

INTERGOVERNMENTAL AGREEMENT
BETWEEN
EFFINGHAM COUNTY
AND
THE CITY OF PORT WENTWORTH

THIS INTERGOVERNMENTAL AGREEMENT is entered into between the Board of Commissioners of Effingham County, a public body corporate and politic of the State of Georgia existing under the Constitution of the State of Georgia (hereinafter referred to as “Effingham County”), and the City of Port Wentworth, Georgia, a Municipal Corporation and political subdivision of the State of Georgia. The parties may each be referred to as “Party” or jointly as “Parties.”

WHEREAS, Effingham County was duly created and is a validly existing County and political subdivision pursuant to the Constitution and laws of the State of Georgia; and

WHEREAS, Effingham County and the City of Port Wentworth have, among others, the power to: (a) acquire by purchase and hold, maintain, lease and operate a water and sewerage system and now owns, operates and maintains a water and sewerage system (such water and sewerage system, as it now exists and as it may be hereafter added to, extended and improved, being hereinafter referred to as a “Water System”), (b) issue revenue bonds for the purpose of paying all or any part of the cost of any one or more “projects” and (c) contract with others pertaining to the water utilities and facilities; and

WHEREAS, Effingham County and the City of Port Wentworth, have general supervision and control over their respective Water System or systems that may be constructed and placed in operation for Effingham County and the City of Port Wentworth, together with the right to expand or curtail such operations as it may deem advisable; and

WHEREAS, pursuant to the Constitution and laws of the State of Georgia, Effingham County and the City of Port Wentworth have the power to provide storm water and sewage collection and disposal systems and to provide for the development, storage, treatment, purification, and distribution of water; and

WHEREAS, the infrastructure, equipment and related facilities for any water or sewerage system that may be constructed under the provisions of this Intergovernmental Agreement, shall be construed to be the property of Effingham County once properly platted, dedicated and accepted by Effingham County; and

WHEREAS, Article IX, Section III, Paragraph I (a) of the Constitution of the State of Georgia authorizes, among other things, that any City, municipality or other political subdivision of the State to contract, for a period not exceeding fifty years, with another City, municipality or political subdivision or with any other public agency, public corporation or public authority for joint services, for the provision of services, or for the provision or separate use of facilities or equipment, provided that such contract provides for activities, services or facilities which the contracting parties are authorized by law to undertake or provide; and

WHEREAS, SFG CH Chatham Tract, LLC is a Georgia limited liability company (“SFG CH Chatham Tract”) which owns Chatham County Tax Parcel ID 70906 01039 which is approximately 81 acres of real property (“Subject Property”) which is in the City limits of the City of Port Wentworth, Chatham County, abutting the boundary line between Effingham County and Chatham County, Georgia; and

WHEREAS, the Subject Property is located within the Georgia International Trade Center (“GITC”) which is in Effingham County and also in Chatham County; and

WHEREAS, SFG CH Chatham Tract intends to build an approximately 733,000 sf light industrial warehouse on the Subject Property in the City of Port Wentworth, as set forth as a Concept Plan on Exhibit A attached hereto; and

WHEREAS, Effingham County and the City of Port Wentworth wish to facilitate the development of GITC within both Effingham County and the City of Port Wentworth, and therefore wish to document and memorialize their agreement as set forth herein for the provision of water and sewer services for the Subject Property in Port Wentworth, as well as address and clarify other agreements, duties and responsibilities between the Parties; and

WHEREAS, the Parties have been advised that SFG CH Chatham Tract has engaged the engineering firm of Thomas & Hutton in Savannah, Georgia (“Engineer”) to design the extension of existing water and sewer lines and services from their existing locations in GITC in Effingham County onto the Subject Property in the City of Port Wentworth; and

WHEREAS, the actions to be mutually taken by the Parties herein will benefit the health, safety and general welfare of the citizens of Effingham County and the City of Port Wentworth; and

NOW THEREFORE, in consideration of the following mutual covenants, promises and obligations made herein, Effingham County and the City of Port Wentworth agree as follows:

ARTICLE 1
EFFECTIVE DATE OF THIS AGREEMENT;
DURATION OF CONTRACT TERM

1.1 This Agreement shall commence on the date of last signature of the parties, after approval by the Effingham County Commission and the City Council of the City of Port Wentworth (“Effective Date”). The obligations, duties and responsibilities created by this Agreement shall then begin, and, subject to the other provision of this Agreement, shall terminate at 11:59 p.m. on the date that is fifty (50) years from its Effective Date, unless otherwise terminated as set forth herein.

ARTICLE 2
ENGINEERING PLANS

2.1 Engineer shall prepare engineering plans for the design, construction, extension, implementation and operation of water and sewer lines presently in GITC in Effingham County onto the Subject Property in the City of Port Wentworth (“Utility Plans”) for approval by the Parties.

2.2 Engineer shall be responsible, together with the Parties, for all engineering inspections in connection with the installation of the infrastructure, equipment and related Utility Plans.

2.3 SFG CH Chatham Tract shall bear the cost of preparing the Utility Plans and also shall be responsible for arranging for inspections during construction phase and ensuring the Engineer's conformance to area planning, adequacy of design, and conformance to the Parties requirements regarding location, size and depth of lines, capacity and arrangement of lift stations and quality of construction in accordance with all building and development ordinances and codes of the respective Parties, including posting any surety bonds which are required.

2.4 Upon completion of construction, Engineer shall certify that the materials and workmanship including pipes, bedding, thrust blocks, valves, fire hydrants, manholes, lift station equipment, meters and other related materials and work satisfy the Parties development specifications and standards. All construction, engineering and inspection costs in connection with the Utility systems shall be borne by SFG CH Chatham Tract.

ARTICLE 3
ACCEPTANCE AND DEDICATION

3.1 Upon installation and completion of the water and sewer infrastructure, equipment, and any related facilities shown on the Utility Plans, including the full payment of all water and sewage

fees being paid to Effingham County by SFG CH Chatham Tract, and its provision of two copies of "as built" drawings on Chronoflex Mylar, SFG CH Chatham Tract shall offer for dedication the easements, infrastructure, equipment and related facilities to Effingham County for approval by the Effingham County Commission. This dedication and acceptance shall include all rights, title and interest which SFG CH Chatham Tract has in and to the water and sanitary sewer systems serving the Subject Property in the City of Port Wentworth and also easements and rights-of-way required for the purpose of access to and maintenance thereof.

3.2 Once accepted for dedication, Effingham County shall assume full and complete responsibility for maintenance and operation of the water and sewer lines and facilities within the Subject Property in the City of Port Wentworth that are within easements or rights-of-way dedicated for such purposes.

3.3 The Parties understand and have been mutually advised that the SFG CH Chatham Tract development shall be a private project and development. As such, SFG CH Chatham Tract will not dedicate any roads or rights of way to the City of Port Wentworth and the City shall have no responsibility to service or maintain any easements conveyed to Effingham County or any private roads on the Subject Property.

3.4 SFG CH Chatham Tract will provide to both Effingham County and the City of Port Wentworth a recordable plat showing all utilities within public easements and rights-of-way to be owned and maintained by Effingham County. All easements shall be clearly labeled and/or noted on the plat as being dedicated for the approval by the Effingham County Board of Commissioners. This document shall be provided prior to construction and after completion of construction of the Utilities on an "as-built" basis. Should installation deviate from the original recordable plat, SFG CH Chatham Tract will provide to the Parties a revised recordable plat showing all utilities in dedicated easements and rights-of-way.

ARTICLE 4

UTILITY TAP AND SERVICE FEES

4.1 All sanitary sewer and water cost recovery fees and meter fee and deposit, traditionally known as "tap-in fees," shall be paid to Effingham County at the rate in effect at the time the fees or assessments are imposed. Port Wentworth shall not be entitled to receive any utility service or utility connection fees for buildings on the Subject Property.

4.2 All water meters shall be installed by Effingham County on the Subject Property. Each meter shall be identified by the address of the nearest structure. Irrigation meters not associated with an addressable structure shall have an address of the nearest structure and noted as irrigation

meter on the Effingham County application so that the meter is properly documented within the billing account.

4.3 Building Permits. All building permits for construction of water and sewer lines, equipment and infrastructure on the Subject Property shall be issued by and under the ordinances and regulations of the City of Port Wentworth and approval of all building plans and inspections shall be conducted by the City of Port Wentworth.

ARTICLE 5
SERVICES BY THE PARTIES

5.1 Except for Effingham County's responsibilities to install maintain and operate the water and sewer services on the Subject Property in the City of Port Wentworth, Port Wentworth shall provide all usual and customary municipal services to the Subject Property, including police, fire and emergency services. The City of Port Wentworth and Effingham County shall have no responsibility to maintain storm water drains or roads within the Subject Property.

5.2 Effingham County will have sole responsibility to make repairs to its water and sewer system within the Subject Property.

5.3 Effingham County will meter and bill its customers within the Subject Property for water and sewer services and will collect all of its fees for services directly. The City of Port Wentworth shall have no responsibility to bill or collect Effingham County water and sewer fees and charges for GITC businesses in the City of Port Wentworth.

ARTICLE 6
TERMINATION AND REMEDIES

6.1 Notwithstanding any provision to the contrary in this Agreement, at any time, the Parties may agree in writing to terminate this Agreement, which termination shall be effective as of the date agreed upon by the Parties.

ARTICLE 7
NOTICES

7.1 All required notices shall be given by certified first class U.S. Mail, return receipt requested, and by electronic mail to the County or City Manager then in charge. Future changes in address shall be effective upon written notice being given to the other Party via certified first class U.S. Mail, return receipt requested and by electronic mail. Notices shall be addressed to the parties at the following addresses:

Effingham County
601 N. Laurel Street
Springfield, Georgia 31329
912-754-2123

The City of Port Wentworth
7224 GA Highway 21
Port Wentworth, GA 31407
912-964-4379

ARTICLE 8
NON-ASSIGNABILITY

8.1 Neither Party shall assign any of the obligations or benefits of this Agreement without the prior written approval of Effingham County and the City of Port Wentworth.

ARTICLE 9
ENTIRE AGREEMENT

9.1 The Parties acknowledge, one to the other, that the terms of this Agreement constitute the entire understanding and Agreement of the Parties regarding the subject matter of the Agreement. This Agreement constitutes the entire understanding and agreement between the Parties concerning the subject matter of this Agreement, and supersedes all prior oral or written agreements or understandings. No representations, oral or written, not incorporated in this Agreement shall be binding upon the City of Port Wentworth or Effingham County.

ARTICLE 10
AMENDMENTS

10.1 This Agreement may be amended only upon the mutual consent of the Parties and upon written amendment signed by both Parties.

ARTICLE 11
SEVERABILITY, VENUE AND ENFORCEABILITY

11.1 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 Party institute suit concerning this Agreement, venue shall be in the Superior Court of Chatham County, Georgia. Should any provision of this Agreement require judicial interpretation, it is agreed that the 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.

ARTICLE 12
BINDING EFFECT

12.1 This Agreement shall inure to the benefit of, and be binding upon, the respective parties' successors.

ARTICLE 13
COUNTERPARTS

13.1 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.

ARTICLE 14
RECORDING

14.1 The Parties agree that this instrument may be recorded in the deed records of the Superior Court of Chatham County or in such other counties or place(s) as the Parties deem necessary.

IN WITNESS WHEREOF, Effingham County and the City of Port Wentworth have executed this Agreement through their duly authorized officers on the day and year noted.

EFFINGHAM COUNTY

BY: _____
CHAIRMAN
EFFINGHAM COUNTY COMMISSION

Date: _____ ATTEST: _____
CLERK
(SEAL)

THE CITY OF PORT WENTWORTH

BY: _____
GARY NORTON, MAYOR

Date: _____ ATTEST: _____
ZAHNAY SMOAK
CITY CLERK
(Seal)

APPROVED AS TO FORM AND CONTENT:

Scott Robichaux, City Attorney for the
City of Port Wentworth

Lee Newberry, County Attorney for
Effingham County Board of Commissioners