

INTERGOVERNMENTAL AGREEMENT

THIS INTERGOVERNMENTAL AGREEMENT (the “Agreement”), made and entered into this _____ day of _____, 2021 (the “Effective Date”) by and between THE BOARD OF COMMISSIONERS OF CHATHAM COUNTY, a political subdivision of the State of Georgia (hereinafter referred to as “COUNTY”) and the MAYOR AND ALDERMEN OF THE CITY OF SAVANNAH, a Georgia municipal corporation (hereinafter referred to as the “CITY”). Jointly, COUNTY and CITY are hereinafter referred to as the “PARTIES.”

RECITALS:

WHEREAS, the PARTIES committed \$3.125 Million each (total of \$6.25 Million) of anticipated SPLOST 7 tax dollars to fund the development of an Early Childhood Learning Center (the “ECLC”) as a means to address substandard educational achievement, reduce poverty, and address employment and health disparities in East Savannah; and

WHEREAS, the ECLC will be designed to offer quality education-based childcare services to young children who are at least six-weeks of age but no greater than four-years of age;

WHEREAS, the ECLC will be a facility designed to accommodate approximately 144 children and associated staff and development of the ECLC will include development of all associated site improvements such as access driveways, striped parking, landscaping, storm water retention/detention, signage, and more; and

WHEREAS, the ECLC will be licensed by the State of Georgia and designed to meet all state licensing standards, including the Quality Rated model promoted by the Georgia Department of Early Care and Learning; and

WHEREAS, the ECLC is planned to be developed on land currently owned by the Housing Authority of Savannah (“HAS”) located at 814 Hitch Drive (the “Property”); said land located along the north side of Wheaton Street approximately 1,000 feet east of Randolph Street

being part of the larger parcel identified by the Chatham County Board of Assessors as Parcel Identification Number 20014 04007 (as generally depicted on Exhibit A attached hereto); and

WHEREAS, the HAS intends to enter into a long-term lease or conveyance of the Property to the County at a nominal annual fee to facilitate the development of the ECLC.

NOW, THEREFORE, in consideration of the following mutual promises, covenants and conditions, the PARTIES agree as follows:

1. DEVELOPER. The COUNTY shall be the developer of the ECLC and will be responsible for all aspects of design, permitting, and construction of the facility, including: competitively bidding and retaining an architect and engineers to design the facility and associated site improvements; competitively bidding and retaining a general contractor for the construction of the project; overseeing and managing construction of the project; ensuring quality of construction; and then turning-over the facility upon completion to an Operator (as defined below) for operations and maintenance.

2. PERMITTING. Site development and construction plans shall be submitted to the CITY for plan review and permitting. CITY will waive all review and permitting fees. COUNTY shall also submit building development and construction plans to COUNTY Building Safety and Regulatory Services for review and permitting of building. COUNTY will waive all review and permitting fees.

1. OPERATOR. COUNTY will lease facility and grounds to local not-for-profit organization who shall operate and manage the ECLC and associated Property. The COUNTY shall solicit a well-qualified and experienced Operator who is licensed by the State of Georgia and offers outstanding credentials and demonstrated, verifiable experience operating an early childhood learning center that meets all state standards, including the Quality Rated model promoted by the Georgia Department of Early Care and Learning. The Operator shall be able to generate sufficient revenues through fees for services rendered, grants, donations, and other revenue sources to professionally operate and manage the facility in accordance with standards set forth herein. Operator shall not approach, apply for, or seek any operating funds from the CITY or COUNTY. CITY and

COUNTY are funding capital construction costs, but not operating or maintenance costs/expenses.

2. CO-SPONSOR. The PARTIES shall be co-sponsors of the ECLC. The COUNTY shall contribute \$3.125 Million in SPLOST funds to complete the design, development, and equipping/furnishing of the facility, and the CITY shall likewise contribute \$3.125 Million in funds to complete the design, development, and equipping/furnishing of the facility. The COUNTY shall allocate and contribute \$1 Million from the American Rescue Plan Act – Coronavirus State and Local Fiscal Recovery Act (hereinafter referred to as “ARPA”) and the CITY shall likewise allocate and contribute \$1 Million from ARPA. Thus, the total expected funding from the PARTIES will be \$8.25 Million.
3. FURNITURE, FIXTURES, AND EQUIPMENT. Development of the ECLC shall also include the acquisition and installation of all fixtures, furniture, and equipment for the facility to operate properly.
4. USE OF PROPERTY. The ECLC will be used solely for an early childhood education-based facility and for no other purpose. If COUNTY decides to convert use of the ECLC to any other use, then COUNTY shall reimburse CITY one-half the straight line depreciative value of ECLC.
5. CITY FUNDING. CITY funding for the ECLC project will be limited to funds for capital development of the ECLC and will not include any future funding for the operations and maintenance of the facility.
 - a. CITY agrees to allocate the \$3.125M in SPLOST funds to this PROJECT.
 - b. CITY agrees to allow COUNTY to pay one-half (50%) of all invoices associated with third-party, independent consultants and contractors who provide services in designing and constructing the ECLC project from collected SPLOST funds.

- c. If actual costs to CITY are less than \$3.125 Million, then COUNTY shall disburse remainder funds to the CITY and the CITY shall reallocate remaining funds to other SPLOST projects.
 - d. If actual costs to CITY are greater than \$3.125 Million, then CITY will only pay a maximum of one-half (50%) of all reasonable additional costs not to exceed an additional \$1 Million in payment by the City.
 - e. Any payment by the City in excess of \$3.125 Million is contingent upon the City's review of the design and plans of the ECLC. Such review shall include the right to "value-engineer" elements of the project upon consent of the County which shall not be unreasonably withheld.
6. JANITORIAL AND PEST CONTROL SERVICES. The Operator (or the COUNTY if there is no Operator) shall be responsible for providing utility, janitorial and pest control services at the ECLC, and payment for any associated expenses.
7. REFUSE SERVICE AND TRASH DISPOSAL. The Operator (or the COUNTY if there is no Operator) shall be responsible for refuse and trash disposal at the ECLC, and payment for any associated expenses.
8. WATER AND SEWER SERVICES. The Operator (or the COUNTY if there is no Operator) shall be responsible for ordering and connecting to potable central water and sewer services, and payment of any associated expenses. CITY will waive utility tap-in fees.
9. FACILITY MAINTENANCE AND REPAIRS. The Operator (or the COUNTY if there is no Operator) shall be solely responsible for the maintenance, upkeep, and repair of the entire Property, including the ECLC and associated grounds. Said maintenance and repair shall include, but not limited to, the preventative maintenance and repairs/replacements of the following: heating ventilation, and air conditioning systems (including at least quarterly filter replacements); grounds maintenance and repairs (including weekly mowing, periodic mulching of landscape beds, fertilizer applications, insecticide and fungicide applications as needed, pruning of trees and shrubs as needed,

etc.); plumbing and associated fixtures; electrical systems and associated fixtures, as well as lighting maintenance and repairs (including lightbulb and ballast replacement as needed); ceiling tiles; carpet and flooring (excluding routine janitorial services); roof and gutter system; windows and doors; building foundation; and the building's exterior finishes. The Operator shall undertake all periodic repairs and preventive maintenance which are necessary and in accordance with normal industry practices to maintain the Lease Premises in a reasonably well-kept, attractive, and safe condition.

10. FUTURE SALE. If at any time the ECLC is sold, the COUNTY shall pay to CITY the greater of: i) one-half of the sale price, less closing costs, or ii) one-half straight line depreciative value of facility.
11. OPERATOR DEFAULT, TERMINATION, AND /OR BANKRUPTCY. In the event the Operator defaults on its obligations to operate the ECLC in accordance with state licensing, accreditation, and best-practice standards, and /or fails to properly maintain and operate the facility and Property in accordance with provision outlined in this Agreement, and/or files for Bankruptcy and/or otherwise becomes insolvent, then COUNTY shall terminate any operating agreement with Operator and initiate dispossession actions if Operator fails to timely vacate the premises. In such event, COUNTY shall maintain the ECLC until a new Operator can be solicited and retained via competitive bid process.
12. INDEMNIFICATION. To the extent permissible by law and without waiver of sovereign immunity, the PARTIES shall indemnify, defend, and hold each other harmless from any loss or damage caused by the willful or negligent actions of others.
13. AMMENDMENTS. This Agreement sets forth the entire agreement of the PARTIES, and it may not be changed except by a written document signed by both PARTIES, and making express reference to this Agreement.
14. INSPECTION. COUNTY shall permit CITY and its duly authorized representatives at reasonable times to enter the Property to examine the construction status of the ECLC to ensure that the covenants of this AGREEMENT are being performed.

15. LAW GOVERNING DISPUTES. The laws of the State of Georgia will govern all disputes under this Agreement, and determine all rights here under.
16. SEVERABILITY. The provisions of this Agreement are severable. If any judgement or court order shall declare any provision or provisions of this Agreement invalid or unenforceable, the other provisions of this Agreement shall not be affected thereby and shall remain in full force and effect.
17. BINDING EFFECT. This Agreement and the covenants and conditions herein contained shall apply to and bind the successors and assigns of the PARTIES hereto, or any other political subdivision assuming the obligations of any party hereto, and all covenants are to be construed as conditions of this and said covenants shall be covenants running with the Lease Premises during the term of this Agreement.
18. NO JOINT VENTURE. Nothing contained in this Agreement shall make, or shall be construed to make, CITY and COUNTY partners in, of, or joint venturers with each other, nor shall anything contained in this Agreement render, or shall be construed to render, either PARTY liable to a third party for the debts or obligations of the other.
19. DEFAULT/REMEDIES/RIGHTS CUMALATIVE. Should CITY or COUNTY fail to perform or observe any covenant, condition, or agreement to be performed or observed by it hereunder, and such failure shall continue un-remedied for a period of thirty (30) days after the offending PARTY has received notice hereof; then the offended Party may at its option declare this Agreement to be in default; and at any time thereafter, so long as the offending Party has not remedied all outstanding Events of Default, may terminate this Agreement and/or seek all available remedies of equity and law.
20. NOTICES: All notices, demands and requests which may be given or which are required to be given by either PARTY to the other under this Agreement, and any exercise of a right of termination provided by this Agreement, shall be in writing and shall be deemed effective; (i) immediately, when personally delivered to the intended recipient; (ii) three (3) business days after having been sent, by certified or registered mail, return receipt

requested, addressed to the intended recipient at the address specified below; (iii) immediately, when delivered in person to the address set forth below for the PARTY to whom the notice was given; (iv) at noon of the business day next following after having been deposited into the custody of a nationally recognized overnight delivery service, addressed to such PARTY at the address specified below; (v) immediately, if sent during regular business hours or at 8:30 a.m. local time on the next business day following an after-hours, weekend or holiday notice sent by facsimile or by electronic mail ("e-mail"), provided that receipt for such facsimile or e-mail is verified by the sender and followed by a notice sent in accordance with one of the other provisions set forth above; or (vi) immediately, upon actual receipt. Any notice sent as required by this section and refused by recipient shall be deemed delivered as of the date of such refusal. For purposes of this section, the addresses and facsimile numbers of the PARTIES for all notices are as follows (unless changed by a similar notice in writing given by the particular person whose address is to be changed):

As to the COUNTY:

Chairman, Board of County Commissioners
Chester Ellis
124 Bull Street, Suite 220
Savannah, GA 31401
Chairman@chathamcounty.org

With a copy to:

County Manager
Lee Smith
124 Bull Street, Suite 220
Savannah, GA 31401
leesmith@chathamcounty.org

With Copy to:

County Attorney
Jonathan Hart
124 Bull Street, Suite 220
Savannah, GA 31401
RJHart@chathamcounty.org

As to the CITY:

City Manager
City of Savannah
P.O. Box 1027

Savannah, GA 31402
E-Mail: mbrowna@savannahga.gov

With a copy to:

City Attorney
City of Savannah
P.O. Box 1027
Savannah, GA 31402
E-Mail: blovett@savannahga.gov

And:

Director of Real Estate Services
City of Savannah
P.O. Box 1027
Savannah, GA 31402
E-Mail: dkeating@savannahga.gov

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the PARTIES hereto have hereunto caused this agreement to be executed by the authorized representatives on the day and year first above written.

COUNTY

_____ BY: _____ L.S.

Chester A. Ellis, Chairman

_____ ATTEST: _____ L.S.

CITY

BY: _____

CITY MANAGER

ATTEST: _____

CLERK OF COUNCIL