STATE OF GEORGIA)
COUNTY OF CHATHAM)

INTERGOVERNMENTAL AGREEMENT FOR THE USE AND DISTRIBUTION OF PROCEEDS FROM THE 2020 SPECIAL PURPOSE LOCAL OPTION SALES TAX FOR CAPITAL OUTLAY PROJECTS

THIS AGREEMENT (this **Agreement)** is made and entered this the 26th day of July 2019, by and between Chatham County, a political subdivision of the State of Georgia (the **County),** and the Mayor and Aldermen of the City of Savannah, a municipal corporation and a political subdivision of the State of Georgia **(City)** and herein collectively referred to as the "Governing Authorities".

WITNESSETH:

WHEREAS, O.C.G.A. § 48-8-110 *et seq.* (the **Act),** authorizes the levy of a one percent special purpose local option sales tax for the purpose of financing capital outlay projects for the use and benefit of the County and qualified municipalities within the County; and

WHEREAS, the County, City, as well as other municipal corporations, met on May 6, 2019, in compliance with the requirements of O.C.G.A. § 48-8-111(a), to discuss possible projects for inclusion in an election to be held on November 5, 2019 for the purpose of authorizing the reimposition of the special purpose local option sales tax now in effect in Chatham County and presently expected to terminate on September 30, 2020; and

WHEREAS, the County and City have negotiated a division of the Special Purpose Local Option Sales Tax **(SPLOST)** to be collected in the event a majority of the votes cast in the election are in favor of reimposing the SPLOST; and

WHEREAS, the County may enter into separate agreements with the other municipalities in the County (the "Municipalities') providing for the distribution of a portion of SPLOST proceeds to such other municipalities to fund allowable capital outlay projects as authorized by the referendum to be held on November 5, 2019, if passed; and

WHEREAS, the County, the City, and the Municipalities, and all citizens of the County will derive substantial benefits from the proposed projects to be funded by SPLOST proceeds distributed pursuant to this Agreement; and

WHEREAS, the County has been asked to submit to the qualified voters of the County at an election to be held November 5, 2019, the question of whether the voters will approve the Special Sales Tax.

NOW, THEREFORE, in consideration of the mutual promises and understandings made in this Agreement, and for other good and valuable consideration, the County and the City consent and agree as follows:

PCM

All recitals above are incorporated by reference into the body of this agreement.

Section 1. Representations and Mutual Covenants

A. The County makes the following representations and warranties which may be specifically relied upon by all parties as a basis for entering this Agreement:

(i) The County is a political subdivision duly created and organized under the Constitution and laws of the State of Georgia;

(ii) The governing authority of the County is duly authorized to execute, deliver and perform this Agreement;

(iii) This Agreement is a valid, binding, and enforceable obligation of the County; and

(iv) The County will take all actions necessary to call an election to be held in all voting precincts in the County on the 5th day of November, 2019, for the purpose of submitting to the voters of the County for their approval, the question of whether or not a SPLOST shall be imposed on all sales and uses within the special district of Chatham County for a period of 24 quarters (6 years), commencing as provided in Section 4, to raise an estimated $400,000,000 to be used for funding the projects specified in Exhibit A attached hereto.

B. The City makes the following representations and warranties which may be specifically relied upon by all parties as a basis for entering this Agreement:

(i) The City is a municipal corporation duly created and organized under the laws of the State of Georgia;

(ii) The governing authority of the City is duly authorized to execute, deliver and perform this Agreement;

(iii) This Agreement is a valid, binding, and enforceable obligation of the City;

(iv) The City is a qualified municipality as defined in O.C.G.A. § 48-8-110 (4); and

(v) The City is located entirely or partially within the geographic boundaries of the special tax district created in the County.

C. It is the intention of the County and City to comply in all respects with O.C.G.A. § 48-8-110 *et seq.* and all provisions of this Agreement shall be construed in light of O.C.G.A. § 48-8-110 *et seq.*

Section 2. Restrictions as to Use of Tax Funds

A. The City and the County shall comply with all requirements of Georgia law pertaining to all SPLOST funds each receives, including but not limited to the following:

(i) All SPLOST funds and interest received may only be used for projects described in Exhibit A.

a. If circumstances arise which dictate that a project which initially seemed feasible is no longer so, then the governing body to which the SPLOST funds for such project was allocated under this Agreement may use its lawful discretion to make adjustments in its plan of capital projects.
b. In the event that the cost to complete a project is less than the amount allocated to that project under this Agreement, then the governing body to which the SPLOST funds for such project were allocated may use its lawful discretion to make adjustments in its plan of capital projects to utilize the funds for other projects provided for in this Agreement. This provision shall be construed in light of O.C.G.A. § 48-8-123.
c. The lack of funds to complete a project contained on Exhibit A by any governing authority is not grounds to deem the project infeasible.

(ii) All SPLOST funds received shall be accounted for in a separate fund as more fully described herein and not commingled with other monies prior to expenditure for allowable uses.

(iii) Interest earned from the investment of SPLOST funds prior to their disbursement for allowable expenditures shall be considered SPLOST funds and used under the same restriction for SPLOST funds as set forth in subparagraph (i) above.

(iv) No SPLOST funds received may be used for general operating expenses. SPLOST funds may be used to repay loans made to temporarily fund SPLOST capital projects in anticipation of receipt of SPLOST funds.

B. The County and City agree to proceed with the acquisition, construction, design, permitting, equipping and installation of the projects specified in Exhibit A of this Agreement, subject to the availability of funds.

C. The County and City agree that each approved SPLOST project associated with this Agreement shall be maintained as a public facility and in public ownership. If ownership of a project financed pursuant to this Agreement is transferred to private ownership within 10 years of the SPLOST expiration, the proceeds of the sale shall, for the purposes of this Agreement, be deemed excess funds and disposed of as provided under O.C.G.A. § 48-8-121 (g)(2). This section shall not apply to a capital outlay program to acquire, demolish, construct and equip blighted properties the funds from which will not be deemed excess proceeds.

D. The County and City agree to maintain thorough and accurate records concerning receipt of SPLOST proceeds and expenditures for each project undertaken as required to fulfill the terms of this Agreement.

E. County and City agree to equally fund the Early Learning Center(s) as listed in Exhibit A. Any reductions in funding of the amounts shown in Exhibit A shall require mutual

agreement.

Section 3. Condition Precedent

A. The obligations of the County and City pursuant to this Agreement are conditioned upon the adoption of a resolution of the County calling for the imposition of the SPLOST in accordance with the provisions of O.C.G.A. § 48-8-111 (a).

B. This Agreement is further conditioned upon the approval of the proposed imposition of the SPLOST by the voters of the County in a referendum to be held in accordance with the provisions of O.C.G.A. § 48-8-111 (b) through (e).

C. This Agreement is further conditioned upon the collecting of the SPLOST revenues by the State Department of Revenue and transferring same to the County.

Section 4. Effective Date and Term of the Tax

The SPLOST, subject to approval in an election to be held on November 5, 2019, shall continue for a period of six years with collections beginning on the earlier of October 1, 2020 or the termination of the special purpose local option sales tax now in effect.

Section 5. Effective Date and Term of this Agreement

This Agreement shall commence upon the date of its execution and shall terminate upon the later of:

A. The official declaration of the failure of the election described in this Agreement; or

B. The expenditure by the County and City of the money collected from the SPLOST.

Section 6. County SPLOST Fund; Separate Accounts; No Commingling

A. The County shall select a local bank which shall act as a depository and custodian of the SPLOST Funds upon such terms and conditions as may be acceptable to the County which shall be designated as the 2020 Chatham County Special Purpose One Local Option Sales Tax Account. Monies shall be held separate and apart from all other funds of the County and shall not in any manner be comingled with other funds of the County.

B. The City shall select a local bank which shall act as depository and custodian of City SPLOST funds upon such terms and conditions as may be acceptable to the City which shall be designated as the 2020 City of Savannah Special Purpose Local Option Sales Tax Account. Monies shall be held separate and apart from all other funds of the City and shall not in any manner be comingled with other funds of the City.

C. Except as provided in Section 7, SPLOST proceeds shall not be commingled with other funds of the County or City and shall be used exclusively for the purposes detailed in this Agreement.

D. County and City each agree, for accounting purposes, to maintain a separate fund within its general ledger where it will record the transactions for the receipt and disbursement of SPLOST funds effective with the commencement of the referendum period and until completion of all projects funded by SPLOST proceeds.

Section 7. Procedure for Disbursement of SPLOST Proceeds

A. Upon receipt by the County of SPLOST proceeds collected by the State Department of Revenue, the County shall immediately deposit said proceeds in the SPLOST VII fund. The monies in the SPLOST Fund shall be held and applied to the cost of acquiring, constructing and installing the capital outlay projects listed in Exhibit A and as provided elsewhere herein.

B. County shall utilize part of the proceeds of the tax for the acquisition of the County judicial complex from the Downtown Savannah Authority.

C. County shall be distribute SPLOST proceeds to the City in accordance with the percentages provided by this Intergovernmental Agreement in Exhibit A. The County will be responsible for distributing proceeds in accordance with the Notice of Election and Exhibit A. County shall disburse funds within 30 business days of such deposit according to the schedule in Exhibit A. The proceeds shall be deposited in the separate funds established by the City in accordance with Section 6 of this Agreement. The City shall hold and apply the monies so deposited against the cost of acquiring, constructing and completion of the capital outlay projects listed in Exhibit A.

D. This agreement contemplates a collection amount of $400,000,000. However, the County makes no warranty that such a sum will be collected. All funds collected shall be distributed in accordance with Exhibit A irrespective of whether the total revenue collected fall short of, meets, or surpasses the projected revenue outlined herein. Should the total tax revenue collected in the six years be less than the $400,000,000 estimate, then all governing authorities shall continue to receive the percentages as shown on Exhibit A.

E. The proceeds of the Special Sales Tax shall be distributed between County, City and the Municipalities in accordance with Exhibit A.

F. Should any Municipality cease to exist as a legal entity before all funds are distributed under this Agreement, that Municipality's share of the funds subsequent to dissolution shall be paid to the County as part of the County's share unless an act of the Georgia General Assembly makes the defunct Municipality part of another successor municipality, in which event the defunct Municipality's share shall be paid to the successor Municipality in addition to all other funds to which the successor Municipality would otherwise be entitled.

Section 8. Projects

All capital outlay projects, to be funded in whole or in part from SPLOST proceeds, are listed in Exhibit A which is attached hereto and made part of this Agreement. The Notice of Election calling for the imposition of the tax is also herein specifically referenced and made a part of this agreement.

Section 9. Priority and Order of Project Funding

Projects shall be fully or partially funded in accordance with the schedule set forth in Exhibit A of this Agreement. Except as provided in Paragraph B of Section 10 of this Agreement, any change to the priority or schedule must be agreed to in writing.

Section 10. Completion of Projects

A. The County and City acknowledge that the costs for the County's and the City's respective projects are estimated amounts. Should SPLOST proceeds be insufficient to complete any capital outlay project, then the responsibility for additional funding and completion shall rest with the entity responsible for the project.

B. If the governing authority's project has been satisfactorily completed at a cost less than the estimated, the governing authority may apply the remaining unexpended funds to any other County project in Exhibit A or as otherwise provided by law.

Section 11. Expenses

The County shall administer the SPLOST Fund to effectuate the terms of this Agreement and shall be reimbursed for the actual costs of administration of the SPLOST Fund from the County's SPLOST allocation as determined by Exhibit A.

Section 12. Retention of Records

The parties agree to retain all records pertaining to the SPLOST funds for a period of at least four years subsequent to the expiration of the SPLOST and to make such records reasonably available to each other upon request.

Section 13. Use of SPLOST Funds

The County, the City and the Municipalities shall use the SPLOST funds only for SPLOST Eligible capital outlay projects.

Section 14. Other Requirements

The parties agree that they each will abide by any other requirements regarding the use and accounting for SPLOST funds as specified by Georgia law, and in the event that any party fails to follow all applicable requirements of Georgia law, it shall hold all other governing authorities harmless for any such failure.

Section 15. Agreement Effective When Executed by the City and County

PCM

This Agreement shall be effective when executed by City and County. The County may enter into separate agreements with other Municipalities that are not signatories to this Agreement and other organizations upon such terms as appropriate to insure that funds will be used for SPLOST eligible projects and meet the requirements of the law. If there is an inconsistency between such agreements and this Agreement regarding the distribution and allocation terms, this Agreement shall govern.

Section 16. Audits

A. During the term of this Agreement, the distribution and use of all SPLOST proceeds shall be audited annually by an independent certified public accounting firm in accordance with O.C.G.A. § 48-8-121 (a)(2). The County and City receiving SPLOST proceeds shall be responsible for the cost of their respective audits. The County and City agree to cooperate with the independent certified public accounting firm in any audit by providing all necessary information.

B. The City shall annually provide County its comprehensive annual financial report showing the receipt and use of SPLOST funds including a Schedule of Projects Funded with Special Sales Tax Proceeds.

Section 17. Notices

All notices, consents, waivers, directions, requests or other instruments or communications provided for under this Agreement shall be deemed properly given when delivered personally or sent by registered or certified United States mail, postage prepaid, as follows:

If to County:

Lee Smith,
County Manager
Chatham County
P.O. Box 8161
Savannah, GA
31412

If to Savannah:

Patrick Monahan
City Manager
City of Savannah
P.O. Box 1027
Savannah, GA 31412

Section 18. Entire Agreement

This Agreement, including any attachments or exhibits, constitutes all of the understandings and agreements existing between the County and City with respect to distribution and use of the proceeds from the SPLOST. Furthermore, this Agreement supersedes all prior agreements, negotiations and communications of whatever type, whether written or oral, between the parties hereto with respect to distribution and use of the SPLOST funds authorized by the November 5, 2019 referendum.

JCM

Section 19. Amendments

This Agreement shall not be amended or modified except by agreement in writing executed by the governing authorities of the County and City.

Section 20. Governing Law

This Agreement shall be deemed to have been made and shall be construed and enforced irt accordance with the laws of the State of Georgia.

Section 21. Severability

Should any phrase, clause, sentence, or paragraph of this Agreement be held invalid or unconstitutional, the remainder of the Agreement shall remain in full force and effect as if such invalid or unconstitutional provision were not contained in the Agreement unless the elimination of such provision detrimentally reduces the consideration that any party is to receive under this Agreement or materially affects the operation of this Agreement.

Section 22. Compliance with Law

The County and City shall comply with all applicable local, State, and Federal statutes, ordinances, rules and regulations.

Section 23. No Consent to Breach

No consent or waiver, express or implied, by any paliy to this Agreement, to any breach of any covenant, condition or duty of another party shall be construed as a consent to or waiver of any future breach of the same.

Section 24. Counterparts

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

Section 25. Mediation

The County and City agree to submit any controversy arising under this Agreement to mediation for a resolution. The parties to the mediation shall mutual ly select a neutral party to serve as mediator. Costs of mediation shall be shared equally among the parties to the mediation.

(Signatures on the following page)

RCM

IN WITNESS WHEREOF, the County and the City acting through their duly authorized agents have caused this Agreement to be signed, sealed and delivered for final execution by the County as of the date set forth above.

CHATHAM COUNTY, GEORGIA

By: _____
Albert J. Scott, Chairman

Attest: _____
Janice Bocook, Clerk of Commission

(Seal)

MAYOR AND ALDERMEN OF THE CITY OF SAVANNAH, GEORGIA

By: _____
Patrick Monahan, City Manager

Attest: _____
Clerk of Council

(Seal)

EXHIBIT A
Projects and Priorities for SPLOST Distribution

1. **SPLOST Projects.** The table below lists the SPLOST projects, the entity responsible for the project, the project priority for SPLOST funding, and the pro-rata share of the SPLOST monthly distribution.

2. **Distribution of SPLOST Proceeds.** All SPLOST collections up to $400,000,000 shall be distributed to the County, City and the Municipalities on a monthly basis based upon each entity's pro-rata percentage of the project totals based on Distribution Table below. Should the total tax collection exceed $400,000,000 during the six year collection cycle, then County would receive an additional $20,000,000 from the collected funds over the $400,000,000 for the judicial complex. Should the total tax collection exceed $420,000,000, such distribution of the tax at that time shall be collected by the County and distributed to the City of Savannah for recreation, historic building renovations and technology projects. Should the total tax collection exceed $430,000,000, such distribution of the tax at that time shall be collected by the County and distributed to Savannah Economic Development Authority (SEDA) pursuant to an intergovernmental contract or contracts until SEDA has received an amount not to exceed a total of $10,000,000. Should SPLOST proceeds exceed $440,000,000, the remaining SPLOST proceeds will be collected by County and allocated between the County, City and the Municipalities on a pro rata population basis. The County's share of the SPLOST proceeds in excess of $440,000,000 shall be based upon the ratio of the unincorporated population of the County relative to the total County population. City and each Municipality's share of the SPLOST proceeds in excess of $440,000,000 shall be based upon the ratio of their respective population relative to the total County population. The source for the population figures shall be the final 2020 Decennial Census figures compiled by the U.S. Census Bureau. Said excess proceeds shall be used to fund allowable projects under the terms of this agreement or as otherwise provided for in law.

3. **Projects within Municipalities.** For capital outlay projects (i.e. that include but are not limited to roads and drainage) that are located wholly within a Municipality, it is agreed that the final design plans shall be approved by the Municipality. For such projects, the County and a Municipality may have a separate agreement to transfer SPLOST funds to the Municipality which shall assume the responsibility for detailed design, construction procurement and construction management of the project.

DCM

EXHIBIT A

DISTRIBUTION TABLE FOR $400,000,000 IN SPLOST PROCEEDS			
Project Description	Responsible Entity	Projected SPLOST Allocation	Pro Rata Share %*
City of Savannah projects including public safety facilities, equipment & technology; road & streetscape improvements: recreation trails & facilities improvements; drainage projects; city facilities & infrastructure; and blighted property program.	City of Savannah	$ 152,699,915	38.17498%
Early Learning Center(s)	City of Savannah	$ 3,125,000	0.78125%
City of Bloomingdale projects including recreation facilities & equipment; water/sewer infrastructure improvements; public safety vehicles & equipment; roads & road improvements; and other adopted CIP projects.	City of Bloomingdale	$ 3,064,275	0.76607%
City of Garden City projects including recreation facilities; public safety equipment; roads & road related improvements; title acquisition; and other adopted CIP projects.	City of Garden City	$ 10,025,181	2.50630%
City of Pooler projects including recreation facilities; roads & road improvements; library; public safety facilities & equipment; drainage improvements; and title acquisition.	City of Pooler	$ 25,644,314	6.41108%
City of Port Wentworth projects including recreation facilities & improvements; public safety vehicles & equipment; sewer infrastructure; and road & drainage improvements.	City of Port Wentworth	$ 8,466,752	2.11669%
Town of Thunderbolt projects including water & sewer infrastructure; public safety equipment, vehicles & technology: road & drainage improvements; city facilities, vehicles & equipment; and fire suppression system.	Town of Thunderbolt	$ 2,950,162	0.73754%
City of Tybee Island projects including public safety facilities & equipment; road & drainage improvements; water & sewer infrastructure; city facilities; recreation facilities & improvements; and title acquisition.	City of Tybee Island	$ 3,944,653	0.98616%
Town of Vernonburg projects including road improvements; infrastruture; and public safety equipment.	Town of Vernonburg	$ 130,895	0.03272%
Judicial Complex construction/acquisition	County of Chatham	$ 63,000,000	15.75000%

EXHIBIT A

DISTRIBUTION TABLE FOR $400,000,000 IN SPLOST PROCEEDS			
Project Description	Responsible Entity	Projected SPLOST Allocation	Pro Rata Share %*
Chatham County projects including recreation facilities & parks: public safety facilties & communication improvements; county facilities & museums; vehicles & equipment; drainage; roads & road improvements; sewer infrastructure; disaster capital; and other adopted CIP projects.	County of Chatham	$ 113,823,854	28.45596%
Early Learning Center(s)	County of Chatham	$ 3,125,000	0.78125%
Transit Authority equipment	County of Chatham	$ 10,000,000	2.50000%
	TOTAL	$ 400,000,000	100.00000%

* Pro rata share governs distributions up to $400,000,000; see Exhibit A, Paragraph 2 as to revenue collections in excess of $400,000,000.

Exhibit A-4