

September 30, 2017

**INTERGOVERNMENTAL AGREEMENT
FOR BUSINESS LICENSES AND RELATED TAXES
between
DEKALB COUNTY, GEORGIA AND
THE CITY OF STONECREST, GEORGIA**

THIS INTERGOVERNMENTAL AGREEMENT (the “Agreement”) is entered into effective as of July 1, 2017, by and between DeKalb County, Georgia (the “County”) and the City of Stonecrest, Georgia (the “City”);

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

WHEREAS, the City of Stonecrest is a municipality created by the 2016 Georgia General Assembly pursuant to House Bill 208 (hereinafter referred to as “HB 208”); and

WHEREAS, HB 208 provides that the City Council of the city of Stonecrest may take action binding on the City; and

WHEREAS, HB 208 provides Stonecrest with a 24 month transition period before it must assume and exercise all powers of a municipality; and

WHEREAS, HB 208 provides that “...[d]uring the transition period, all ordinances of DeKalb County shall remain applicable within the territorial limits of the city unless otherwise amended, repealed, or replaced by the City of Stonecrest”; and

WHEREAS, HB 208 provides “[a]ny transfer of jurisdiction to the City of Stonecrest during or at the end of the transition period shall not in and of itself abate any judicial proceeding pending in DeKalb County or the pending prosecution of any violation of any ordinance of DeKalb County”; and

WHEREAS, the creation of the City of Stonecrest allows the County and Stonecrest to enter into an intergovernmental agreement whereby the County will transition business license issuance and maintenance services related to applicants located within the new municipal boundaries of Stonecrest to the City of Stonecrest; 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.

NOW THEREFORE, in consideration of the following mutual obligations, the County and City agree as follows:

ARTICLE 1 DEFINITIONS

For the purposes of this Agreement, the following terms shall be defined as:

“Business license services” means performing all administrative functions and business operations to impose and collect taxes and fees associated with new or renewal applications within the boundaries of the City of Stonecrest for business license, new or renewal applications for alcohol license, hotel/motel tax, rental car tax, energy excise tax, financial institution tax, including but not limited to the occupation tax (“occupancy tax”) and the fees authorized and described more fully in O.C.G.A 48-13-1 *et seq.* and in the Code of DeKalb County, Georgia sections 15-1 through 15-70, to impose and issue and collect the taxes, licenses, permits and fees authorized and described more fully in O.C.G.A, Title 3, Chapters 1 through 12 and in the Code of DeKalb County, Georgia, sections 4-1 through 4-100.

“The Code” means the Code of DeKalb County, Georgia as Revised, 1988, and as may be amended during the term of this agreement.

ARTICLE 2 TERM OF AGREEMENT

The term of this Agreement is acknowledged to have commenced on January 1, 2017 at 0000 hours and concluding at 2400 hours on June 30, 2017. At the conclusion of this term, the City will be solely responsible for business license services within its boundaries. The parties further agree that, as of the termination date, the County's obligation (pursuant to O.C.G.A. § 36-31-8 and HB 208 (2016) to provide the services covered by this Agreement shall terminate, and that this provision constitutes the agreement for the assumption of these services by the City as contemplated by O.C.G.A. § 36-31-8 and HB 208 (2016).

ARTICLE 3 COMPENSATION AND CONSIDERATION

3.1 For the services to be rendered pursuant to this Agreement, the County remains entitled to impose and retain all of the 2017 administrative and permit fees charged monthly within the unincorporated area of DeKalb County for business license services. Nothing in this Agreement shall preclude the County's right to continue to perform business license services during the term of this Agreement within the boundaries of the city of Stonecrest. Nothing in this Agreement shall preclude the County's right to continue to collect past due taxes and fees owed to the County for business license services performed within the boundaries of the city of Stonecrest.

3.2 The County has collected taxes and fees for business license services provided by the County for calendar year 2017. Therefore, the County agrees to provide an accounting to the City of all 2017 revenue collected by it during or prior to the term of this agreement for business license services within the municipal boundaries of the city of

Stonecrest. The City and County agree that fifty percent (50%) of all monies collected by the County for all business license services and occupational taxes within the municipal boundaries of the city of Stonecrest for calendar year 2017 are payable to the City. Based on the term of this Agreement and services herein, the County shall remit the total amount of \$1,208,500.21 to the City on or before October 15, 2017. In exchange for and in consideration thereof, the City agrees to provide all administrative and maintenance services associated with all existing and any new business licenses for the second half of calendar year 2017, beginning July 1, 2017, including services regarding County issued business licenses for the area within the municipal boundaries of Stonecrest.

ARTICLE 4 SERVICES

4.1 During the term of this Agreement, the County agrees to provide business license services for the area within the municipal boundaries of the city of Stonecrest. The County agrees to provide such services in compliance with applicable state law and the Code. The County has no obligation to provide business license services within the municipal boundaries of the city of Stonecrest after June 30, 2017.

4.2 During the term of this Agreement, the City agrees that the County is authorized to enforce the Code, and that such provisions shall apply within the territorial limits of the City.

4.4 Beginning July 1, 2017, the City agrees that the County will not have any responsibility to issue business licenses or collect taxes and/or fees for business license services for the area within the municipal boundaries of the city of Stonecrest. As a result, nothing in this Agreement including but not limited to sections 4.1 and 4.2, is intended to abrogate or restrict the City from enacting ordinance regulating business through business license services in any way the City sees fit. No provision in the Code that regulates business through business license services shall have any effect within the territorial limits of the city of Stonecrest. It is the City's express intention to regulate business through business license services beginning July 1, 2017 and to allow holders of County issued business licenses for calendar year 2017 that are located within the municipal boundaries of the city of Stonecrest to continue activity under the County issued license through the life of the license, as granted, unless a revocation of such a holder's license by the City is warranted prior to the expiration.

4.5 The City and the County agree that the Magistrate Court of DeKalb County retains jurisdiction for violations of the Code through June 30, 2017. During the term of this Agreement, all fines, penalties and fees for violations of the Code for cases arising in the territorial limits of the City shall be remitted to the County in the same manner as those fines, penalties and fees of the for violations of the Code would be remitted to the County from cases arising in the unincorporated area of the county for violations.

**ARTICLE 5
EMPLOYMENT STATUS**

5.1 All DeKalb County personnel performing services under this Agreement, are and will continue to be employees of the County for all purposes, including but not limited to: duties and responsibilities, employee benefits, grievance, payroll, pension, promotion, annual or sick leave, standards of performance, training, workers compensation and disciplinary functions. All DeKalb County employees will continue to report under the management structure established in the County.

5.2 In the event the City Manager becomes dissatisfied with the performance of any personnel performing the services identified in this intergovernmental agreement on behalf of the City, the City Manager shall discuss the concerns with the Executive Assistant of DeKalb County.

**ARTICLE 6
RECORDKEEPING AND REPORTING**

The Finance Director or designee shall prepare and deliver a collection report to the City Manager identifying the calendar year 2017 business licenses issued for the area within the municipal boundaries of the city of Stonecrest. Except as limited by any provision of state or federal law, the City may request, review and access data and County records, at a mutually agreed upon time, to ensure compliance with this Agreement.

**ARTICLE 7
TRANSITION**

7.1 Upon the expiration of this Agreement, the Finance Director of the DeKalb County or designee shall present a summary report to the City Council within 30 days of the conclusion of this Agreement to facilitate the transition.

7.2 The County and City agree that upon the expiration of this Agreement, if either party determines it is necessary, the City Manager, the Executive Assistant and the Finance Director will meet and confer to effect a smooth transition.

**ARTICLE 8
CURE**

8.1 In the event that either party breaches a material term or condition of this Agreement, other than an event of default, the party in breach, upon receipt of a written request from the non-breaching party, shall remedy the breach within five (5) business days of receipt of the request. If the breach is not cured within the specified time period, the non-breaching party may utilize the remedies of declaratory judgment, specific performance, mandamus or injunctive relief to compel the breaching party to remedy the breach.

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

ARTICLE 9 AMENDMENTS

This Agreement may be modified at any time during the term by mutual written consent of both parties so long as such consent is approved by official action of the City. Council and approved by official action of the County governing authority.

ARTICLE 10 NOTICES

All required notices shall be given by first class mail, except that any notice of termination shall be mailed via U.S. Mail, return receipt requested. The parties agree to give each other non-binding duplicate facsimile notice. Notices shall be addressed to the parties at the following addresses:

If to the County:

Zachary L. Williams, Chief Operating Officer
1300 Commerce Drive, 6th Floor
Decatur, Georgia 30030
404-371-2883, Office Number
404-371-2116

With a copy to:

O. V. Brantley, County Attorney
1300 Commerce Drive, 5th Floor
Decatur, Georgia 30030
404-371-3011, Office Number
404-371-3024, Facsimile Number

If to the City:

Michael C. Harris, Interim City Manager
3120 Stonecrest Blvd.
Stonecrest, Georgia 30038
770-224-0200, Office Number

With a copy to:

Thompson Kurrie, Jr., City Attorney
City of Stonecrest
3475 Lenox Road, NE, Suite 400
Atlanta, Georgia 30326
678-987-0936, Office number

**ARTICLE 11
NON-ASSIGNABILITY**

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

**ARTICLE 12
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, together with the Attachments, 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.

**ARTICLE 13
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 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 is 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 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 hereof.

**ARTICLE 14
BINDING EFFECT**

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

**ARTICLE 15
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.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

September 30, 2017

IN WITNESS WHEREOF, the City and County have executed this Agreement through their duly authorized officers.

DEKALB COUNTY, GEORGIA

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

ATTEST:

Barbara Sanders
Ex Officio Clerk of the
Board of Commissioners of
DeKalb County, Georgia

APPROVED AS TO FORM:

APPROVED AS TO SUBSTANCE:

Terry G. Phillips
Senior Assistant County Attorney

Zachary L. Williams
Executive Assistant

THE CITY OF STONECREST, GEORGIA

Jason Larry, Sr.
Mayor

APPROVED AS TO FORM:

APPROVED AS TO SUBSTANCE:

Municipal Clerk (SEAL)

Thompson Kurrie, Jr.
City Attorney