

**MEMORANDUM**

**To:** Mayor and City Council

**From:** Chris Pike, Finance Director

**Date:** September 11, 2017

**Subject:** **Approval SPLOST Resolution, SPLOST Budget Assignment & Financing Limits, and Authorization of Mayor to Execute SPLOST IGA with DeKalb County**

**ITEM DESCRIPTION**

Approval from Council to assign budgets to the 2017 SPLOST Project list & approval of financing limits for referendum consideration

**BACKGROUND**

State law requires each City and County to develop a project list for the referendum. At the last Council meeting, a project list was approved that is in compliance with state law. We do not need to get any more specific than what was approved. We now need to assign estimates/budgets to the three categories (transportation, public safety, capital repairs). These estimates will go into the IGA projects listing but not on the referendum. They need to be good faith estimates but you do have the ability to move funds among projects as long as you complete what you set out to complete. With a broad project list like the one we have, that won't be an issue. Here are estimates provided by the County.

Rounded to 3 decimal places			
Estimated SPLOST Distributions based on 2016 Census Population Estimate			
City/County	2016 Population Estimate	2016 Percentage Distribution	6 Year SPLOST Total (April 2018 March 2024) Updated Est
Avondale Estates city	3,150	0.445%	\$ 2,833,592
Brookhaven city	52,444	7.411%	\$ 47,190,458
Chamblee city	28,306	4.000%	\$ 25,470,494
Clarkston city	12,742	1.801%	\$ 11,468,090
Decatur city	22,813	3.224%	\$ 20,529,218
Doraville city	10,501	1.484%	\$ 9,449,554
Dunwoody city	48,884	6.908%	\$ 43,987,543
Lithonia city	2,082	0.294%	\$ 1,872,082
Pine Lake city	762	0.108%	\$ 687,704
Stone Mountain city	6,328	0.894%	\$ 5,692,656
Tucker city	35,322	4.991%	\$ 31,780,809
Stonecrest (DMA figure)	53,071	7.500%	\$ 47,757,176
DeKalb County	431,250	60.940%	\$ 388,042,978
	707,655	100.000%	\$ 636,762,352



Also required is the language to be included in the IGA and call for election that outlines the limits allowed for bonding should the City decide to take advantage of a favorably opportunity if the referendum is approved. Establishing these limits now does not mean the City will finance projects at a later date. Not establishing these limits now will prevent the City from financing projects at a later date.

**EVALUATION**

Staff suggests annually something along the lines of \$200,000 for repairs of capital items (FIPP type of projects would be one potential use, replacing an HVAC at City Hall, etc.), \$1,000,000 for public safety projects (covers roughly 20-25 cars fully outfitted to specifications such as bars and lights) and the remainder towards transportation projects. This would leave over \$6 million per year for transportation. That amount exceeds what has been spent in the past for transportation projects so it will not slow us down in any way. The project list would look something like this based on the data below:

Transportation improvement projects including, but not limited to Infrastructure Preservation (road resurfacing, replacement and rehabilitation of bridges and drainage systems); Pedestrian and Bicycle Path Improvements (addition of sidewalks, streetscapes, bike lanes, and multi-use trails); Congestion Relief (intersection improvements, road widenings, traffic management, and signal upgrades); Safety and Operational Improvements (addition/extension of turn lanes, elimination of sight distance problems and other safety concerns, as well as widened lanes and shoulders)	Estimated \$36,787,543
Public Safety Facilities and Related Capital Equipment	\$6,000,000
Repairs of Capital Outlay Projects	\$1,200,000

With a five year SPLOST, the amounts would have reduced proportionally except the amounts would be slightly higher using the 2010 census figures. The above figures do not anticipate any funding to be drained from the City’s portion to pay for County ran operations/departments such as Fire. Conversely, it does not anticipate the County paying for any City projects either such as roads. We serve the same citizens within city boundaries but funding is currently allocated based on what services each jurisdiction performs already. **Should the City wish to fund County Fire projects, the amount shown above for Public Safety (\$6,000,000) should be increased accordingly with the increase deducted from the other two amounts shown. A decision to do this should be based on a specific project shown in the IGA with the County to be a required project (one the County is obligated to complete) in which the City wishes to assist in funding.** Projects included in the IGA project list MUST be completed and only those projects listed may be completed.

**THIS PROJECT LIST WILL BECOME “EXHIBIT B” IN THE RESOLUTION AND INTERGOVERNMENTAL AGREEMENT.**

Population:

We have the above data from DeKalb. I’m comfortable using these numbers based on what I’m finding on the US census website. The Dunwoody number matches. The overall population is less than actual, but that’s because Atlanta has been pulled out. So I’m fine using the 6.908% number in the IGA for the 6 year agreement. I stand by my recommendation to forego an IGA for less than 6 years as it doesn’t benefit us (rather those

we represent and serve) to agree to a lower percentage at just the 5 years.

**Bonding:**

The City's bond counsel reviewed the resolution deferred from our August meeting. His only recommendations were to increase the amount authorized as well as the maximum interest allowed. That advice was to give greater flexibility to the projects we may finance. Also, including a higher interest rate allows the City to sell bonds at a premium to collect higher proceeds on the projects. The stated/coupon rate is what is limited here and not the real/effective rate the funds would cost us. The previous amount discussed was \$5 million per year at 5%. Counsel recommended increasing the coupon rate by 1%. The amount to be paid with proceeds could be as high as just under \$7 million per year; though \$6 million should be more than sufficient given the proceeds for public safety would be used to as we need them and not for financed projects.

**RECOMMENDED ACTION**

Staff respectfully request Council direct staff on appropriate project funding to include in IGA/resolution on SPLOST referendum as well as establish the limits for bonded projects included in the SPLOST proceeds, approved the resolution reflecting these decisions, and authorize the mayor to execute the IGA with the county with the funding decisions incorporated wherein.



September 8, 2017

**INTERGOVERNMENTAL AGREEMENT FOR THE USE AND DISTRIBUTION OF PROCEEDS FROM THE ONE PERCENT SPECIAL PURPOSE LOCAL OPTION SALES TAX**

**THIS AGREEMENT** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2017 by and between DeKalb County, a political subdivision of the State of Georgia (hereinafter the “County”), and the City of Avondale Estates, the City of Brookhaven, the City of Chamblee, the City of Clarkston, the City of Decatur, the City of Doraville, the City of Dunwoody, the City of Lithonia, the City of Pine Lake, the City of Stonecrest, the City of Stone Mountain, and the City of Tucker, municipal corporations of the State of Georgia (hereinafter collectively the “Municipalities” and, individually, as the context requires, “Municipality”). This Agreement does not include the portion of the City of Atlanta located in DeKalb County, which is specifically excluded from the levy and receipt of SPLOST proceeds at this time pursuant to O.C.G.A. § 48-8-109.5(f).

**WITNESSETH:**

**WHEREAS**, the parties to this Agreement consist of the County and the Municipalities; and

**WHEREAS**, the parties anticipate that the DeKalb County Governing Authority will approve and sign a resolution requesting the DeKalb County Board of Registrations and Elections to call a Referendum on the issue of the imposition of a Special Purpose Local Option Sales Tax (the “SPLOST”) and an Equalized Homestead Option Sales Tax (the “EHOST”); and

**WHEREAS**, O.C.G.A. § 48-8-110 et seq. (the “Act”), authorizes the levy of a one percent County Special Purpose Local Option Sales Tax (the “SPLOST”) for the purpose of financing capital outlay projects, as that term is defined and described by the Act (“capital outlay projects” or “projects”), for the use and benefit of the County and qualified municipalities within the County; and

**WHEREAS**, the County and Municipalities met to discuss possible projects for inclusion in the SPLOST referendum on the 31<sup>st</sup> day August, 2017; and

**WHEREAS**, the County and the Municipalities have reviewed O.C.G.A. § 48-8-109.5(e) and agreed upon a method to request the State Revenue Commissioner for the Georgia Department of Revenue (“Revenue Commissioner”) to strictly divide the SPLOST proceeds so that payments to the County and the Municipalities account for annexations and new cities created after the most recent decennial census; and

**WHEREAS**, the County and the Municipalities are authorized to enter into this Agreement by Georgia law, specifically including Article IX, Section III, Paragraph 1 of the Constitution of the State of Georgia and O.C.G.A. § 48-8-109.5(e).

**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 Municipalities consent and agree as follows:

**Section 1. Projects**

- (A) All capital outlay projects, to be funded in whole or in part from County SPLOST proceeds, are listed in Exhibit A, which is attached hereto and made part of this Agreement.
- (B) The capital outlay projects, to be funded in whole or in part from the Municipalities' SPLOST proceeds, are listed in Exhibit B, which is attached hereto and made part of this Agreement.

**Section 2. 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 of the State of Georgia; and
  - (ii) The governing authority of the County is duly authorized to execute, deliver and perform this Agreement; and
  - (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 7<sup>th</sup> day of November, 2017, 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 DeKalb County for a period of six (6) years, commencing on the 1st day of April, 2018, to raise an estimated \$636,762,352 to be used for funding the projects specified in Exhibit A and Exhibit B; and
  - (v) Each County project funded by SPLOST proceeds shall be maintained as a public facility and in public ownership.
  - (vi) Upon the request of a Municipality by official Resolution of the Governing Authority of the Municipality, the County will take all actions necessary to add language to the referendum ballot presented to voters residing in the requesting Municipality to submit to those voters for their approval, the question of whether or not the requesting Municipality shall be authorized to issue general obligation debt of the Municipality in a not to exceed amount to be identified by the Municipality in its requesting Resolution.

September 8, 2017

- (B) Each of the Municipalities, on its own behalf, makes the following representations and warranties, which may be specifically relied upon by all parties as a basis for entering this Agreement:
- (i) The Municipality is a municipal corporation duly created and organized under the Laws of the State of Georgia; and
  - (ii) The governing authority of the Municipality is duly authorized to execute, deliver and perform this Agreement; and
  - (iii) This Agreement is a valid, binding, and enforceable obligation of the Municipality; and
  - (iv) The Municipality is a qualified municipality as defined in O.C.G.A. § 48-8-110 (4); and
  - (v) The Municipality is located entirely within the geographic boundaries of the special tax district created in the County; and
  - (vi) Each Municipality's projects funded by SPLOST proceeds shall be maintained as public facilities and in public ownership.
- (C) It is the intention of the County and Municipalities to comply in all applicable respects with O.C.G.A. §§ 48-8-109.1 *et seq.* and 48-8-110 *et seq.* and all provisions of this Agreement shall be construed in light of the applicable provisions found in O.C.G.A. §§ 48-8-109.1 *et seq.* and 48-8-110 *et seq.*
- (D) The County and Municipalities agree to promptly proceed with the acquisition, construction, equipping, installation, and execution of the projects specified in Exhibit A and Exhibit B of this Agreement, or any other capital outlay projects as defined and authorized under O.C.G.A. §§ 48-8-109.1 *et seq.* and 48-8-110 *et seq.* that are approved for such purposes hereafter.
- (E) The County and the Municipalities agree to maintain thorough and accurate records concerning their respective receipt and expenditure of SPLOST proceeds.

### **Section 3. Conditions Precedent**

- (A) The obligations of the County and Municipalities pursuant to this Agreement are conditioned upon the adoption of a resolution of the County calling for the imposition of the EHOST and SPLOST in accordance with the provisions of O.C.G.A. § 48-8-109.1 *et seq.* and O.C.G.A. § 48-8-110 *et seq.*
- (B) This Agreement is further conditioned upon the approval of the proposed imposition of the EHOST and SPLOST by the voters of the County in a referendum to be held in accordance with the provisions of O.C.G.A. § 48-8-109.1 *et seq.* and O.C.G.A. § 48-8-110 *et seq.*

- (C) This Agreement is further conditioned upon the collecting of the SPLOST revenues by the Revenue Commissioner and transferring same to the County and Municipalities in conformity with the requirements of O.C.G.A. § 48-8-109.1 *et seq.* and O.C.G.A. § 48-8-110 *et seq.*

#### **Section 4. Effective Date and Term of the Tax**

The SPLOST, subject to approval in an election to be held on November 7, 2017, shall continue for a period of six (6) years with collections beginning on April 1, 2018 or the date the state revenue commissioner specifies as the collection start date.

#### **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:

- (i) The official declaration by the DeKalb County Board of Registration and Elections of the failure of the election described in this Agreement;
- (ii) The expenditure by the County and all of the Municipalities of the last dollar of money collected from the Special Purpose Local Option Sales Tax after the expiration of the Special Purpose Local Option Sales Tax; or
- (iii) The completion of all projects described in Exhibit A and Exhibit B or approved for development with SPLOST proceeds hereafter.

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

- (A) A special fund or account shall be created by the County and designated as the 2017 DeKalb County Special Purpose Local Option Sales Tax Fund (“SPLOST Fund”). The County shall select a bank with an office or branch physically located within DeKalb County which shall act as a depository and custodian of the SPLOST 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 “*municipality name*” Special Purpose Local Option Sales Tax Fund. Each municipality shall select a bank with an office or branch physically located within DeKalb County which shall act as a depository and custodian of the SPLOST proceeds received by each Municipality upon such terms and conditions as may be acceptable to the Municipality.
- (C) All SPLOST proceeds shall be maintained by the County and each Municipality in the separate accounts or funds established pursuant to this Section. SPLOST



proceeds shall not be commingled with other funds of the County or Municipalities and shall be used exclusively for the purposes detailed in this Agreement. No funds other than SPLOST proceeds and accrued interest shall be placed in such funds or accounts.

**Section 7. Procedure for Disbursement of SPLOST Proceeds**

- (A) Pursuant to O.C.G.A. § 48-8-115, proceeds of the SPLOST shall be collected by the Revenue Commissioner and one percent (1%) of the amount of the SPLOST proceeds collected beginning April 1, 2018 shall be paid into the general fund of the state treasury in order to defray the costs of administration.
- (B) The remaining ninety-nine percent (99%) of the amount collected from the SPLOST (the “SPLOST proceeds”) beginning April 1, 2018 shall be distributed to the County and each Municipality by the Revenue Commissioner pursuant to the percentages set forth below and the parties agree that such percentages shall remain unchanged until the expiration of this six (6) year Special Purpose Local Option Sales Tax:

<b>City/County</b>	<b>Distribution Percentage</b>
Avondale Estates	0.445%
Brookhaven	7.411%
Chamblee	4.000%
Clarkston	1.801%
Decatur	3.224%
Doraville	1.484%
Dunwoody	6.908%
Lithonia	0.294%
Pine Lake	0.108%
Stone Mountain	0.894%
Stonecrest	7.500%
Tucker	4.991%
Unincorporated-DeKalb	60.940%

The above-described distribution percentages shall be set forth in a Tax Certificate of Distribution, the form of which is attached hereto as Exhibit C, to be forwarded to the Revenue Commissioner at a date and time of his/her choosing. In the event of an annexation of previously unincorporated areas of the County by a Municipality or in the event of the creation and voter approval of a new municipality within the previously unincorporated areas of the County, the County agrees to fund and develop projects within such newly incorporated areas in the same manner, at the same rate and subject to the same standards of

priority as similar projects are funded and developed at that time in the unincorporated area of the County.

- (C) Upon receipt by the County or Municipality of SPLOST proceeds collected by the Revenue Commissioner, the County and each Municipality shall immediately deposit said proceeds in a separate fund established by each government entity in accordance with Section 6 of this Agreement. The monies in each SPLOST fund shall be held and applied to the cost of acquiring, constructing, installing, and executing, which includes project management, oversight auditing, and reporting, the County’s and the Municipalities’ respective capital outlay projects listed in Exhibit A and Exhibit B.
- (D) 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 8. Expenses**

The County shall be responsible for the cost of holding the SPLOST election.

**Section 9. Audits**

During the term of this Agreement, the distribution and use of all SPLOST proceeds deposited in the SPLOST Fund and each Municipal SPLOST fund shall be audited in accordance with O.C.G.A. § 48-8-121 (a)(2) by the County’s Auditor for the County projects and by each Municipality’s auditor for the respective Municipality’s projects. The County and each Municipality receiving SPLOST proceeds shall be responsible for the cost of their respective audits.

**Section 10. 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 to the following addresses. The parties agree to give each other non-binding duplicate email notice. Future changes in address shall be effective upon written notice being given by the City to the County Executive Assistant or by the County to the City Manager via certified first class U.S. mail, return receipt requested.

**DeKalb County:**  
Chief Executive Officer

**City of Avondale Estates:**  
Mr. Clai Brown

September 8, 2017

Executive Assistant  
DeKalb County, Georgia  
1300 Commerce Drive  
Decatur, Georgia 30030

With a copy to:

County Attorney  
DeKalb County, Georgia  
1300 Commerce Drive  
Decatur, Georgia 30030

City Manager  
21 N. Avondale Plz.  
Avondale Estates, GA 30002-13

With a copy to:

Robert E. Wilson, Esq.  
Wilson, Morton & Downs LLC  
125 Clairmont Avenue, Ste. 420  
Decatur, GA 30030

**City of Brookhaven:**

Mr. Christian Sigman  
City Manager  
4362 Peachtree Road  
Brookhaven, GA 30319

With copy to:

Chris Balch  
Balch Law Group  
1270 Carolina St., Suite D120-315  
Atlanta, GA 30307

**City of Clarkston:**

Keith Barker  
City Manager  
1055 Rowland Street  
Clarkston, GA 30021-1711

With copy to:

Stephen G. Quinn  
Wilson, Morton & Downs LLC  
125 Clairmont Ave., Ste. 420  
Decatur, GA 30030

**City of Doraville:**

Regina Williams-Gates

**City of Chamblee:**

Jon Walker  
City Manager  
5468 Peachtree Road  
Chamblee, GA 30341-2398

With copy to:

Joe L. Fowler  
Fowler, Hein, Cheatwood &  
Williams, P.A.  
2970 Clairmont Road, Suite 220  
Atlanta, GA 30329

**City of Decatur:**

Peggy Merriss  
City Manager  
509 N. McDonough Street  
Decatur, GA 30030

With copy to:

Bryan Downs  
Wilson, Morton & Downs LLC  
125 Clairmont Ave., Ste. 420  
Decatur, GA 30030

**City of Dunwoody:**

Eric Linton

Interim City Manager  
3725 Park Avenue  
Doraville, GA 30340-1197

City Manager  
41 Perimeter Ctr. East, Suite 250  
Dunwoody, GA 30346

With copy to:

With copy to:

Cecil C. McLendon, Esq.  
3725 Park Avenue  
Doraville, GA 30340

Cecil McLendon, Esq.  
41 Perimeter Center East, Suite 250  
Dunwoody, GA 30346

**City of Lithonia:**

Cheryl Foster  
City Administrator  
6920 Main Street  
Lithonia, GA 30058

**City of Pine Lake:**

Valerie Caldwell  
City Manager  
462 Clubhouse Drive  
Pine Lake, Georgia 30072

With copy to:

With copy to:

Winston A. Denmark, Esq.  
8024 Fairoaks Court  
Jonesboro, GA 30236

Laurel E. Henderson  
Sumner Meeker LLC  
14 East Broad Street  
Newnan, GA 30263

**City of Stone Mountain:**

Ms. ChaQuias Miller Thornton  
City Manager  
875 Main Street  
Stone Mountain, GA 30083

**City of Stonecrest:**

Michael C. Harris  
City Manager  
3120 Stonecrest Blvd.  
Stonecrest, GA 30038

With copy to:

With copy to:

Joe L. Fowler  
Fowler, Hein, Cheatwood  
& Williams, P.A.  
2970 Clairmont Road, Suite 220  
Atlanta, GA 30329

Thompson Kurrie, Jr.  
Coleman Talley LLP  
3475 Lenox Road, NE, Suite 400  
Atlanta, GA 30326

**City of Tucker:**

Tami Hanlin

September 8, 2017

City Manager  
4119 Adrian Street  
Tucker, GA 30084

With copy to:

Brian Anderson  
Anderson Legal Counsel  
4119 Adrian Street  
Tucker, GA 30084

### **Section 11. Entire Agreement**

This Agreement, including any attachments or exhibits, constitutes all of the understandings and agreements existing between the County and the Municipalities with respect to distribution and use of the proceeds from the Special Purpose Local Option Sales Tax. 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 said SPLOST. No representation oral or written not incorporated in this Agreement shall be binding upon the County or the Municipalities.

### **Section 12. Amendments**

This Agreement shall not be amended or modified except by agreement in writing executed by the County and the Municipalities.

### **Section 13. Severability, Non-Waiver, Applicable Law, and Enforceability**

If a court of competent jurisdiction renders any provision of this Agreement (or portion of a provision) to be invalid or otherwise unenforceable, that provision or portion of the provision will be severed and the remainder of this Agreement will continue in full force and effect as if the invalid provision or portion of the provision were not part of this Agreement. No action taken pursuant to this Agreement should be deemed to constitute a waiver of compliance with any representation, warranty, covenant or agreement contained in this Agreement and will not operate or be construed as a waiver of any subsequent breach, whether of a similar or dissimilar nature. This Agreement is governed by the laws of the State of Georgia without regard to conflicts of law principles thereof. Should any provision of this Agreement require judicial interpretation, it is agreed that the arbitrator or court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who itself or through its agent prepared the same, it being agreed that the agents of all parties have participated in the preparation hereof.

### **Section 14. Compliance with Law**

During the term of this Agreement, the County and each Municipality shall comply with all State law applicable to the use of the SPLOST proceeds, specifically including O.C.G.A. § 48-8-110, et seq.

### **Section 15. Dispute Resolution**

Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

- (A) Claims shall be heard by a single arbitrator, unless the claim amount exceeds \$500,000, in which case the dispute shall be heard by a panel of three arbitrators. Where the claim is to be heard by single arbitrator, the arbitrator shall be selected pursuant to the list process provided for in the Commercial Arbitration Rules unless the parties to the arbitration are able to select an arbitrator independently by mutual agreement. The arbitrator shall be a lawyer with at least 10 years of active practice in commercial law and/or local government law. Where the claim is to be heard by a panel of three arbitrators, selection shall occur as follows. Within 15 days after the commencement of arbitration, the city or cities party to the arbitration shall select one person to act as arbitrator and the County shall select one person to act as an arbitrator. The two selected arbitrators shall then select a third arbitrator within ten days of their appointment. If the arbitrators selected by the parties are unable or fail to agree upon the third arbitrator, the third arbitrator shall be selected by the American Arbitration Association. This third arbitrator shall be a former judge in the State or Superior Courts of Georgia or a former federal district judge.
- (B) The arbitration shall be governed by the laws of the State of Georgia.
- (C) The standard provisions of the Commercial Rules shall apply.
- (D) Arbitrators will have the authority to allocate the costs of the arbitration process among the parties, but will only have the authority to allocate attorneys' fees if a particular law permits them to do so, specifically including O.C.G.A. § 9-15-14.
- (E) The award of the arbitrators shall be accompanied by a written opinion that includes express findings of fact and conclusions of law.

### **Section 16. 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 17. 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.

**IN WITNESS WHEREOF**, the County and the Municipalities acting through their duly authorized agents have caused this Agreement to be signed, sealed and delivered for final execution by the County on the date indicated herein.

**DEKALB COUNTY, GEORGIA**

\_\_\_\_\_(SEAL)  
**MICHAEL L. THURMOND**  
Chief Executive Officer

**ATTEST:**

\_\_\_\_\_  
**BARBARA NORWOOD SANDERS, CCC**  
Clerk to the Board of Commissioners  
and Chief Executive Officer

**APPROVED AS TO SUBSTANCE:**

**APPROVED AS TO FORM AND  
LEGAL VALIDITY:**

\_\_\_\_\_  
**ZACHARY L. WILLIAMS**  
Chief Operating Officer

\_\_\_\_\_  
**OVERTIS HICKS BRANTLEY**  
County Attorney



September 8, 2017

**CITY OF AVONDALE ESTATES,  
GEORGIA**

Attest:

\_\_\_\_\_ (SEAL)

Mayor

\_\_\_\_\_

Municipal Clerk

**APPROVED AS TO SUBSTANCE:**

**APPROVED AS TO FORM AND  
LEGAL VALIDITY:**

\_\_\_\_\_

City Manager

\_\_\_\_\_

City Attorney

**CITY OF BROOKHAVEN, GEORGIA**

Attest:

\_\_\_\_\_ (SEAL)

Mayor

\_\_\_\_\_

Municipal Clerk

**APPROVED AS TO SUBSTANCE:**

**APPROVED AS TO FORM  
AND LEGAL VALIDITY:**

\_\_\_\_\_

City Manager

\_\_\_\_\_

City Attorney

September 8, 2017

**CITY OF CHAMBLEE, GEORGIA**

Attest:

\_\_\_\_\_(SEAL)

Mayor

\_\_\_\_\_

Municipal Clerk

**APPROVED AS TO SUBSTANCE:**

**APPROVED AS TO FORM  
AND LEGAL VALIDITY:**

\_\_\_\_\_

City Manager

\_\_\_\_\_

City Attorney

**CITY OF CLARKSTON, GEORGIA**

Attest:

\_\_\_\_\_(SEAL)

Mayor

\_\_\_\_\_

Municipal Clerk

**APPROVED AS TO SUBSTANCE:**

**APPROVED AS TO FORM  
AND LEGAL VALIDITY:**

\_\_\_\_\_

City Manager

\_\_\_\_\_

City Attorney

September 8, 2017

**CITY OF DECATUR, GEORGIA**

Attest:

\_\_\_\_\_(SEAL)

Mayor

\_\_\_\_\_

Municipal Clerk

**APPROVED AS TO SUBSTANCE:**

**APPROVED AS TO FORM  
AND LEGAL VALIDITY:**

\_\_\_\_\_

City Manager

\_\_\_\_\_

City Attorney

**CITY OF DORAVILLE, GEORGIA**

Attest:

\_\_\_\_\_(SEAL)

Mayor

\_\_\_\_\_

Municipal Clerk

**APPROVED AS TO SUBSTANCE:**

**APPROVED AS TO FORM  
AND LEGAL VALIDITY:**

\_\_\_\_\_

City Manager

\_\_\_\_\_

City Attorney

September 8, 2017

**CITY OF DUNWOODY, GEORGIA**

Attest:

\_\_\_\_\_(SEAL)

Mayor

\_\_\_\_\_

Municipal Clerk

**APPROVED AS TO SUBSTANCE:**

**APPROVED AS TO FORM  
AND LEGAL VALIDITY:**

\_\_\_\_\_

City Manager

\_\_\_\_\_

City Attorney

**CITY OF LITHONIA, GEORGIA**

Attest:

\_\_\_\_\_(SEAL)  
Mayor

\_\_\_\_\_  
Municipal Clerk

**APPROVED AS TO SUBSTANCE:**

**APPROVED AS TO FORM  
AND LEGAL VALIDITY:**

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
City Attorney



September 8, 2017

**CITY OF PINE LAKE, GEORGIA**

Attest:

\_\_\_\_\_(SEAL)

Mayor

\_\_\_\_\_

Municipal Clerk

**APPROVED AS TO SUBSTANCE:**

**APPROVED AS TO FORM  
AND LEGAL VALIDITY:**

\_\_\_\_\_

City Manager

\_\_\_\_\_

City Attorney

**CITY OF STONE MOUNTAIN,  
GEORGIA**

Attest:

\_\_\_\_\_ (SEAL)

Mayor

\_\_\_\_\_

Municipal Clerk

**APPROVED AS TO SUBSTANCE:**

**APPROVED AS TO FORM  
AND LEGAL VALIDITY:**

\_\_\_\_\_

City Manager

\_\_\_\_\_

City Attorney

September 7, 2017

**CITY OF STONECREST, GEORGIA**

Attest:

\_\_\_\_\_(SEAL)

\_\_\_\_\_

Mayor

Municipal Clerk

**APPROVED AS TO SUBSTANCE:**

**APPROVED AS TO FORM  
AND LEGAL VALIDITY:**

\_\_\_\_\_

\_\_\_\_\_

City Manager

City Attorney

**CITY OF TUCKER, GEORGIA**

Attest:

\_\_\_\_\_ (SEAL)

Mayor

\_\_\_\_\_

Municipal Clerk

**APPROVED AS TO SUBSTANCE:**

**APPROVED AS TO FORM  
AND LEGAL VALIDITY:**

\_\_\_\_\_

City Manager

\_\_\_\_\_

City Attorney

September 7, 2017

**EXHIBIT "A"**  
**County Projects**

**EXHIBIT "B"**  
**City Projects**

**EXHIBIT “C”**

**SPECIAL PURPOSE LOCAL OPTION SALES AND USE TAX  
CERTIFICATE OF DISTRIBUTION  
UNDER EQUALIZED HOMESTEAD OPTION SALES TAX**

TO: State Revenue Commissioner

Pursuant to O.C.G.A. § 48-8-109.5(e) of Part 2 of Article 2A of Chapter 8 Of Title 48 of the Official Code of Georgia Annotated, the “Equalized Homestead Option Sales Tax Act of 2015”, relating to the distribution of proceeds of the tax under Part 1 of Article 3 of said chapter, the County Special Purpose Local Option Sales & Use Tax, the governing authorities for DeKalb County and all municipalities located within the special district coterminous with the boundaries of DeKalb County, except that portion of the City of Atlanta in DeKalb County, hereby certify that the proceeds of the combination county/city special purpose local option sales and use tax generated in such district shall be strictly divided in the following percentage amounts as determined by the attached intergovernmental agreement between the parties named below. Such proceeds shall be distributed by the State Revenue Commissioner as follows:

- City of Avondale Estates, Georgia shall receive 0.445 %
- City of Brookhaven, Georgia shall receive 7.411 %
- City of Chamblee, Georgia shall receive 4.000 %
- City of Clarkston, Georgia shall receive 1.801 %
- City of Decatur, Georgia shall receive 3.224 %
- City of Doraville, Georgia shall receive 1.484 %
- City of Dunwoody, Georgia shall receive 6.908 %
- City of Lithonia, Georgia shall receive 0.294 %
- City of Pine Lake, Georgia shall receive 0.108 %
- City of Stonecrest, Georgia shall receive 7.500 %
- City of Stone Mountain, Georgia shall receive 0.894 %
- City of Tucker, Georgia shall receive 4.991 %
- County of DeKalb, Georgia shall receive 60.940 %

This certificate shall continue in effect until March 1, 2024.

As required by O.C.G.A. § 48-8-109.5(f), this certificate specifically excludes that portion of the City of Atlanta located in DeKalb County.

Executed on behalf of the governing authorities of the county and municipalities located wholly within the special district of DeKalb County, this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_.

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**MAYOR, CITY OF AVONDALE ESTATES**

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**MAYOR, CITY OF BROOKHAVEN**

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**MAYOR, CITY OF CHAMBLEE**

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**MAYOR, CITY OF CLARKSTON**

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**MAYOR, CITY OF DECATUR**

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**MAYOR, CITY OF DORAVILLE**

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**MAYOR, CITY OF DUNWOODY**

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**MAYOR, CITY OF LITHONIA**



September 7, 2017

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**MAYOR, CITY OF PINE LAKE**

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**MAYOR, CITY OF STONE MOUNTAIN**

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**MAYOR, CITY OF STONECREST**

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**MAYOR, CITY OF TUCKER**

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**CHIEF EXECUTIVE OFFICER  
DEKALB COUNTY, GEORGIA**



**STATE OF GEORGIA  
CITY OF DUNWOODY**

**RESOLUTION 2017-XX-XX**

**A RESOLUTION OF THE CITY OF DUNWOODY, GEORGIA MAYOR AND CITY COUNCIL, TO ACQUIESCE TO DEKALB COUNTY SUSPENDING THE CURRENT HOMESTEAD OPTION SALES AND USE TAX AND LEVY AN EQUALIZED HOMESTEAD OPTION SALES AND USE TAX; TO AGREE WITH DEKALB COUNTY TO IMPOSE A ONE PERCENT SPECIAL PURPOSE LOCAL OPTION SALES AND USE TAX; SPECIFY THE PURPOSES FOR WHICH THE PROCEEDS OF SUCH TAXES ARE TO BE USED; AGREE TO HAVE DEKALB COUNTY REQUEST THE ELECTION SUPERINTENDENT TO CALL AN ELECTION OF THE VOTERS OF DEKALB COUNTY TO APPROVE THE IMPOSITION OF SUCH SALES AND USE TAXES; APPROVE THE FORM OF BALLOT TO BE USED IN SAID ELECTIONS; AUTHORIZE THE MAYOR TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT FOR THE USE AND DISTRIBUTION OF PROCEEDS FROM THE ONE PERCENT SPECIAL PURPOSE LOCAL OPTION SALES TAX; AND FOR OTHER PURPOSES.**

**WHEREAS**, Part 2 of Article 2A of Chapter 8 of Title 48 of the Official Code of Georgia Annotated allows suspension of the homestead option sales and use tax authorized by O.C.G.A. § 48-8-102 (the "HOST") and replacement of such tax with the imposition of an equalized homestead option sales and use tax (the "EHOST") for the purpose of reducing the ad valorem property tax millage rates levied by DeKalb County and DeKalb municipalities on homestead properties; and

**WHEREAS**, Part 1 of Article 3 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated authorizes the imposition of a county one percent sales and use tax (the "SPLOST") for the purpose, inter alia, of financing certain county and municipal capital outlay projects which include those set forth herein; and

**WHEREAS**, pursuant to O.C.G.A. § 48-8-109.2 the referendum election to determine whether to impose an EHOST must be held in conjunction with the referendum election to approve a SPLOST and unless both sales and use taxes are approved, neither shall become effective and HOST will continue without interruption; and

**WHEREAS**, the Mayor and City Council of the City of Dunwoody, Georgia (the "City") has determined that it is in the best interest of the citizens of the City, Georgia to suspend HOST and impose an EHOST to apply 100% of the proceeds collected from the tax to reduce ad valorem property tax millage rates and that it is further in the best interest of the City to impose a one percent SPLOST in a special district within the County to raise funds for the purpose of funding certain Municipal capital outlay projects, described in Exhibit B, attached hereto (the "Projects"); and

**WHEREAS**, the City shall enter into an intergovernmental agreement attached hereto as Exhibit A with DeKalb County and other DeKalb Municipalities for the purpose of delineating the method of distribution of the proceeds of the SPLOST and the delineation of the Projects that will be funded as a result; and

**STATE OF GEORGIA  
CITY OF DUNWOODY**

**RESOLUTION 2017-XX-XX**

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and City Council of the City of Dunwoody, Georgia, as follows:

- A. Assuming the questions of imposing a County EHOST and SPLOST are approved by the voters of the special district in the election hereinafter referred to, the Mayor and City Council hereby Resolve to authorize the imposition of a one percent (1%) equalized homestead option sales and use tax levied for the purposes allowed by state law and as specified in O.C.G.A. §48-8-109.1 *et seq.*
- B. Assuming the questions of imposing a County EHOST and SPLOST are approved by the voters of the special district in the election hereinafter referred to, the Mayor and City Council hereby Resolve that the SPLOST shall be imposed for the term, purposes and costs as follows:
  - 1. In order to finance the cost of the Projects, a SPLOST in the amount of one percent (1%) on all sales and uses in the City is to be levied and collected within the City as provided in Part 1 of Article 3 of Chapter 8 of Title 48 of the Official Code of Georgia.
  - 2. Proceeds of such tax are to be used to fund the cost of the Projects. The Projects consist of those attached hereto as Exhibit B, along with the cost estimate of said Projects.
  - 3. Proceeds of the SPLOST shall be distributed according to the provisions of O.C.G.A. § 48-8-109.5(e) and (f). Because of annexations and new cities coming into existence after any decennial census, the County and the Municipalities have agreed on an Intergovernmental Agreement attached hereto as Exhibit A to account for changes in population between each decennial census. The City agrees to the imposition of the SPLOST period of six (6) years with the City receiving 6.908% of the SPLOST proceeds collected.

**C. General Obligation Debt.**

- 1. The Board of Commissioners is requested to insert in its resolution calling for the election for the SPLOST the following language:

“The County has been advised that the City of Dunwoody wishes to issue general obligation debt in conjunction with the imposition of the SPOST. The principal amount of the general obligation debt of the City of Dunwoody to be issued shall not exceed \$36,000,000. The purpose for which the debt is to be issued shall be to pay all or a portion of the cost for the capital outlay projects of the City of Dunwoody, the costs of issuing the Debt, and capitalized interest. The maximum rate or rates of interest on such debt shall not exceed six percent (6.00%) per annum.

**STATE OF GEORGIA  
CITY OF DUNWOODY**

**RESOLUTION 2017-XX-XX**

The maximum amount of principal to be paid in each year during the life of the debt shall be as follows:

<u>Year</u>	<u>Amount</u>
2019	\$6,000,000
2020	\$6,000,000
2021	\$6,000,000
2022	\$6,000,000
2023	\$6,000,000
2024	\$6,000,000

If more than one-half of the votes cast in the County and more than one half of the votes cast in the City of Dunwoody are in favor of imposition of the SPLOST, then the authority to issue debt on behalf of the City of Dunwoody in accordance with Article IX, Section V, Paragraph I of the Constitution is given to the governing authority of the City of Dunwoody; otherwise such debt shall not be issued. If the authority to issue such debt is so approved by the voters, then such debt may be issued by the governing authority of the City of Dunwoody without further approval by the voters.”

2. The proceeds of the Debt shall be deposited by the City in separate funds or accounts. The SPLOST proceeds received in any year pursuant to the imposition of such tax, shall first be used for paying debt service requirements on the Debt for any such year before such proceeds are applied to any of the Projects authorized above. Proceeds of the SPLOST not required to be deposited in the separate fund in any year for the payment of principal and interest on the Debt coming due in the current year shall be deposited in a separate fund to be maintained by the City and applied towards funding the City Projects to the extent such projects have not been funded with debt proceeds.
3. Any brochures, listings, or other advertisements issued by the City or by any other person, firm, corporation or association with the knowledge and consent of the Mayor and City Council, shall be deemed to be a statement of intention of the City concerning the use of the proceeds of the Debt, and such statement of intention shall be binding upon the Mayor and City Council in the expenditure of such Debt or interest received from such Debt to the extent provided in Section 36-82-1 of the Official Code of Georgia Annotated.

D. Call for the Election; Ballot Form; Notice.

1. The City Council hereby authorizes on its behalf for DeKalb County to request the Board of Elections to call an election in all voting precincts

**STATE OF GEORGIA  
CITY OF DUNWOODY**

**RESOLUTION 2017-XX-XX**

in the County on the 7th day of November, 2017, for the purpose of submitting to the qualified voters of the County the questions set forth in paragraphs 2 and 3 below.

- 2. The ballots to be used in the EHOST and SPLOST referendum election will be written or printed thereon substantially the following:

**NOTICE TO ELECTORS:** Unless **BOTH** the equalized homestead option sales and use tax (EHOST) **AND** the special purpose local option sales and use tax (SPLOST) are approved, then neither sales and use tax shall become effective.

<input type="checkbox"/> <b>YES</b>	Shall an equalized homestead option sales and use tax be levied and the regular homestead option sales and use tax be suspended within the special district within DeKalb County for the purposes of reducing the ad valorem property tax millage rates levied by the County and municipal governments on homestead properties?
<input type="checkbox"/> <b>NO</b>	

<input type="checkbox"/> <b>YES</b>	Shall a special 1 percent sales and use tax be imposed in the special district of DeKalb County for a period of time not to exceed six (6) years and for the raising of an estimated amount of \$636,762,352 for the purpose of funding capital improvement projects related to <i>[All City and County projects to be included herein]</i>
<input type="checkbox"/> <b>NO</b>	

- E. The DeKalb County Board of Commissioners and the Board of Elections of DeKalb County are requested to place the following language on the referendum ballot for the consideration by the voters:

<input type="checkbox"/> YES	Shall a special 1 percent ... <b>(H) Dunwoody related to transportation improvement projects including, but not limited to Infrastructure Preservation (road resurfacing, replacement and rehabilitation of bridges and drainage systems); Pedestrian and Bicycle Path Improvements (addition of sidewalks, streetscapes, bike lanes, and multi-use trails); Congestion Relief (intersection improvements, road widenings, traffic management, and signal upgrades); Safety and Operational Improvements (addition/extension of turn lanes, elimination of sight distance problems and other safety concerns, as well as widened lanes and shoulders); Public Safety Facilities and Related Capital Equipment; and Repairs of Capital</b>
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	<p><b>Outlay Projects up to 15% of the total tax collected by Dunwoody...</b></p> <p>If imposition of the taxes is approved by the voters, such vote shall also constitute approval of the issuance of general obligation debt of DeKalb County .... and approval of the issuance of general obligation debt of the City of Dunwoody in the principal amount of \$36,000,000 for the above-described capital outlay projects of the City of Dunwoody.</p>
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- F. The DeKalb County Board of Commissioners and the Board of Elections of DeKalb County are requested to insert in the Notice for the election for the SPLOST the following language:

“If more than one-half of the votes cast in the County and more than one half of the votes cast in the City of Dunwoody are in favor of imposition of the SPLOST, the City of Dunwoody, acting by and through its governing body, may issue general obligation debt, in an aggregate principal amount not to exceed \$36,000,000. The proceeds from such general obligation debt, if issued, shall be used to fund all or a portion of the capital outlay projects of the City of Dunwoody described in the foregoing question, the costs of issuing the Debt, and capitalized interest. The maximum rate or rates of interest on such debt shall not exceed six percent (6.00%) per annum. The maximum amount of principal to be paid in each year during the life of the debt shall be as follows:

<u>Year</u>	<u>Amount</u>
2019	\$6,000,000
2020	\$6,000,000
2021	\$6,000,000
2022	\$6,000,000
2023	\$6,000,000
2024	\$6,000,000

The governing body of the City of Dunwoody may issue aggregate general obligation debt which is less than \$36,000,000 and reduce the principal amounts maturing which are shown above.”

- G. The City Clerk is hereby authorized and directed to deliver a copy of the resolution to DeKalb County, along with the listing of the Projects and all other documentation necessary for effectuation of the Election Call.

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CITY OF DUNWOODY**

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H. The proper officers and agents of the City are hereby authorized to take any and all further actions as may be required in connection with the imposition of the EHOST and SPLOST.

**SO RESOLVED AND EFFECTIVE**, This \_\_\_\_ day of \_\_\_\_\_, 2017.

Approved By:

\_\_\_\_\_  
Denis L. Shortal, Mayor

ATTEST:

\_\_\_\_\_  
Sharon Lowery, City Clerk

(Seal)