

**INTERGOVERNMENTAL AGREEMENT  
FOR INTERSECTION IMPROVEMENTS  
AT HUGH HOWELL ROAD AND FLINTSTONE DR.  
BETWEEN  
DEKALB COUNTY, GEORGIA and  
THE CITY OF TUCKER, GEORGIA**

**THIS INTERGOVERNMENTAL AGREEMENT** is entered into by and between DeKalb County, Georgia (hereinafter the “County”) and the City of Tucker, Georgia (herein after the “City”).

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

**WHEREAS**, The City is a municipality incorporated by the Georgia General Assembly in 2015; 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;

**WHEREAS**, the County and the City desire to collaborate in maintaining a mutually beneficial and efficient system of roadways that are conducive for safe travel between the County and City for the citizens of both jurisdictions; and

**WHEREAS**, the County provides public safety services to the City and the Parties desire to collaborate in avoiding unnecessary demands on police, fire, and ambulance services that could result from inefficient and ineffective roadways that lack adequate safety for drivers, pedestrians, and citizens of both jurisdictions; and

**WHEREAS**, the City is planning intersection improvements at Hugh Howell Road and Flintstone Drive (hereinafter the “Intersection Improvements”) and the County desires to contribute to said Intersection Improvements in order to improve roadway and traffic safety and efficiency for the citizens of DeKalb County; and

**WHEREAS**, pursuant to Article IX, Section III, Paragraph I of the Constitution of the State of Georgia, the County is authorized to enter into Intergovernmental Agreements with the City for periods not exceeding fifty (50) years; and

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and in consideration of the mutual promises and undertakings contained herein, the County and City (collectively hereinafter, the “Parties”) hereto do hereby agree and consent to the following:

**ARTICLE 1  
PURPOSE, INTENT, AND CONSIDERATION**

1.1 The purpose of this Agreement is to provide the terms by which, in exchange for the negotiated and contracted for contribution, the City shall make the Intersection Improvements.

- 1.2 Pursuant to the terms of this Agreement, the Parties agree to fund and make the Intersection Improvements for the use and enjoyment of their respective residents. The City shall obtain bids for the work associated with the intersection improvements pursuant to a competitively let Invitation to Bid and select a contractor based on its requirements. As between the County and the City, the City shall be solely responsible for the construction, upgrades, maintenance, repair, upkeep and all aspects of the scope of work and construction associated with the Intersection Improvements, except as provided for in the Service Delivery Strategy, as it now exists or as it may be amended and supplemented in the future. Based on the express language in the signal permit received by the City from the Georgia Department of Transportation, the City shall be responsible for maintenance and operation of the traffic signal installed as part of the Intersection Improvements. In exchange and consideration for the mutual promises in the provisions herein, the Parties hereby agree that the County shall contribute an amount equal to One Hundred Thousand Dollars (\$100,000.00) for the Intersection Improvements. The County shall have no other obligations of any kind.

## **ARTICLE 2 TIME & TERMINATION**

- 2.1 This Agreement shall commence upon full execution of this Agreement. Within 45 days of full execution of this Agreement, the County shall pay the City the total amount of One Hundred Thousand Dollars (\$100,000.00). The City shall substantially complete the Intersection Improvements by September 1, 2021.
- 2.2 The Agreement shall automatically terminate upon completion of the Intersection Improvements. The City's obligations related to maintenance of the Intersection Improvements shall survive the expiration of this Agreement. The parties reserve the right to renew this Agreement by amending said Term in writing subject to approval by the applicable governing authorities.

## **ARTICLE 3 UTILITY EASEMENT**

The City shall execute all easement documents requested by the County which are related to and necessary for the County to access, connect, and repair all stormwater, sewer, and water pipes, drainage, and utilities located on or around the location of the Intersection Improvements (collectively, the "Utility Easement"). To be included therein, the Parties hereby agree that the Utility Easement shall not imply or constitute the acceptance of liability on the part of the County for the repair or maintenance of utilities located on or around the location of the Intersection Improvements, and the City hereby waives, releases and, to the extent allowed by law, indemnifies the County, its officials, agents and employees from any and all claims related to or stemming from the Intersection Improvements or Utility Easement.

## **ARTICLE 4 AMENDMENTS**

This Agreement may be modified at any time during the term by mutual written consent of both parties, as approved by the Parties' governing authorities.

**ARTICLE 5  
REMEDIES**

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

**ARTICLE 6  
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, 6<sup>th</sup> Floor  
Decatur, Georgia 30030  
(404) 371-2174  
(404) 687-3585 (f)

With a copy to: County Attorney  
1300 Commerce Drive, 5<sup>th</sup> Floor  
Decatur, Georgia 30030  
(404) 371-3011  
(404) 371-3024 (f)

If to the City: City Manager  
City of Tucker  
Tucker City Hall  
4119 Adrian Street  
Tucker, Georgia 30084  
(678) 488-6063

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

**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 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  
THIRD PARTY BENEFICIARIES**

This agreement shall not be construed as, or deemed to be, an agreement for the benefit of any third party or parties. No third party or parties shall have any right of action hereunder for any cause whatsoever.

**ARTICLE 12  
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 PAGE TO FOLLOW]

IN WITNESS WHEREOF, the County and City have executed this Agreement on the \_\_\_\_ day of \_\_\_\_\_, 2021 through their duly authorized officers as of the signatures as indicated below.

**DEKALB COUNTY, GEORGIA**

**ATTEST:**

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

Michael L. Thurmond  
Chief Executive Officer  
DeKalb County, Georgia

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

**APPROVED AS TO SUBSTANCE:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Executive Assistant/Chief Operating Officer

\_\_\_\_\_  
County Attorney

**CITY OF TUCKER, GEORGIA**

**ATTEST:**

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

Mayor

\_\_\_\_\_  
City Clerk

**APPROVED AS TO FORM:**

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