

**INTERGOVERNMENTAL AGREEMENT
FOR THE TRANSFER OF THE
TUCKER RECREATION CENTER
Between
DEKALB COUNTY, GEORGIA and
THE CITY OF TUCKER, GEORGIA**

THIS INTERGOVERNMENTAL AGREEMENT is entered into by and between DeKalb County, Georgia ("County") and the City of Tucker, Georgia ("City").

WHEREAS, the County is a constitutionally-created political subdivision of the State of Georgia;

WHEREAS, the City of Tucker is a municipality created by the 2015 Georgia General Assembly pursuant to House Bill 636; and

WHEREAS, the County and the City desire to maintain a mutually beneficial, efficient and cooperative relationship, that will promote the interests of the citizens of both jurisdictions, including, but not limited to, the creation and preservation of park space;

NOW THEREFORE, in consideration of the following mutual obligations, the County and City (collective, the "Parties") agree as follows:

**ARTICLE 1
PURPOSE AND INTENT**

The purpose of this Agreement is provides the terms by which the County shall transfer the property known as the Tucker Recreation Center to the City, to be preserved for park space.

**ARTICLE 2
COMPENSATION AND CONSIDERATION**

2.1. The subject property is located at 4898 Lavista Road, Tucker, DeKalb County, Georgia, Tax Parcel ID No. 18 226 06 040, and consists of approximately eight point two (8.2) acres (hereinafter, the "Property" and/or "Tucker Recreation Center") in exchange for payment to the County in the amount of \$100 per acre pursuant to Title 36. The County will transfer and convey the Tucker Recreation Center to the City by quitclaim deed on or before December 31, 2017.

2.2 As part of said transfer and conveyance, the City agrees that it shall:

- a) To the extent required by any existing covenants or restrictions, whether or not recorded, maintain the Tucker Recreation Center as a public park in perpetuity;
- b) Sale and/or relocation of the Tucker Recreation Center by the City must be pre-approved in writing by the County. Proceeds from a sale may be used to finance the relocation of the Tucker Recreation Center, including but not limited to purchase of the County-approved location and associated expenses;
- c) Allow the residents of the unincorporated area of the County the same access to Tucker Recreation Center whether located on this Property or as relocated in the

- future, including any centers, equipment and facilities located therein, as is allowed for residents of the City at the same cost charged to City residents, if any; and
- d) Provide the same parks and recreation services at the Tucker Recreation Center, whether located on the subject Property or where relocated in the future, to residents of unincorporated DeKalb County as are provided to residents of the City and at the same cost charged to City residents, if any.

2.3. The City further agrees that it shall be solely responsible for all due diligence, title searches, and shall take all reasonable steps to identify any existing obligation to maintain the Tucker Recreation Center or any portion thereof as a park and honor such obligation whether identified or discovered after transfer. To the extent any such obligation or restriction is breached after the date of this Agreement, the City shall resolve the breach of the obligation at no expense to the County. The Parties agree that, whether or not recorded, the provisions and obligations in this Section shall continue as binding restrictive covenants upon the Parties after expiration or termination of this Agreement.

ARTICLE 3 MUTUAL WAIVER AND RELEASE

3.1 The City hereby waives and releases, effective the date the City receives the quitclaim deed, any right to pursue or initiate any legal claims against the County related to the transfer Tucker Recreation Center, except for the right to assert claims to enforce the terms of this Agreement. The City agrees never to file any demand, claim, interpleader, charge, lawsuit or any other legal proceeding with any court, arbitration forum or government agency asserting any matter, claim or cause of action that is settled or released by this Agreement.

3.2 The County hereby waives and releases, effective the date the City receives the quitclaim deed, any right to pursue or initiate any legal claims against the County related to the transfer Tucker Recreation Center, except for the right to assert claims to enforce the terms of this Agreement. The County agrees never to file any demand, claim, interpleader, charge, lawsuit or any other legal proceeding with any court, arbitration forum or government agency asserting any matter, claim or cause of action that is settled or released by this Agreement.

ARTICLE 4 REMEDIES

The parties reserve all available remedies afforded by law to enforce any term or condition of this Agreement.

ARTICLE 5 NOTICES

All required notices shall be given by certified first class U.S. Mail, return receipt requested. The parties agree to give each other non-binding duplicate facsimile or e-mail 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. Notices shall be addressed to the parties at the following addresses:

If to the County: Executive Assistant
1300 Commerce Drive, 6th Floor
Decatur, Georgia 30030

With a copy to: County Attorney
1300 Commerce Drive, 5th Floor
Decatur, Georgia 30030

If to the City: City Manager
City of Tucker
4119 Adrian Street
Tucker, GA 30084

With a copy to: City Attorney
City of Tucker
4119 Adrian Street
Tucker, GA 30084

**ARTICLE 6
AMENDMENT OF AGREEMENT**

This Agreement may be amended at any time by mutual consent of both parties so long as such amendment is in writing and approved by official action of the City Council and approved by official action of the County governing authority.

**ARTICLE 7
NON-ASSIGNABILITY**

Neither party shall assign any of the obligations or benefits of this Agreement.

**ARTICLE 8
ENTIRE AGREEMENT**

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 representation oral or written not incorporated in this Agreement shall be binding upon the City or the County. All parties must sign any subsequent changes in the Agreement.

**ARTICLE 9
SEVERABILITY, VENUE 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

December 12, 2017

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 part institute suit concerning this Agreement, venue shall be in the Superior Court of DeKalb 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 thereof.

**ARTICLE 10
BINDING EFFECT**

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

**ARTICLE 11
COUNTERPARTS**

This agreement may be execute in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

[SIGNATURE PAGES FOLLOW]

December 12, 2017

IN WITNESS WHEREOF, the County and City have executed this Agreement through their duly authorized officers on the day and year indicated below.

DEKALB COUNTY, GEORGIA

By: _____ (SEAL)
Michael L. Thurmond
Chief Executive Officer
DeKalb County, Georgia

Date: _____

ATTEST:

Barbara H. Sanders-Norwood, CC
Clerk of the
Board of Commissioners of
DeKalb County, Georgia

APPROVED AS TO SUBSTANCE:

Zachary L. Williams
Executive Assistant/Chief Operating Officer

APPROVED AS TO FORM:

County Attorney

December 12, 2017

CITY OF TUCKER, GEORGIA

By: _____ (SEAL)
Frank Auman
Mayor, City of Tucker, Georgia

Date: _____

ATTEST:

_____(SEAL)
City Clerk

APPROVED AS TO SUBSTANCE:

City Manager

APPROVED AS TO FORM:

Brian Anderson
City Attorney