

STATE OF GEORGIA)
COUNTY OF WALKER) INTERGOVERNMENTAL AGREEMENT

**INTERGOVERNMENTAL AGREEMENT FOR USE AND DISTRIBUTION OF
PROCEEDS GENERATED BY THE 2017 TRANSPORTATION SPECIAL PURPOSE
LOCAL OPTION SALES TAX REFERENDUM**

THIS INTERGOVERNMENTAL AGREEMENT ("IGA" or "Agreement") is made and entered into this 24th day of August, 2017 by and between **WALKER COUNTY, GEORGIA**, a political subdivision of the State of Georgia (hereinafter referred to as "**Walker County**" or "**County**"), and the **CITY OF CHICKAMAUGA, CITY OF FORT OGLETHORPE, CITY OF LAFAYETTE, CITY OF LOOKOUT MOUNTAIN, AND CITY OF ROSSVILLE** (jointly hereafter the "Municipalities"), being municipal corporations of the State of Georgia.

WITNESSETH:

WHEREAS, the parties to this Agreement consist of Walker County and the City of Chickamauga, City of Fort Oglethorpe, City of Lafayette, City of Lookout Mountain, and City of Rossville, being municipalities located within Walker County, Georgia; and

WHEREAS, Section 48-8-260, *et seq.* of Official Code of Georgia Annotated ("**O.C.G.A.**") (the "**Act**") authorizes the imposition of a single county one percent (1.0%) sales and use Transportation Special Purpose Local Option Sales tax (the "**TSPLOST**" or "**Tax**") for capital outlay projects in the special districts created pursuant to O.C.G.A. § 48-8-261(a) which correspond with the geographical boundaries of the counties of the State of Georgia; and

WHEREAS, O.C.G.A. § 48-8-261(b) authorizes the imposition of the TSPLOST for the purpose of generating funds to be used and expended on a capital outlay project or projects, to be owned or operated or both either by the county, one or more municipalities, or any combination thereof, and O.C.G.A. § 48-8-262 authorizes the distribution of proceeds from the TSPLOST to the county governing authority and any qualified municipalities in accordance with an intergovernmental agreement entered into for such purpose; and

WHEREAS, the parties anticipate that Walker County will approve and sign a Resolution authorizing the Board of Elections and Registration of Walker County to call a Referendum on the issue of the imposition of a single county one percent (1.0%) sales and use TSPLOST to begin on April 1, 2018 and to conclude on March 31, 2023; and

WHEREAS, the law authorizing a Referendum on the issue of the imposition of the TSPLOST was amended during the 2016 Legislative Session of the Georgia General Assembly (HB 106), and again was amended during the 2017 Legislative Session of the Georgia General Assembly (HB 134); and

WHEREAS, the parties desire to execute an Intergovernmental Agreement to control the distribution and use of TSPLOST proceeds received solely by Walker County and the municipalities located within Walker County; and

WHEREAS, Article IX, Section III, Paragraph I of the Constitution of the State provides that, in pertinent part, any county, municipality or other political subdivision of the State may contract for any period not exceeding fifty years with each other or with any public agency, public corporation, or public authority for joint services, for the provision of services, or for the joint or separate use of facilities or equipment, for such activities, services or facilities which the county, municipality or public authority is authorized by law to undertake or provide; and

WHEREAS, in accordance with the Act, the Sole Commissioner of Walker County, Georgia will approve and sign a Resolution on August 24, 2017 (the "**Resolution**"), to impose, levy and collect a TSPLOST within the County conditioned upon the approval by a majority of the qualified voters residing within the County voting in a referendum thereon to be held on November 7, 2017, and said resolution shall be delivered to the Board of Elections and Registration of Walker County, as election superintendent for the County, who shall issue a call for the referendum as described in said resolution; and

WHEREAS, the County has determined that at the present time it does not wish to issue any Bonds for the County Projects described in the TSPLOST Contract; and

WHEREAS, the Municipalities have determined that at the present time they do not wish to issue any Bonds for the City Projects described in the TSPLOST Contract; and

WHEREAS, for the purpose of the distribution of proceeds for the April 1, 2018 through March 31, 2023 TSPLOST, the Special District shall be known as the boundaries of Walker County; and

WHEREAS, the Municipalities have certified they are qualified municipalities and are eligible to receive distributions of the one percent (1.0%) TSPLOST Proceeds; and

WHEREAS, the parties hereto are interested in serving the needs of the residents of Walker County by planning and performing transportation projects within the County and the Municipalities; and

WHEREAS, the parties intend that the transportation projects which are the subject of this Agreement shall benefit residents of Walker County and the Municipalities; and

WHEREAS, the County and the Municipalities located within Walker County are committed to continue to work together to improve the County's transportation infrastructure; and

WHEREAS, the County and the Municipalities have identified transportation needs that are important to the current and future well-being of their residents and have determined that proceeds from the TSPLOST should be used to address a portion of these needs.

NOW THEREFORE, for and in consideration of the foregoing and in consideration of the mutual promises and understandings herein made and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do consent and agree as follows:

SECTION 1. EFFECTIVE DATE AND TERM OF THE TAX

This Intergovernmental Agreement is conditioned upon a Referendum to be approved by a majority of the voters of Walker County to impose a one percent (1.0%) TSPLOST, which shall commence on April 1, 2018, and continue to, through and including March 31, 2023.

SECTION 2. ADMINISTRATION EXPENSES

Pursuant to O.C.G.A. § 48-8-269.94, one percent (1.0%) of the amount of TSPLOST proceeds collected beginning April 1, 2018, shall be paid into the General Fund of the State of Georgia ("State") treasury in order to defray the costs of administration of the Georgia Department of Revenue. One-half of one percent (0.5%) of the tax proceeds (County oversight) shall be allocated to the County by the State to provide for any costs associated with the administration of the TSPLOST Program. Such cost shall include the annual audit and the overall program administration, at a minimum. Any County oversight funds that remain from these proceeds after the final audit at the end of the tax shall be redistributed based on the percentages provided under this section. The remaining ninety-eight and one-half percent (98.5%) of the amount collected from the TSPLOST Tax proceeds (hereinafter known as the "net proceeds") beginning April 1, 2018, and ending March 31, 2023, shall be distributed by the State of Georgia to the County, and shall be allocated to each jurisdiction based on the percentages shown in the table below in Section 3.

SECTION 3. DISTRIBUTION OF NET PROCEEDS

DISTRIBUTION PERCENTAGES

City of Chickamauga	3.77%
City of Fort Oglethorpe	0.39%
City of LaFayette	11.67%
City of Lookout Mountain	2.87%
City of Rossville	6.30%
Walker County	75.00%
Total	100.00%

- (A) To facilitate the distribution of net proceeds, the parties agree that the sum of Twenty Five Million and 00/100 Dollars (\$25,000,000.00) shall represent an estimate of the maximum net proceeds to be derived from the subject TSPLOST during its five year term.
- (B) The parties agree that the aggregate total distribution received by the Municipalities shall amount to twenty-five percent (25.0%) of the net proceeds distributed by the State, with the remaining seventy-five percent (75.0%) of the net proceeds distributed by the State to be received by the County.

- (C) The parties agree that no project will be given preference in the funding and distribution process in such a way that the monthly distribution formula is affected.
- (D) Should any jurisdiction choose not to be a party to this agreement, said jurisdiction's allocation of the net proceeds shall be 0%.

SECTION 4. DEFINITION OF AUTHORIZED TRANSPORTATION PURPOSES

In recognition of the need for transportation improvements across the County and the Municipalities, the parties agree that the total net proceeds shall be utilized for transportation purposes, as defined in O.C.G.A. § 48-8-260(4) and § 48-8-121.

SECTION 5. PROJECTS

- (A) The projects and purposes ("Transportation Projects and Purposes") to be funded from the net proceeds of the TSPLOST pursuant to this Agreement, shall include roads, bridges, public transit, rails, airports, buses, and all accompanying infrastructure and services necessary to provide access to these; and roads, streets, sidewalks, bicycle paths, and bridge purposes, e.g., acquisition of rights of way, construction, renovation, and improvement of roads, including resurfacing, relocation of utilities, improvement of surface-water drainage, and patching leveling milling, widening, shoulder preparation, culvert repair, and other repairs necessary for their preservation, and all other purposes allowed by law. The estimated dollar amounts allocated for such transportation purposes shall be those amounts attributable to the County and Municipalities according to the designated percentage of the total amount of TSPLOST proceeds received. The parties acknowledge and agree that 30% of the estimate revenues are being expended on projects that are consistent with the Statewide Strategic Transportation Plan as defined in O.C.G.A. § 32-2-22.
- (B) All Transportation Projects included in this Agreement shall be funded in whole or in part from net proceeds from the TSPLOST authorized by law except as otherwise agreed in writing by the parties.

SECTION 6. EFFECTIVE DATE AND TERM OF THIS AGREEMENT

- (A) This Agreement shall become effective on August 24, 2017. If the November 7, 2017 Referendum concerning the imposition of the TSPLOST is not approved by a majority of the voters of Walker County, this Agreement shall expire and shall be of no force and effect after November 7, 2017.
- (B) Except as otherwise provided herein, the TSPLOST which is the subject of the November 7, 2017 Referendum shall continue for a period of five years from April 1, 2018, until March 31, 2023, unless otherwise terminated earlier pursuant to O.C.G.A. § 48-8-269.91(b).

SECTION 7. EXPENSES

The County shall administer the TSPLOST Fund to effectuate the terms of this Agreement and shall be responsible for the cost of holding the TSPLOST election. The County shall be reimbursed for the costs of the election from the proceeds deposited in the TSPLOST Fund.

SECTION 8. COUNTY TSPLOST FUND; SEPARATE ACCOUNTS; NO COMMINGLING

The net proceeds from the TSPLOST shall be maintained in the parties' separate accounts and utilized exclusively for the purposes specified in this Agreement. The parties acknowledge that TSPLOST proceeds are not guaranteed. Proceeds received under the amount estimated in the Referendum question shall be allocated in accordance with the percentages set forth in this Agreement and shall be used on the Transportation Projects and Purposes as outlined in Exhibit A to this Agreement.

- (A) A special fund or account shall be created by the County and designated as the 2017 Walker County Transportation Special Purpose Local Option Sales Tax Fund ("TSPLOST Fund"). The County shall select a local bank which shall act as a depository and custodian of the TSPLOST Fund upon such terms and conditions as may be acceptable to the County.
- (B) Each Municipality shall create a special fund to be designated as the 2017 Transportation Special Purpose Local Option Sales Tax Fund ("TSPLOST Fund"). Each Municipality shall select a local bank which shall act as a depository and custodian of the TSPLOST proceeds received by each Municipality upon such terms and conditions as may be acceptable to the Municipality.
- (C) All TSPLOST proceeds shall be maintained by the County and each Municipality in the separate accounts or funds established pursuant to this Section. Except as provided in Section 13, TSPLOST proceeds shall not be commingled with other funds of the County of Municipalities and shall be used exclusively for the purposes detailed in this Agreement. No funds other than TSPLOST proceeds shall be placed in such funds or accounts.

SECTION 9. ALLOCATION OF EXCESS FUNDS

Any net proceeds over and above the amount estimated in Section 3(A) of this Agreement during the quarter during which this amount is reached shall be allocated in accordance with the percentages set forth in this Agreement and shall be used solely for the transportation purposes listed herein. Each party shall expend its portion of the excess net proceeds from the 2017 TSPLOST Program on the Transportation Projects and Purposes as outlined in Exhibit A to this Agreement.

SECTION 10. AUDITS

- (A) At the end of each party's fiscal year wherein net proceeds from the TSPLOST are distributed, each party shall cause an audit of the distribution and use of its portion of the net proceeds from the TSPLOST to be completed. Each party to this Agreement shall pay the cost of each such annual audit that it conducts. Each party shall publish each of its annual audits as required by law.
- (B) In addition to the audit required by paragraph 10 of this Agreement, at the end of each calendar year wherein net proceeds from the Transportation Special Purpose Local Option Sales Tax are distributed, the City and the County shall participate in a joint annual audit of the entire TSPLOST program approved by the voters during the November 7, 2017 Referendum. The purpose of this joint annual audit is to ensure compliance with the Resolution that resulted in the call of the Transportation Special Purpose Local Option

Sales Tax Referendum. Walker County shall choose the auditor to conduct the annual audit. The cost of such joint annual audit shall be paid from proceeds collected by the County as described under Section 2 of this document.

SECTION 11. COMPLETION OF PROJECTS

Any TSPLOST proceeds held by a County or Municipality at the end of the five year period 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).

SECTION 12. PUBLICATION OF PROJECTS

Pursuant to O.C.G.A. § 48-8-269.6, not later than December 31 of each year, the County and each municipality receiving proceeds from the tax, shall publish annually, in a newspaper of general circulation in the boundaries of the County and the Municipalities and in a prominent location on the Municipalities' and the County's website, a simple nontechnical report, or consolidated schedule of projects, which shows the each purpose the amounts expended in prior years, and amounts expended in the current year. The report shall also include a statement of what corrective action the Municipality or County intends to implement with respect to each purpose which is underfunded or behind schedule.

SECTION 13. PROCEDURE FOR DISBURSEMENT OF TSPLOST PROCEEDS

- (A) Upon receipt by the County of TSPLOST proceeds collected by the State Department of Revenue, the County shall immediately deposit said proceeds in the TSPLOST Fund.
- (B) The County, following deposit of the TSPLOST proceeds in the TSPLOST Fund, shall within 10 business days disburse the TSPLOST proceeds due to each Municipality according to the schedule listed herein. The proceeds shall be deposited in the separate funds established by each Municipality in accordance with Section 8 of this Agreement.
- (C) 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. If such an act is passed, 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 14. ENTIRE AGREEMENT

This Agreement, including any attachments or exhibits, constitutes all of the understanding and agreements of whatsoever nature or kind existing between the Parties with respect to distribution and use of the proceeds from the TSPLOST.

SECTION 15. AMENDMENTS

This Agreement shall not be amended or modified except by agreement in writing executed by all Parties hereto.

SECTION 16. GOVERNING LAW

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

SECTION 17. SEVERABILITY

It is agreed that the illegality or invalidity of any term or clause of this Agreement shall not affect the validity of the remainder of the Agreement, and the Agreement shall remain in full force and effect as if such illegal or invalid term or clause were not contained herein.

SECTION 18. COMPLIANCE WITH THE LAW

Each party to this Agreement shall comply with all applicable local, State, and Federal statutes, ordinances, rules and regulations.

SECTION 19. NO CONSENT TO BREACH

No consent or waiver, express or implied, by any party 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 20. NOTICES

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

SECTION 21. COUNTERPARTS

This Agreement shall 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 22. MEDIATION

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