

**MEMORANDUM OF UNDERSTANDING CONCERNING
THE EXTENTION OF EXPIRED AGREEMENT
FOR ACCESS AND USE OF SWIMMING POOL FACILITES**

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is made and entered on the date of full execution by the undersigned parties between the Mayor and Alderman of the City of Savannah (the "City") and the Savannah-Chatham County Board of Public Education (the "District"): are each a "Party," and may be collectively referred to as the "Parties."

WHEREAS, in 1999 the parties entered into an Agreement for the use of District swimming pool facilities by the City. The Agreement is attached as "Exhibit A" to this MOU. The Agreement expired by its own terms on November 30, 2019.

WHEREAS, the City has continued to use District pool facilities since the date of termination and seeks to conintue to do so through the duration of the 2021 summer swimming season.

NOW, THEREFORE, in consideration of the mutual covenants, promises, conditions, representations, and agreements set forth herein, the Parties hereto MUTUALLY AGREE that the terms of the attached Agreement (Exhibit A) will apply retroactively from December 1, 2019 to the date of final execution of this Agreement and shall expire on September 30, 2021.

This MOU is an agreement between government entities in Georgia for the provision of services and the use of facilities for activities, services, and facilities which the undersigned parties are authorized to provide. See Ga. Const. Art. IX, § III, ¶ I(a).

SAVANNAH-CHATHAM COUNTY
PUBLIC SCHOOL SYSTEM

By: [Signature]
President

8/11/2021
Date

Attest: May E. Dan Brown
Secretary

8/11/2021
Date

(SEAL)



THE MAYOR AND ALDERMAN
OF THE CITY OF SAVANNAH

By: _____
City Manager

Date

Attest: _____
Clerk of Council

Date

(SEAL)

STATE OF GEORGIA)
)
COUNTY OF CHATHAM) AGREEMENT

THIS AGREEMENT, made and entered into this 1st Day of December 1999, by and between THE MAYOR AND ALDERMEN OF THE CITY OF SAVANNAH, GEORGIA, hereinafter referred to as "City," and THE BOARD OF PUBLIC EDUCATION FOR THE CITY OF SAVANNAH AND THE COUNTY OF CHATHAM, hereinafter referred to as "Board."

WITNESSETH:

WHEREAS, the City and the Board are mutually interested in an adequate program of community recreation and education for leisure; and

WHEREAS, the City and the Board are authorized to cooperate with each other in sponsoring and promoting community recreation programs and services; and

WHEREAS, the City has established a Leisure Services Bureau responsible for carrying out the purposes of community recreation; and

WHEREAS, the City has financed and developed athletic and recreation facilities on Board property; and

WHEREAS, in the interest of providing the best service with the least possible expenditure of public funds, full cooperation is necessary between the City and the Board and their respective personnel; and

WHEREAS, the purpose of this agreement is to develop a working relationship between the City and the Board for the maintenance and use of swimming pools.

NOW, THEREFORE, in consideration of the premises the City and the Board agree as follows:

1. POOL LOCATION: Swimming pools and adjoining facilities are located on the campuses of Francis Bartow Elementary School, Haven Academy, Hershel V. Jenkins High School, and Leiston T. Shuman Middle School.

2. TERM: The Term of this Agreement shall be for 20 years to commence on the 1st day of December 1999, and terminate on the 30st day of November 2019.

3. USE OF POOL: The parties shall use the pool for educational and recreational uses only and neither party has a right to sublet, assign or transfer its rights to the use of the pool to any other person or entity for any reason whatsoever.

4. LIENS: The City shall keep all of the property and premises in every part thereof and all buildings and other improvements at any time located thereon free and clear of any and all mechanics, materialmen's, and other liens for or arising out of or in connection with work or labor done, services performed, or materials or appliances used or furnished for or in connection with any construction or operation of the City, any alteration, improvement or repairs or additions which the City may make or permit or cause to be made, or any work or construction, by, for, or permitted by the City on or about the premises, or any obligations of any kind incurred by the City, and at all times promptly and fully to pay and discharge any and all claims on which any such lien may or could be based, and to indemnify the Board and all of the premises and all buildings and improvements thereon against all such liens and claims of liens and suits or other proceedings.

5. STAFFING: Each party shall provide the program supervision and instructional staff and pay the costs for the same during its period of use as specified in Section 13.

6. MAJOR MAINTENANCE: The City will be operationally responsible for all major repair work and shall put the pool and accompanying facilities in condition fit for use by the parties specified herein, and it shall undertake all periodic repairs of the pool which are necessary to maintain such pool in a condition of repair and safety for reasonable use, normal wear and tear excepted unless it results in deterioration below such reasonable use standard except that the City shall repair at the expense of the Board all injuries or deteriorations to the pool and accompanying facilities occasioned by the Board's negligence, want of ordinary care, or greater degree of culpability. The actual cost of the major repair work performed by the City shall be prorated between the Board and the City according to the cost proration procedure provided for in Section 15.

7. ROUTINE MAINTENANCE: The City shall have responsibility of conducting routine maintenance on filters, hypochlorinators, pumps, motors, vacuum cleaners, and safety equipment. It shall be the City's responsibility to maintain proper water balance (pH, chlorine residual, etc.). The cost of routine maintenance shall be prorated between the Board and City according to the cost proration procedure provided in Section 15. Janitorial and clean-up tasks shall be the responsibility of the user.

8. HEALTH AND SAFETY REGULATIONS: The City shall maintain and operate the pool on a daily basis so as to make the pools' maintenance and operation comply with all applicable federal, state, and municipal health and safety laws and

regulations.

9. UTILITIES: The City shall initiate, contract for, and obtain, in a special account used solely for the operation of the pool, all utility services required for the maintenance and operation of the pool and adjoining facilities, including gas, electricity, telephone, water and sewer connections, and services, and the City and Board shall pay all charges for those services as they become due according to the cost proration procedure provided for in Section 15, with the exception of any utility costs connected with heating the pool which shall be paid solely by the Board. The City shall provide the Board with a copy of each utility service charge statement within five (5) days after its receipt by the City, but the Board shall pay to the City each utility bill for heating within ten (10) days after receipt of the copy of that bill from the City.

10. TAXES: Should, for any reason, any federal or state taxes of any nature or form ever be assessed against the City or the Board for the ownership, use, maintenance or operation of the pool, then the City and the Board will each pay their prorata share of the taxes according to the percentages set forth in the cost proration procedure provided for in Section 15.

11. INSURANCE: The Board shall, at all times during the term of this agreement, keep all improvements which are now or hereinafter a part of the pool and adjoining facilities insured against loss or damage by fire and the extended coverage hazards for 100% of the full replacement value of such improvements, with loss payable to the Board and City. The City shall pay its prorata share of the cost of said fire and hazard insurance coverage according to the cost proration procedure provided for in Section 15.

12. INDEMNIFICATION: Use and operation of the pool, maintenance, and the term of this agreement, the Board shall not be liable for any loss, injury, death, or damage to persons or property which at any time may be suffered or sustained by the City or by any person whomsoever may at anytime be using or occupying the pool or be in, on, or about the same, whether such loss, injury, death, or damage shall be caused by or in any way result from or arise out of any act, omission, or negligence of the City or of any occupant, visitor, or user of any portion of the premises, or shall result or be caused by any other matter or thing whether of the same kind as or of a different kind than the matters or things above set forth, and the City shall indemnify the Board against all claims, liability, loss or damage whatsoever on account of any such loss, injury, death, or damage.

During the use of the pool by the Board, and the term of this agreement, the City shall not be liable for any loss, injury, death, or damage to persons or property which at any time may be suffered or sustained by the Board or by any person whomsoever may at any time be using or occupying the pool or be in, on, or about the same, whether such loss, injury, death or damage shall be caused by or in any way result from or arise out of any act, omission, or negligence of the Board or of any occupant, visitor, or user of any portion of the premises, or shall result from or be caused by any other matter or thing whether of the same kind as or of a different kind than the matters or things above set forth, and the Board to the extent it may legally do so, shall indemnify the City.

13. PERIODS OF USE: The Board shall have priority of use for its programs during the period from September 1 through May 31 of each year and any use by the City of the pool during this period must be agreed upon in advance between the Board and

City. The City shall have priority of use during the period of June 1 through August 31 of each year and any use of the pool during this period by the Board must be agreed upon in advance by the City.

14. RESTORATION ON TERMINATION: All permanent improvements, additions, and new pool service equipment that may be made, erected, installed, or affixed on the Board's property during the term of this agreement shall be, and shall be deemed to be, the sole and absolute property of the Board, subject to the rights of the City arising under this agreement. At the expiration or termination of this agreement or any renewal thereof, the City shall pay one-half (1/2) of the cost necessary to restore the Board's property to its condition at the commencement of this lease. If the Board shall desire the premises to remain as it is with the pool and improvements located thereon at the expiration or termination of this lease, then the City shall not be liable to pay any sum on account of restoring the property to its original condition provided that at such time the City will execute documents of ownership of all improvements and pool service equipment on the property to the Board which constitute part of the realty.

15. COST PRORATION PROCEDURE: All costs which are to be prorated between the parties hereto which arise pursuant to Section 6, 7, 9, 10, and 11 of this agreement (with the exception of utility bills for heating being subject to procedures specified in Section 9) shall be prorated and paid as follows:

(a) As soon as reasonably possible after December 31 of each year, the City shall transmit to the Board a statement of such charges which arose from January 1 through December 31 of such preceding year (referenced as "billing year"). The statement

shall itemize such charges and the City shall make available to the Board at its request a copy of any bill, statement, or other document pertaining to the itemization for each pool. During any year when the billing year is not a complete calendar year, the itemization shall pertain to the period of commencement and/or termination of use during the calendar year.

(b) The City shall also total all days during the billing year when the pool was used by each party, and shall establish a ratio of use by each party (referenced as "billing ratio"). The City shall apply the billing ratio to the total costs for the billing year which shall be the amount of such costs chargeable to each party. The term "used" herein shall refer to any activity when one or more persons have engaged in activities occurring in the pool water or bath house showers other than for the purpose of inspection, maintenance or trespassing of or in the pool facilities.

(c) The itemization shall be accompanied by a statement showing the amount due by the Board to the City after crediting any sums previously paid by the Board which are applicable to charges arising during the billing year. Such amount due shall be paid to the City within 15 days of the receipt of such statement by the Board.

(d) The City may transmit with the itemization a specification of an amount of payment to be made by the Board to the City on the first day of each month during the ensuing billing year (referenced as "advance payment"). The advance payment required monthly shall not exceed 8% of the amount charged to the Board during the preceding billing year. The Board shall be credited with all such advance payments in determining the amount owed by the Board pursuant to subsection (c) above and, if such credits exceed the amount owed by the Board during the billing year, any excess shall be

credited towards advance payments due during the ensuing billing year.

16. TERMINATION:

(a) At any time during the term of this agreement, either party may terminate its use of the pool and its obligations under Section 6, 7, 9, 10, and 11, upon giving to the other party written notice of such intent not less than 180 days prior to such termination date. Such termination of use shall not prejudice the rights of the non-terminating party to its use and such non-terminating party shall assume all obligations under Section 6, 7, 9, 10, and 11.

(b) Any party which terminates its use shall abandon any rights to resume use if its use is abandoned for a period of three (3) years and such party does not contribute one-half ($\frac{1}{2}$) of the cost during such period of abandonment which are expended by the other party pursuant to Section 8. The payment of such costs by a party terminating its right of use shall preserve to that party the right to resume use during the aforesaid period. Abandonment of such right to resume use will occur neither by the failure to pay such specified costs during the aforesaid period or the expiration of the aforesaid period after costs have been paid during the same and such abandonment of rights to resume use shall result in a forfeiture of further rights to resume use without the consent of the other party during the remaining term of this agreement. At any time when both parties terminate use during a common period, each party shall pay one-half ($\frac{1}{2}$) of all costs of necessary maintenance, utilities and insurance during such period of common non-use in order to continue the rights to resume use as above provided.

(c) This agreement shall terminate between the parties hereto upon the

happening of either of the following events which first occurs:

- i The expiration of the term of this agreement as specified in Section 4; or
- ii The expiration of a period of right to resume use as provided in subsection (b) above at the end of a period of non-use by a party which coincides with or follows a period of non-use by the other party; or
- iii At any time after the expiration of a period of abandonment of use by one party during which the other party is continuing use but desires to terminate use; or
- iv By mutual agreement between the parties hereto.

17. AMENDMENTS: This agreement sets forth the entire understanding of the City and Board, and it may not be changed except by a written document signed and executed by both the City and the Board, and making express reference to this agreement.

18. LAW GOVERNING DISPUTES: The parties agree that the law of the State of Georgia will govern all disputes under this agreement, and determine all rights hereunder.

19. SEVERABILITY: The provisions of this agreement are severable. If any judgment 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.

20. 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 agreement, and said covenants shall be covenants running with the real property specified in Section One (1) during the term of this agreement.

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.

THE MAYOR AND ALDERMEN FOR THE CITY
OF SAVANNAH

BY: Michael B. Brown
City Manager

ATTEST: Dyanne C. Reese
Clerk of Council

(SEAL)

THE BOARD OF PUBLIC EDUCATION FOR
THE CITY OF SAVANNAH AND THE
COUNTY OF CHATHAM

BY: Dr. Steve M. Carter
President

ATTEST: Delia G. Andrews
Secretary

(SEAL)

**BOARD MEETING
CONSENT AGENDA
August 11, 2021**

GOAL 5: To Maximize Resource Stewardship and Fiscal Responsibility by Ensuring District Resources are Used Effectively, Efficiently, Economically, and Equitably (4E's).

Division Owner: Operations

**MEMORANDUM OF UNDERSTANDING CONCERNING THE EXTENTION
AGREEMENT FOR CITY OF SAVANNAH ACCESS AND USE OF DISTRICT
SWIMMING POOL FACILITES**

This Memorandum of Understanding serves to retroactively extend a now expired Agreement (enclosed) with the City of Savannah concerning access and use of District swimming facilities through the end of the 2021 summer swimming season.

This is an Inter-Governmental Agreement that requires Board approval. The agreement has been reviewed by the Superintendent and Board Attorney and is now presented for Board action.

THUS,

BE IT RESOLVED, upon recommendation of the Superintendent, the Board approve the extension of the agreement and authorize the Board President to fully execute the enclosed Memorandum of Understanding with the City of Savannah.

(Enclosures)