvement projects will be undertaken and completed by Fayette County to upgrade and improve Brooks' water system in accordance with Fayette County's water system standards for operation and performance, level of service, reliability, and redundancy. Fayette County may, at its discretion, undertake alternative upgrade and improvement projects that accomplish the same purposes as the projects agreed upon.

Any upgrades by Fayette County will be accomplished in accordance with Fayette County's normal operations and capital program prioritization process. The costs for the upgrade and improvement projects will be recovered from customers located in Brooks' Service Area through the schedule of rates, fees and charges as established by Fayette County.

VI. Notices of Violation

In the event that fines or penalties are levied by the State of Georgia for violation of Brooks water system permits following the Assignment Date, payment of fines for notices of violations will be paid by Fayette County. Any fines or penalties for actions prior to the Assignment Date will be paid completely by the City of Brooks.

VII. Rates, Fees, Charges, and Penalties

Fayette County shall have the sole responsibility and authority to establish and set rates, fees, charges, and penalties necessary for the operation, maintenance, upgrade, improvement, and expansion of the water system. Subject to the provisions hereof, it is intended that the expansion, upgrade, improvement, operation and maintenance of the water system shall be on a self-sustaining basis. All revenues of Fayette County water system shall be used exclusively by the water fund for direct and indirect costs of the water operations. In maintaining and operating the water system, Fayette County will:

(a) Set and charge reasonable rates, based on cost of service principles, to all classes of users of the water system;

(b) Operate and maintain the water system consistent with Fayette County's obligation and commitment to provide proper, efficient, and environmentally sound water services now and in the future;

(c) Use the revenues of the water system for:

(i) The maintenance and operation of the water system;

(ii) The payment of debt service or other debt instruments issued therefore, and the funding of resources in connection with the issuance of such debt for the water system;

(iii) The expansion, extension, upgrade, and improvement of the water system and such other purposes as Fayette County may deem proper for the operation of the water system;

(iv) Watershed protection activities; and/or

(v) Other lawful public purposes.

VIII. Schedules of Rates, Fees, Charges, and Penalties

Fayette County shall apply to customers located in Brooks' Service Area a schedule of rates, fees and charges sufficient to recover all of the costs, as determined by Fayette County, required to accomplish the water system assignment between Fayette County and Brooks. Said costs will include, but not be limited to, capital upgrades and improvements, administration and other transfer costs directly and indirectly related to the assignment of the water system. In no event will the County charge City customers more than 15% above the rate charged to customers located in the unincorporated areas of the County.

IX. Representation and Warranties by Brooks

Brooks makes the following representations and warranties to Fayette County:

(a) Brooks is the sole owner of all water lines, pipes, meters, valves, meter boxes, laterals, and any other property assigned to Fayette County under the terms and conditions of this Agreement; and

(b) Said facilities, property, land, equipment, information, and data is free and clear of all encumbrances

X. Property Assignment

Upon the Assignment Date of this Agreement, Brooks shall assign to Fayette County all of its rights and interests to all facilities, property, land, equipment, financial assets, information, and

data subject to this Agreement to Fayette County. The assignment of these assets does not transfer of ownership of the assets from the Town of Brooks to the Fayette County Water System.

XI. Easements and Encroachments

Brooks may have facilities installed on the properties of others for which it does not have express easements or encroachment agreements, and some facilities installed in streets and rights-of-way for which it has no encroachment agreements. In the event a landowner on whose land such a facility exists contests Fayette County's right to maintain such facilities, Fayette County shall notify Brooks in writing and Brooks shall be responsible to obtain at its expense the necessary easement, encroachment agreements or fee simple title across said land either by negotiation or by eminent domain. After Brooks has obtained such easement or fee simple title, it shall assign its rights thereof to Fayette County for the term of this Agreement. Any reasonable and direct expense borne by Fayette County in resolution of these disputed easements shall be paid by Brooks, and Brooks shall also make adequate reservation for the necessary rights-of-way for all planned water facilities prior to closing any street. If Brooks fails to comply with the provisions of this paragraph, Brooks shall reimburse Fayette County in full for all expenses incurred in acquiring the necessary rights-of-way by purchase or condemnation.

XII. Financial Assets and Closeout

The financial records of the City of Brooks water enterprise fund will be closed as of the Assignment Date of this Agreement. As of this closeout, the full amount of the Brooks utility fund equity will be assigned to Fayette County to be used for payments of water/wastewater debt service costs or capital improvements for the Brooks system. The accounting for all other asset and liability accounts will transfer at closeout to the Fayette County water enterprise fund, subject to audit verification by the Fayette County Finance Department and or an independent auditor. Brooks shall write-off all inactive accounts considered uncollectible and adjust other accounts to a current status prior to Fayette County's assumption of the financial accounts.

XIII. Existing Brooks Water Supply Wells

The existing City of Brooks water supply wells may be capped by Fayette County following the Assignment Date if Fayette County determines that sufficient water supply can be provided to Brooks by other means to compensate for the well production. The well capping shall occur after direct interconnections between the Fayette County water system and the Brooks water system are completed and direct water delivery from Fayette County has begun. Fayette County shall not be liable for maintaining any permits or other governmental requirements to continue use of the well at a future time.

XIV. Expansion and Extension of Water Services

Fayette County shall provide, maintain, and extend the water systems and facilities as may be required under applicable laws and regulations so as to serve present and future demands, and in particular so as not to impede the orderly growth and development of Brooks. Fayette County shall not practice or permit any discrimination against Brooks in the provision of such services based upon location of the point of service within Brooks' Services Area.

XV. Requests for Service

Upon the Assignment Date, all future requests for new service connections will be made to Fayette County. Request for new services that require extensions will be first presented to Brooks to assure all zoning and land use issues have been addressed then forwarded to Fayette County for approval of water plans. Both Brooks and Fayette County will provide information to customers and potential customers regarding details of service. Fayette County agrees to provide existing and future water customers located within Brooks' Services Area service of a quality comparable to the quality and quantity of service provided to water customers within the unincorporated areas of Fayette County. Fayette County specifically agrees that the geographical location of the water customers in Brooks Services Area shall not have any substantial effect on the quality of service or timing of repairs to be made by Fayette County. However, Fayette County shall decide whether it will extend service to new customers based upon proximity and feasibility of extending said services.

XVI. Developer-Requested Extensions to the System

Subject to the provisions of this Agreement, extensions of the subject water system that are undertaken by third-party developers shall be made under the policies published and used by Fayette County, and as may be amended from time to time. Said policies shall be uniform throughout Fayette County's water system, including those areas affected by this Agreement. Fayette County may, at its discretion, make changes to the extension policies as Fayette County determines to be appropriate. Said changes shall apply to all portions of the water system operated and maintained by Fayette County, including those areas located in Brooks' Service Area.

For water extensions outside of Brooks' municipal corporate limits, all applicable water extension policies of Fayette County's Water System will apply.

Utility fees and charges for new Brooks' customers may not be paid by Brooks or any other public entity, either directly or indirectly, as a part of an economic development program for Brooks. Violation of this condition will constitute a breach of the Agreement.

Approval for request for service or extension under provisions of this section will not be unreasonably withheld by either Fayette County or Brooks.

XVII. Brooks-Requested Extensions to the System

Brooks-requested extensions to the Brooks water system or extensions thereof required by Brooks beyond those included in the Fayette County Capital Improvement Program, shall be financed by Brooks and shall be accomplished by contract between Brooks and Fayette County. Reasonable notice to proceed with such extensions will be provided to Fayette County by Brooks, such that applicable time limitations can be met. However, under no circumstances shall Fayette County be liable to Brooks for the payment of damages, penalties, fines or any other monetary recovery as a result of any failure to satisfy such time limitations for Brooks-requested extensions. For extensions required due to annexation, annexation plans shall be submitted by Brooks to Fayette County to evaluate the feasibility thereof under then existing conditions.

XVIII. Records Transfer

Brooks shall transfer to Fayette County all available reproducible and electronic copies of any and all records, data, information, and models arising from the construction, operation and maintenance of Brooks' water system and any other related activity, including projects in progress, and including, but not limited to, the following:

(a) Construction contracts, drawings, maps, and all other related documents evidencing the condition or location of any portion of the subject water system including such documents as may be in the possession of any engineer or other consultant of Brooks;

(b) Billing, collection and payment records on all present customers of the subject water and sewer systems;

(c) An accurate tabulation or listing of all actual service locations in the Brooks system to be assigned to Fayette County from Brooks, to include:

  (i) Address - Number and Street;

  (ii) Account Name (if active);

  (iii) Billing Address for Each Account Number;

  (iv) Account Numbers and all meter reading books and the history of all accounts for the past twelve (12) months;

  (v) One Year's Account History; and

  (vi) Meter Location Description.

(d) Contracts or agreements for the supply of equipment, materials, supplies, and products;

(e) Pending applications for water service;

(f) Contracts or agreements to provide water and or sewer service currently in effect;

(g) Receipts, accounts and other records of deposits made by all present and past customers of the Brooks Water Systems;

(h) Any and all warranty information on any facilities, property, land, and equipment assigned to Fayette County pursuant to this Agreement;

(i) Repair, maintenance, trouble, and emergency response records for all portions of Brooks' water systems;

(j) Any and all notices of violation, legal actions, and lawsuits pertaining to Brooks' water system;

(k) Plans, permits, reports, specifications, surveys, etc., for water facilities and operations;

(l) Number and locations of all un-metered services;

(m) Copies of all water system maps;

(n) Copies of all easements;

(o) Copies of all encroachment agreements;

(p) Identification of all Brooks' customers;

(q) Record of all assessments for system extensions;

(r) Identification of all taps for which payment has been made;

(s) Identification of all backflow prevention installations;

(t) Identification of all Pretreatment Program installations;

(u) Copies of such records as are necessary to inform Fayette County of the location of all facilities of Brooks for other utility operations;

(v) Any other information, data, and records pertaining to Brooks' water utility;

(w) Accounts receivable records; and,

(x) Accounts payable records.

Brooks agrees that within a reasonable time after the Assignment Date, Brooks shall submit to Fayette County such accounting, commercial, engineering, planning, personnel, and facility records pertaining to Brooks' water system. Brooks may make copies of said materials for Brooks' records and archives. Prior to the Assignment Date, the County Administrator of Fayette County and Mayor of Brooks, or their designees, shall determine mutually satisfactory administrative details for the transfer of the above referenced records.

XIX. Customer Transfer

As of the Assignment Date, all customers and users of Brooks' water system shall become subject to all rules, regulations and ordinances of Fayette County as the same apply to all users and customers of the water system of Fayette County, and as same are now or may hereafter be amended. Such rules, regulations and ordinances and schedule of rates, fees, charges and penalties shall constitute a part of the Agreement between Fayette County and any customer or user of the subject water system and any extensions thereof for the provision of water service.

A team comprised of Fayette County and Brooks' staff shall develop a seamless transfer of customer accounts at Assignment Date in order to provide continuity of account activity. All accounting after the Assignment Date shall be made within the Fayette County utility enterprise fund.

XX. Customer Deposits

Following the Transfer Date, Brooks, under the direction of the Brooks Mayor or his designee, shall refund deposits by checks to be mailed to its customers.

XXI. Billing Cycles

As of the Assignment Date of this Agreement, Fayette County reserves the right to adjust the billing cycle for Brooks' water customers to a cycle at a time that Fayette County deems appropriate. Fayette County will make a good-faith effort to implement any changes to the billing cycle after customer notification and education by Brooks and Fayette County.

XXII. Water Meter Readings

At the Assignment Date, Fayette County shall assume all responsibility for reading all customer meters and for preparation of water bills. The transition of meter readings will be coordinated between the City and County.

XXIII. Prior Agreements

All prior agreements between Brooks and Fayette County pertaining to water services are rescinded as of the Assignment Date.

XXIV. Existing Commitments

Brooks may have certain commitments to developers of residential and non-residential projects inside and outside the corporate boundaries of Brooks.

Brooks will install the meters, set the boxes, and collect tap fees in all of such developments to fulfill its existing commitments prior to Assignment Date. Such completed services shall become a part of the property to be assigned herein from Brooks to Fayette County. If any commitments are left outstanding as of the Assignment Date, Brooks agrees to accept full financial responsibility to resolve the commitment.

XXV. Existing Agreements

Fayette County shall assume and honor all existing developer (as of the Assignment Date) contracts previously entered into by Brooks concerning Brooks' water system, provided that such contracts that require expenditure of Fayette County funds shall be reimbursed by Brooks in full within thirty (30) days after receipt of an invoice from Fayette County. Any such contract or agreement with third parties entered into by Brooks between the Effective Date and the Assignment Date shall require approval by Fayette County.

XXVI. Discriminatory Agreement Disclaimer

No existing special, discriminatory agreements with specific customers will be continued, honored, or assumed by Fayette County. Brooks represents and warrants to Fayette County that there are no discriminatory agreements between Brooks and any customer or user of Brooks' water system which will, nor may survive this Agreement and be binding upon Fayette County. For purposes of this Agreement, a discriminatory agreement is any agreement, contract or other understanding between Brooks and any customer or user of Brooks' water system that provides that:

(a) Water service be extended and provided in a different manner than such service is extended and provided to the remaining customers or users of Brooks' water system as to quality, quantity, or any other aspect of extending and providing such service;

(b) Water service be extended and provided upon the payment of a different schedule of rates, fees, charges, or penalties than is imposed upon the remaining customers or users of Brooks' water system;

(c) Water service be extended and provided at a different cost or schedule for reimbursement of costs or any other aspect of paying for the extension and provision of water service than is imposed upon the remaining customers or users of Brooks' water system.

XXVII. Conflict/Default Resolution

In the event of conflict or default that might arise for matters associated with this Agreement, the parties involved agree to informally and formally communicate to resolve the conflict. If this communication is not successful in resolving the conflict, the matter will be presented to the County Administrator of Fayette County and the Mayor of Brooks or designated councilperson for resolution prior to any legal cause of action being filed.

XXVIII. Fire Protection Services

Fayette County shall be responsible for maintaining fire hydrants and services in a reasonable manner at a level equivalent to that maintained by Brooks at time of assignment of the system. This level of service shall include hydrant spacing, hydrant maintenance, and water volume and pressure available at the hydrant.

XXIX. Ordinances to be Adopted

As a condition of entering into this Agreement, Brooks shall adopt ordinances the same or substantially the same provisions as those adopted by Fayette County to regulate the proper use of the subject water system and any extensions thereof by the customers and users within the jurisdiction of Brooks. Said ordinances shall be reviewed and approved by Fayette County prior to adoption by Brooks, and will further grant to Fayette County all administrative, permitting, regulatory, and enforcement authority necessary for the regulation, operation, maintenance, and improvement of the water systems serving the Brooks Service Area. Brooks shall maintain updates and enforce such ordinances. Fayette County shall reimburse Brooks for the reasonable expenses of enforcing such ordinances.

XXX. Amendment to Agreement

This agreement may be amended only by a document in writing, approved by the County Board of Commissioners of Fayette County and the Mayor and City Council of Brooks.

XXXI. Customer Notification

Brooks agrees to use all practical means, including direct mailing, to notify customers of changes associated with this Agreement. Such notification shall include information on schedule and mechanics of transfer and information concerning Fayette County's policies and procedures.

XXXII. Termination or Extension

(a) This Agreement may be unilaterally terminated by either party, in whole or in part, for any reason whatsoever. If the County decides to terminate this Agreement, it shall provide the City written notice of its intent to terminate by delivering in writing to the City at least one hundred and eighty (180) days notice, a Notice of Termination specifying the nature, extent, and effective date of termination. If the City decides to terminate this Agreement, the City shall provide the County written notice of its intent to terminate by delivering in writing to the County at least sixty (60) days notice, a Notice of Termination specifying the nature, extent, and effective date of termination.

(b) If either party terminates this Agreement as provided for in subsection (a) above, or if this Agreement is not extended at the end of the term of this Agreement, City shall pay County for all capital improvements made to the systems on an amortized basis. Amortization shall be on a strait line basis over the life of the improvement(s). Both parties shall negotiate in good faith to make arrangements for the City to repay the County for any amounts due under this Agreement. In no event shall the amount owing the County pursuant to a termination by either party remain outstanding for more than one hundred eighty (180) days beyond the termination date unless the parties expressly agree to an extension of this time in writing prior to the expiration of the one hundred eighty (180) day period or unless a repayment plan has been approved by both parties prior to that date.

(c) This Agreement may be extended at the end of the term of this Agreement upon approval by the governing authority of each party for any period lawfully allowed by law.

(d) Nothing in this Agreement shall prohibit the parties from allowing the County to purchase the Brooks' water system at any time during the term of this Agreement upon terms mutually agreeable to the parties.

(e) If this Agreement is terminated by either party, the County agrees to sell water to Brooks upon the same or similar terms as the County sells water to other municipalities for a minimum period of five (5) years.

XXXIII. Severability

It is hereby the declared intention of Brooks and Fayette County that the paragraphs, sections, sentences, clauses, and phrases of this agreement are severable. If one or more paragraphs, sections sentences, clauses, or phrases shall be declared void, invalid or otherwise unenforceable for any reason by the valid, final judgment or decree of any court of competent jurisdiction, such judgment or decree shall not affect the remaining provisions of this agreement and the same shall continue to be fully effective and enforceable on the basis that said remaining provisions would have been agreed to by Brooks and Fayette County without the incorporation of such void, invalid or otherwise unenforceable paragraph, section, sentence, clause or phrase.

XXXIV. Notices

Whenever written notice is required under this agreement, said notice shall be sufficient when received by the County Administrator of Fayette County or the Mayor of Brooks. Said notice may be mailed or hand-delivered but shall not be effective unless actually received.

FAYETTE COUNTY, GEORGIA

(SEAL)

_____
Jack R. Smith, Chairman

Attest:

_____
Clerk

CITY OF BROOKS, GEORGIA

(SEAL)

_____
Dan Langford, Mayor

Attest:

_____
Clerk