

INTERGOVERNMENTAL AGREEMENT

This INTERGOVERNMENTAL AGREEMENT (“Agreement”), is made and entered into as of this ____ day of January, 2022 (the “Effective Date”) by and between the CITY OF VARNELL, GEORGIA, a municipal corporation of the State of Georgia (the “City”) and the WHITFIELD COUNTY BOARD OF COMMISSIONERS, the duly elected governing authority of a political subdivision of the State of Georgia (the “County”).

WITNESSETH:

In consideration of the respective representations and agreements hereinafter contained and in furtherance of the mutual public purposes hereby sought to be achieved, the City and the County do hereby agree, as follows:

ARTICLE 1 DEFINITIONS

In addition to the words and terms defined elsewhere herein, the following words and terms shall have the meanings specified below, unless the context or use indicates another or different meaning or intent:

1.1 **“Agreement” or “Intergovernmental Agreement”** means this Intergovernmental Agreement, dated as of January ____, 2022, between the City and the County.

1.2 **“Approved Projects”** means, collectively, the specific capital improvements to be undertaken within the City of Varnell Tax Allocation District (TAD) Number One: Cleveland Highway Corridor, by the City or by a private developer to achieve the goals and objectives of the Redevelopment Plan, pursuant to the Redevelopment Plan and approved in accordance with Section 3.8 hereof.

1.3 **“Board of Education”** means the Whitfield County Public Schools, Board of Education.

1.4 **“City”** means the City of Varnell, Georgia.

1.5 **“City Resolution”** means that certain Resolution ____, adopted by the Varnell City Council on July 20, 2021 approving and adopting the City of Varnell Redevelopment Plan, creating Tax Allocation District Number One—Cleveland Highway Corridor, establishing the

Redevelopment Area and TAD, designating the boundaries of and establishing the tax allocation increment base of Tax Allocation District Number One, and other related matters.

1.6 **“Commencement of Construction of the Commercial Project”** means, for the purposes of this Agreement, that one or more building permits shall have been issued for, and vertical construction shall have commenced on a commercial or mixed-use development, as described in the Redevelopment Plan and generally located within that portion of the site plan identified as commercial or mixed-use in Exhibit “A.” After receiving all required zoning and development approvals by the County, the Commercial Project must further satisfy size and qualitative criteria to be negotiated with the City of Varnell, under specific terms and conditions to be contained in a future development agreement between the City and the Developer of the Commercial Project.

1.7 **“County”** means Whitfield County, Georgia.

1.8 **“County Resolution”** means that certain resolution adopted by the Board of Commissioners of the County on January _____, 2022, (and any subsequent Resolution affirming and/or amending the same) consenting to the inclusion of certain County ad valorem taxes in the computation of the Tax Allocation Increments, authorizing the execution, delivery, and performance of this Agreement, subject to the terms and conditions set forth therein, and other related matters.

1.9 **“County TAD Millage”** means the combined sum of certain County ad valorem property tax millage rates levied on real property, which the County consents to be included in the computation of County tax allocation increments to support the City of Varnell Tax Allocation District Number One.

1.10 **“County Tax Allocation Increment”** means the tax allocation increment within the meaning of O.C.G.A. Section 36-44-3(14) of the Redevelopment Powers Law with respect to the TADs, including, without limitation, Real Property Tax Allocation Increment. The proportional share of accumulated Real Property Tax Allocation Increments attributable to the contributions of City, County and School District millage may also be referred to in this Agreement as City, County and School District Tax Allocation Increments, respectively. County Tax Allocation Increment shall be limited to Real Property Taxes only unless or until such time as the County Commission agrees to include other ad valorem taxes.

1.11 **“Eminent Domain”** means with just compensation paid, private property may be taken only for public use. Unless the taking of private property is necessary for the possession, occupation, and enjoyment of land by the public at large, or by public agencies, common carriers, or public utilities, the taking is for a private use, and thus forbidden. In no event shall the public benefits of economic development, including but not limited to an increase in tax revenue, tax base, employment, or general economic health, constitute a public use determined by the General

Assembly. The City may undertake and carry out community redevelopment but shall not include the acquisition of property acquired by eminent domain to private enterprise for private uses.

1.12 **“Excess Funds”** means, during the Term of this Agreement, in each calendar year, the amount by which the Tax Allocation Increment (including, without limitation, the Real Property Tax Allocation Increment) collected during such calendar year exceeds the annual reimbursement of eligible Redevelopment Costs amount required to be paid under any “pay-as-you-go” or similar Redevelopment Costs reimbursement agreements in each calendar year, to replenish any deficiency in any reserve fund established for the TAD Reimbursement to satisfy any other payment obligation of the City directly related to the TAD reimbursement agreement, and required to be paid from Tax Allocation Increments pursuant to such reimbursement agreement.

1.13 **“First Project” or “The Project”** means that portion of a residential and mixed-use development known as “Patterson Farms” as more fully described in the Redevelopment Plan, which is located within the boundaries of the Tax Allocation District.

1.14 **“Georgia Constitution”** means the Constitution of the State of Georgia of 1983, as amended.

1.15 **“Personal Property Tax Allocation Increment”** means the amount of the tax allocation increment for each calendar year computed as provided in O.C.G.A. Section 36-44-3(14) of the Redevelopment Powers Law with respect to personal property. This definition being included to confirm that Personal Property Tax Allocation Increment is not being pledged by the County under the terms of this Agreement.

1.16 **“Tax Allocation District” or “TAD”** means that certain area of the City within the Redevelopment Area defined and created as a tax allocation district (as defined in O.C.G.A. Section 36-44-3(13) of the Redevelopment Powers Law) by the City pursuant to the City Resolution and designated as the “City of Varnell Tax Allocation District Number One – Cleveland Highway Corridor” (sometimes hereinafter referred to as “TAD Number One” or “the TAD”), as more fully described in the City Resolution and in the Redevelopment Plan.

1.17 **“Redevelopment Agency”** means the City Council of the City of Varnell, Georgia, which will act as the redevelopment agency, in accordance with the Redevelopment Powers Law.

1.18 **“Redevelopment Area”** means that certain area located within the geographic limits of the City and within the County created and established as a redevelopment area (as defined in O.C.G.A. §36-44-3(7)) by the City in the City Resolution and designated as the “City of Varnell Redevelopment Area,” as more fully described in the City Resolution and the Redevelopment Plan.

1.19 **“Redevelopment Costs”** shall have the meaning set forth in O.C.G.A. §36-44-3(8).

1.20 **“Redevelopment Plan”** means the written plan of redevelopment for the Redevelopment Area approved by the City in the City Resolution and designated as the “City of Varnell Redevelopment Plan for the Cleveland Highway Corridor.”

1.21 **“State”** means the State of Georgia.

1.22 **“Redevelopment Powers Law”** means Chapter 44 of Title 36 of the Official Code of Georgia Annotated, as amended from time to time.

1.23 **“Special Fund”** means the special fund with respect to the TAD created pursuant to O.C.G.A. §36-44-11(c).

1.24 **“TAD Reimbursement”** means those certain obligations issued by the City as defined in O.C.G.A. Section 36-44-3(12) of the Redevelopment Powers Law with respect to the TAD Number One that the City has or may issue in the future as necessary to implement the provisions of the Redevelopment Plan, as provided in the City Resolution, which may include one or more agreements to make annual reimbursements for financing obtained by private developer(s) for eligible redevelopment costs, “pay-as-you-go agreements”, or other obligations, and which may be issued at one or more times, and which may be paid in full or in part with Tax Allocation Increments generated within the TAD.

1.25 **“Tax Allocation Increment”** means the amount of the tax allocation increment with respect to real property accrued in each calendar year within the Varnell TADs, as provided in O.C.G.A. §36-44-3(14).

1.26 **“Tax Allocation Increment Base”** with respect to TAD Number One and within the meaning of O.C.G.A. Section 36-44-3(15) of the Redevelopment Powers Law, means the taxable value of all taxable property subject to ad valorem property taxes to be certified by the state revenue commissioner pursuant to Code Section 36-44-8, as of December 31, 2021. Such amount is estimated in the Redevelopment Plan at \$310,907.

1.27 **“Tax Allocation Increment Ratio”** means that formula described within O.C.G.A. Section 36-44-3(14) of the Redevelopment Powers Law, being that amount obtained by multiplying the total ad valorem property taxes, determined as provided in Code Section 36-44-9, levied within the TAD in any future year by a fraction having a numerator equal to that year's taxable value of all taxable property subject to ad valorem property taxes within the TAD minus the tax allocation increment base and a denominator equal to that year's taxable value of all taxable property subject to ad valorem property taxes within the TAD.

1.28 **“Term”** means the term of this Agreement as prescribed in Section 3.1 hereof.

ARTICLE 2

2.1 **Representations of the City.** The City makes the following representations as the basis for the undertakings on its part herein contained:

2.1.1 The City created the Varnell TAD Number One on July 20, 2021, to become effective as of December 31, 2021 pursuant to its redevelopment powers as authorized by the Redevelopment Powers Law and the City Resolution. The City duly adopted the Redevelopment Plan pursuant to the Redevelopment Powers Law and the City Resolution.

2.1.2 The City has made certain findings with respect to the Redevelopment Plan in accordance with the Redevelopment Powers Law, including, without limitation, that: (i) the Redevelopment Area has not been subject to growth and development through private enterprise and would not reasonably be anticipated to be developed as proposed without the approval of the Redevelopment Plan, and (ii) improvements proposed within Varnell TAD Number One are likely to enhance the value of a substantial portion of the real property in the balance of the Redevelopment Area.

2.1.3 The City intends to annually reimburse private parties seeking to obtain reimbursement of eligible Redevelopment Costs within the TAD, via a development agreement.

2.1.4 The City is permitted by ARTICLE IX, SECTION III, PARAGRAPH I of the Georgia Constitution to contract for any period not exceeding fifty (50) years with the County for joint services, for the provision of services, or for the joint or separate use of facilities or equipment, provided such contracts deal with activities, services or facilities the contracting parties are authorized by law to undertake or provide, and accordingly as a corollary, the Redevelopment Powers Law provides that the City may exercise its redevelopment powers and create redevelopment plans and tax allocation districts as provided in the Redevelopment Powers Law.

2.1.5 The City has the power to enter into this Agreement and perform all obligations contained herein, and by proper action has duly authorized the execution, delivery, and performance of this Agreement. This Agreement is a valid and binding legal obligation of the City, enforceable against the City in accordance with its terms.

2.2 **Representations of the County.** The County makes the following representations as the basis for the undertakings on its part herein contained:

2.2.1 The County is permitted by ARTICLE IX, SECTION III, PARAGRAPH I of the Georgia Constitution to contract for any period not exceeding fifty (50) years with the City for joint services, for the provision of services, or for the joint or separate use of facilities or equipment, provided such contracts deal with activities, services or facilities the contracting parties are authorized by law to undertake or provide, and accordingly as a corollary, the Redevelopment Powers Law provides that ad valorem property taxes of the County derived from a municipal tax allocation district located within the geographic boundaries of the County may be included in the computation of tax allocation increments of the tax allocation district if the governing body of the County consents to such inclusion by resolution.

2.2.2 The County has the power to enter into this Agreement and perform all obligations contained in this Agreement, and by proper action has duly authorized the execution, delivery and performance of this Agreement, including, without limitation, the inclusion of ad valorem property taxes levied by the County on taxable real property within the TADs in the computation of the Tax Allocation Increments for the purposes set forth in the Redevelopment Plan, pursuant O.C.G.A. §36-44-9(c).

2.2.3 This Agreement is a valid and binding legal obligation of the County, enforceable against the County in accordance with its terms.

ARTICLE 3

3.1 **Term of the Agreement.** The term of this Agreement (the “Term”) shall commence on the Effective Date hereof and this Agreement shall remain in full force and effect until (i) all TAD Reimbursement and eligible Redevelopment Costs have been paid in full; or (ii) the TAD has been terminated for other reasons.

3.2 **Certification of Tax Allocation Increment Base.** The City and the County hereby agree that the Tax Allocation Increment Base for Varnell TAD Number One, shall be that amount to be determined by the Whitfield County Tax Assessor and certified by the State Revenue Commissioner as of December 31, 2021, as the taxable value of all real property subject to ad valorem property taxation located within the TAD as of such date.

3.3 **Inclusion of County Ad Valorem Property Taxes in Computation of Tax Allocation Increment for City TAD.** Pursuant to the County Resolution, the County hereby consents and agrees to the inclusion of County ad valorem taxes on real property within the TAD

in the computation of the Tax Allocation Increment for the TAD in accordance with the formula specified in Section 36-44-3(14) of the Redevelopment Powers Law, effective upon the issuance of Fiscal Year 2023 County property tax bills issued during calendar year 2022.

3.3.1 The total millage rate used for computation of future County Tax Allocation Increments shall be calculated as the “County Incorporated General Fund” millage charged within the City limits of Varnell.

3.3.2 Commencing in 2022 the County agrees to remit to the City each year during the term of this Agreement, in accordance with Section 36-44-3(14) of the Redevelopment Powers Law Redevelopment Powers Law, the County Tax Allocation Increment for the TAD as defined in Section 3.3.1. The first payment shall be due within forty-five (45) days after the due date for payment of all ad valorem taxes for such year and shall be calculated based on all applicable Incorporated General Fund taxes collected on real property from within the TAD by that due date. Within 90 days after the first payment, the County will remit to the City a second payment for County Tax Allocation Increment due from applicable real property taxes collected within the TAD after the due date. If, after the County's second installment payment, there is any remaining County Tax Allocation Increment due from real property taxes still uncollected within the TAD, the County shall accrue all such remaining taxes collected after the second installment and add the sum of those accrued funds to the next annual payment due.

3.3.3 If at any time during the term of this Agreement, should the County establish new County millage rates which do not exist as of the effective date of this agreement, for the purpose of funding County operations which are currently funded in full or in part within the County Incorporated General Fund millage rate, the formula to be used to compute future County Tax Allocation Increments associated with those new millage rates shall be determined in the same manner as described in Section 3.3.2. This provision shall not apply to any County millage rates that may be established to repay debt service on future County bond issues (bond millage).

3.4 **Permitted Uses of County Tax Allocation Increments.** The City and County agree that County Tax Allocation Increments may be used only for the following categories of eligible "Redevelopment Costs" as defined in O.C.G.A. §36-44-3(8).

3.4.1 To pay or reimburse for payment of capital costs incurred for land clearing and grading, public parking facilities, roadways, sidewalks, water, sewer, stormwater, telecommunications, or related infrastructure, streetscape improvements, parks, gardens, plazas, fountains, water features and/or and related pedestrian amenities which assist overall redevelopment within the TAD and/or will be generally accessible to the

public. Such categories of eligible Redevelopment Costs and their estimated amounts are summarized in Exhibit “B.” Any additional categories of eligible Redevelopment Costs not specified in this section must be approved in advance by Resolution of the Board of Commissioners.

3.4.2 Should the City of Varnell choose to enter into an agreement to reimburse eligible Redevelopment Costs listed in Section 3.4.1 and Exhibit “B” on an annual basis, the maximum cumulative contribution of County Tax Allocation Increments to reimburse eligible capital costs shall not exceed the sum of \$2,500,000 (the “Base Payment”). The Base Payment shall increase each year of this Agreement (the “Base Payment Inflation Adjustment”) on the anniversary of the effective date of this Agreement by the percentage increase, if any, between the Consumer Price Index for All Urban Consumers – South Urban Area, all items (1982-1984 equals 100) (the “Index”) during the year preceding the applicable year of adjustment and the Index on January 1, 2022. The City shall incorporate reasonable terms and procedures in the terms of a Development Agreement as described in Section 3.5.1, to ensure that capital costs eligible for reimbursement are accurately documented and have been incurred, prior to making the first annual reimbursement of Tax Allocation Increments to the Project. The City agrees that it shall not commit any further contribution of County Tax Allocation Increments exceeding the cumulative sum of \$2,500,000 plus the Inflation Adjustment, without receiving prior approval by formal resolution passed by the Whitfield County Board of Commissioners as an amendment to this Agreement. Unless this agreement is amended by such prior approval, the City agrees that once the Base Payment as adjusted by the annual Inflation Adjustment reaches the maximum permitted contribution of County Tax Allocation increment as described herein, the County’s participation in the agreement shall end, any remaining excess funds attributable to County Tax Allocation Increment will be returned in accordance with Section 3.4.5 and no further annual contributions of County Tax Allocation Increments shall be due.

3.4.3 The City agrees that County Tax Allocation Increments shall not be used to pay for City administrative costs or staff expenses associated with managing the ongoing implementation of the Redevelopment Plan and TAD. Unless otherwise agreed by the City and the County, the City shall not use the proceeds of any Tax Allocation Increment for the acquisition of assets which are to be privately owned, the erection of municipal buildings, developer overhead costs or project management fees unrelated to the purposes listed in Section 3.4.1.

3.4.4 All projects or activity funded with the proceeds of the Tax Allocation Increment, or any TAD Reimbursement shall meet all relevant local, County and State building standards and requirements.

3.4.5 Excess Funds attributable to the County Tax Allocation Increment from any calendar year may be (i) applied by the City to prepay the amount of annual reimbursements of Redevelopment Costs then outstanding; or (ii) accrued by the City and applied to shorten the Term of this Agreement; or (iii) if the Base Payment, as adjusted for inflation pursuant to Section 3.4.2 has been paid in full, returned in full to the County. Nothing in this section shall be intended or should be construed to limit the use of proceeds from the Tax Allocation Increments for all purposes allowed under the Redevelopment Powers Law.

3.5 Additional Limitations and Conditions on the Use of County Tax Allocation Increments for Reimbursement of Eligible Redevelopment Costs.

3.5.1 By no later than December 31, 2023, the City shall have entered into a Development Agreement(s) with one or more parties for the purpose of funding or reimbursing eligible Redevelopment Costs as authorized in the Redevelopment Plan and more narrowly defined in Section 3.4.1 herein. The Development Agreement(s) shall be reviewed by the County in accordance with the procedure described in Section 3.7 herein, before the City may issue or approve any TAD Reimbursement as defined in Section 1.24.

3.5.2 By no later than December 31, 2026, the City shall determine that Commencement of Construction of the Commercial Project has occurred as defined Section 1.6 of this agreement, in accordance with additional terms and conditions and as may be detailed in the Development Agreement(s). The City further agrees that it will not issue or deliver any annual reimbursement of eligible redevelopment costs under the Development Agreement, until such time as Commencement of Construction of the Commercial Project has occurred, and that the City shall have been provided with plans and specifications indicating that the commercial development shall be constructed in substantial conformity with the site plan attached hereto as Exhibit "A."

3.5.3 In the event that either deadline set forth in subsections 3.5.1 and 3.5.2 is not met, the City may request, and the County may agree, to extend such deadline by amending this agreement. However, should the County either not receive or not agree to such extension, the consent of the County to the inclusion of its ad valorem taxes on real property in the computation of the Tax Allocation Increment for the TAD shall automatically terminate as of the dates specified in each section. In such event, the County Tax Allocation Increment accumulated and remaining in the Special Fund through such termination date shall be paid to the County by the City within forty-five (45) days after the termination date.

3.6 **Reporting.** The City will provide to the County commencing with calendar year 2022 and each calendar year thereafter (i) within thirty (30) days after the end of each such calendar

year, an annual report regarding the status of redevelopment occurring within the TAD, forecasts of future development, the amount of positive Tax Allocation Increments generated by that development and the intended uses of Tax Allocation Increments generated within the TAD. The City will also provide to the County, within fifteen (15) days after issuance of the City's Comprehensive Annual Financial Report, a copy of the annual audit of, as applicable, the Redevelopment Agency for the TAD or the City, to include the amount of positive Tax Allocation Increment deposited into the TAD Special Fund, the Year-end Fund balance, the uses of such funds and all debt service obligations outstanding.

3.7 County Review of Redevelopment Projects. The Redevelopment Plan envisions the construction of one overall Project within TAD Number One, to be constructed in phases over a period of years. This "First Project" is expected to be undertaken by a single Applicant who will propose terms and request to enter into a development agreement (the First Project Agreement) with the City. This Agreement will request the City's commitment to provide future Tax Allocation Increment within TAD, as available, to finance or reimburse certain eligible redevelopment costs identified in the Redevelopment Plan, subject to additional terms and conditions to be negotiated and specified in the Agreement. The City intends for the First Project Agreement to reasonably anticipate contingencies and to be assignable by the Applicant to additional partners, developers, or owners of real property within the TAD as necessary, until such time as the Project is completed and all eligible Redevelopment Costs are paid. Although it is expected that only one development agreement will be required, it is possible that the First Project could substantially change, requiring major modifications to the Agreement in the future, or that "Other Project(s)" within the TAD may be proposed by other applicants at some future date. Procedures providing for the County's review of the First Project Agreement, as well as potential agreements pertaining to Other Projects requesting the commitment of County Tax Allocation Increment shall be as follows:

3.7.1 First Project Agreement. The specific project characteristics, objectives, land uses, development costs and proposed uses of Tax Allocation Increments associated with the First Project are already described in detail in the Redevelopment Plan and have received required zoning and related development approvals from the County. The County Agrees that by adopting the County Resolution and the terms herein, the County is in general agreement with the overall scope, purpose, and objectives for the First Project. Within 48 hours of preparing or receiving a draft development agreement that is sufficiently detailed to begin negotiations and be considered for action by the Varnell City Council acting as the City's Redevelopment Agency, the City Administrator will forward a copy to the County Administrator for the County's internal review. The County Administrator will be responsible for circulating the draft development agreement to all elected officials, staff or legal counsel advising the County, who may wish to offer input to the draft. Any subsequent revisions to the draft development agreement will be forwarded by the City in a similar timely manner. The

City Administrator will also notify the County Administrator a minimum of 72 hours in advance of any public or staff-level meetings to be scheduled with the Applicant to discuss terms of the draft development agreement, to which the County may send a representative(s) to attend; and will provide a minimum of fourteen (14) days advance notice of the date of the City Council meeting at which the draft development agreement will be considered for approval. Should the County Commissioners, staff or legal counsel have any comments, suggestions or concerns pertaining to any part of the draft agreement, it shall be the County's responsibility to notify the City and to submit that input in writing. The Mayor and City Council agree to review, consider and incorporate to the extent practicable, the County's comments prior to any vote to approve the draft development agreement.

3.7.2 Material Changes or Amendments to the First Project Agreement. The development agreement for the First Project will include provisions defining those future circumstances, conditions or events that would constitute a material change to the agreement and would require prior approval by the City. Similarly, the agreement will define conditions and procedures under which the Applicant may request to amend the agreement. In the future event that the City is required to consider a material change or proposed amendment to the development agreement, the City shall provide the County with the same opportunities to comment, following the same schedule and procedure as described in Section 3.7.1.

3.7.3 Other Projects. In the unlikely event that the City is asked to consider a future development agreement(s) for Other Project(s) not currently anticipated or described in the Redevelopment Plan, the City will first request that the Applicant for that Other Project submit a written proposal. The contents of that proposal will include but not be limited to information addressing the experience of the Proposer's development team, the specific nature of the Project, the Project's development budget, disclosure of non-TAD financing commitments and resources for the Project, the projected Tax Allocation Increment expected to be generated by the Project and the proposed uses and need for Tax Allocation Increment. Should the City Council decide to consider such a proposal, the City agrees to first submit the Applicant's written proposal to the County, and the County agrees to schedule consideration of that proposal at the next regularly scheduled meeting of the County Commission. At such time the County Commission may vote to authorize, deny, or request more information before deciding to authorize or deny the use of County Tax Allocation Increment to support the Other Project. In the event the County approves the proposal, the City will proceed to negotiate terms of a development agreement and provide the County with the opportunity to review and comment on the terms of that agreement in accordance with the same schedule and procedures described in Section 3.7.1. Should the County vote to deny the Proposal, the City may at the City's discretion proceed negotiate terms of

a development agreement to support the Other Project without the use of County Tax Allocation Increment, provided such agreement contains adequate provisions to properly account for and exclude such increment in a manner that is satisfactory to the County

3.8 **Return of County's Pro Rata Share of Tax Allocation Increment After Redevelopment Costs Are Paid.** Any funds remaining in the TAD Special Fund after all redevelopment costs and all TAD Reimbursement have been paid or otherwise satisfied, which funds were derived from the County Tax Allocation Increment, shall be paid to the County within 90 days after the end of the calendar year, in the same manner and in the same proportion as the most recent distribution by the County, in accordance with the Redevelopment Powers Law.

3.9 **Special Conditions, Stipulations or Requirements.** The City shall promptly notify the County in writing of any special conditions, stipulations or requirements imposed at any time or from time-to-time hereafter by any other taxing authority with respect to the Tax Allocation Increment and the TAD. If so elected by the County, the County shall be entitled to the benefit of any special financial conditions, stipulations or requirements imposed with respect to the Tax Allocation Increment and the TAD. The parties hereto hereby agree that this Agreement shall be amended or supplemented to provide for such special financial conditions, stipulations or requirements imposed hereafter, and the City hereby agrees to enter into any such amendment or supplement to this Agreement required as aforesaid.

3.10 **Future Request to Include School Increment.** The parties specifically acknowledge that the Constitution and laws of the state of Georgia was amended in 2009 by statewide referendum to authorize the inclusion of certain ad valorem taxes levied for educational purposes on real property within the boundaries of the TAD in the computation of the positive Tax Allocation Increment, that the City shall seek the consent of the Whitfield County Public Schools Board of Education for inclusion of same for the purposes of paying redevelopment costs.

3.11 **City's Indemnification of County.** The City hereby agrees to defend and hold harmless the County and its Commissioners, officials, employees, agents and representatives from and against any and all claims, losses, damages, costs or expenses arising from or in connection with any actions, claims, suits or challenges of any kind related to the exercise, use, implementation or performance by the City or its Redevelopment Agency of the City's rights, powers or authority under the Redevelopment Powers Law or the actions of the City or its Redevelopment Agency under this Agreement.

3.12 **Limitation of Obligations.** The County shall have no financial obligation as a result of the redevelopment and improvement of the TADs or the Redevelopment Area other than the inclusion of County ad valorem taxes in the computation of the Tax Allocation

Increment of the TAD as provided herein. TAD Reimbursement shall not constitute an indebtedness of or a charge against the general taxing power of the County.

ARTICLE 4

4.1 **Governing Law.** This Agreement and the rights and obligations of the parties hereto shall be governed, construed, and interpreted according to the laws of the State of Georgia.

4.2 **Entire Agreement.** This Agreement expresses the entire understanding and all agreements between the parties hereto with respect to the matters set forth herein.

4.3 **Survival of Warranties.** All agreements, covenants, certifications, representations, and warranties of the parties hereunder, or made in writing by or on behalf of them in connection with the transactions contemplated hereby shall survive the execution and delivery hereof, regardless of any investigation or other action taken by any person relying thereon.

4.4 **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.

4.5 **Amendments in Writing.** This Agreement may be amended, supplemented or otherwise modified solely by a document in writing duly executed and delivered by the County and the City. No waiver, release, or similar modification of this Agreement shall be established by conduct, custom, or course of dealing, but solely by a document in writing duly executed and delivered by a duly authorized official of the County.

4.6 **Notices.** Except as otherwise specifically provided herein, any notices, demands, approvals, consents, requests, and other communications hereunder shall be in writing and shall be deemed given when the writing is delivered in person, or one business day after being sent by reputable overnight registered delivery service, charges prepaid, or three business days after being mailed, if mailed, by certified mail, return receipt requested, postage prepaid, to the City and the County at the addresses shown below or at such other addresses as may be furnished by the City and the County in writing from time to time:

CITY:

City of Varnell
1025 Tunnel Hill Varnell Road
P.O. Box C

Varnell, GA 30756
Attn: Mike Brown, City Administrator

With A Copy to:
City Attorney
Mitchell & Mitchell PC
P.O. Box 668
Dalton, GA 30722-0668
Attn: Terry L. Miller

COUNTY:

Whitfield County Board of Commissioners
201 South Hamilton St.
Dalton, Georgia 30720
Attention: County Administrator

With A Copy to:
County Attorney
McCamy, Phillips, Tuggle & Fordham, LLP
P.O. Box 1105
Dalton, GA 30722-1105
Attn: Robert H. Smalley, III

4.7 **Severability.** If any provision of this Agreement shall be held or deemed to be or shall, in fact, be inoperative or unenforceable under any particular circumstances, because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses, or sections contained in this Agreement shall not affect the remaining portions of this Agreement or any part thereof.

4.8 **Limitation of Rights.** Nothing in this Agreement, express or implied, shall give to any person, other than the parties hereto and their successors and assigns hereunder, any benefit or any legal or equitable right, remedy, or claim under this Agreement.

IN WITNESS WHEREOF, the City and the County have caused this Intergovernmental Agreement to be executed in their respective official names and have caused their respective official seals to be hereunto affixed and attested by their duly authorized officers, all as of the Effective Date set forth hereinabove.

CITY OF VARNELL, GEORGIA

By: _____
Tom Dickson, Mayor

Attest: _____
Jamie Nance, City Clerk

[SEAL]

This ____ day of January , 2022.

**WHITFIELD COUNTY BOARD OF
COMMISSIONERS**

By: _____
Jevin Jensen, Commission Chairman

Attest: _____
Bianca Cardona, County Clerk

[SEAL]

This ____ day of January, 2022.

Exhibit "A"
TAD #1 Site Plan Forecast



***NOTE: The number of Lofts above Retail specified is the maximum number of residential lofts that may be constructed.**

Exhibit “B”
Summary of Estimated Redevelopment Costs for the Project

Site work, Grading, Clearing & Erosion Control	\$	3,477,065.90
Utility Infrastructure	\$	4,145,608.90
Streets, Curbs, Sidewalks and Parking Areas	\$	4,431,428.54
Landscaping	\$	1,171,300.00
Global Amenities	\$	982,359.40
Signage and Fencing	\$	401,500.00
Engineering and Architecture	\$	363,000.00
Field Inspection and GC Fee	\$	2,156,019.30
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Total Infrastructure TAD Eligible	\$	17,128,282.04

NOTE:

[1] This table estimates total Eligible Redevelopment Costs as generally described in Section 3.4.1, which would qualify for reimbursement using County Tax Allocation Increments. Nevertheless, it is estimated that the TAD will reimburse only 48% of the above. Additional detail describing the nature of eligible costs, as well as reasonable procedures to document that such costs have been incurred, will be further defined in a Development Agreement between the City and the Applicant. The sum of County Tax Allocation Increment contributed toward reimbursing a portion of these Eligible Redevelopment Costs will be the County’s share of total City, County and School District Tax Allocation Increments pledged to the TAD over the term of the Agreement, in accordance with the provisions outlined in Section 3.4.1.