

**INTERGOVERNMENTAL AGREEMENT
FOR MAINTENANCE, REPAIR, AND IMPROVEMENT
OF ROADS AND BRIDGES**

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

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

WHEREAS, the City of Tucker is a municipality created by the 2015 Georgia General Assembly pursuant to House Bill 636 (hereinafter referred to as “HB 636”) ; and

WHEREAS, the parties to this Agreement are both governmental units and authorized to provide the services set forth herein;

WHEREAS, pursuant to Article IX, Section III, Paragraph I of the Constitution of the State of Georgia, the City and County are authorized to enter into Intergovernmental Agreements for periods not exceeding fifty (50) years in connection with the activities which these governments are authorized to undertake;

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, Article IX, Section II, Paragraph III of the Constitution of the State of Georgia grants each city and county the power to maintain, repair, and improve roads, bridges, and related infrastructure located within their jurisdictional boundaries or by agreement;

WHEREAS, the County and City desire to enter into an Intergovernmental Agreement for the County to repair, maintain, and improve roads, bridges, and related infrastructure located within the boundaries of the service tax district servicing the City of Tucker; and

WHEREAS, pursuant to O.C.G.A. § 36-82-61 and § 36-82-62, cities and counties are empowered to contract, maintain, repair, and improve roads, bridges, and related infrastructure, including the power of eminent domain, issue bonds, and charge and collect reasonable fees for such services (collectively referred to as “Road Services” as further defined herein);

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

1. Term

For so long as the City remains in the County’s special service tax district, the term of this Agreement shall commence at 12:00 a.m. on May 1, 2018 and run through 11:59 p.m. on December 31, 2018, with an automatic renewal on January 1st of the following year for a maximum of fifty (50) years. Either party may terminate this Agreement with 180 days’ written notice as

provided herein. This notice shall be given by July 1st of any calendar year for termination on December 31 at 11:59 p.m. of the same calendar year. Should the City elect to leave the County tax district, the parties agree to meet and confer as to any remaining services.

2. Description of Services and Responsibilities of Each Party

(A) The County agrees to perform the following Road Services to the same extent that such services are performed in the unincorporated County territory:

- (1) Receive and record requests for maintenance, repair, improvements and inspections of the roads, bridges and related infrastructure located within the boundaries of the City, as made or submitted by the City or its residents;
- (2) Maintain and repair existing County roads and bridges located within or servicing the City. A copy of the schedule for such maintenance and repairs, shall be provided to the City;
- (3) Concrete and asphalt pavement repairs, including pothole repair, full-depth patches, sidewalk and ADA ramp repairs, Utility cut repair permitting and monitoring;
- (4) Right-of-way maintenance, including tree removal, routine, minor guardrail repairs, graffiti removal, litter pick up and grass mowing in coordination with Keep DeKalb Beautiful for so long as that program and this Agreement remain in effect;
- (5) Traffic maintenance, including sign repair or replacement, sign installation, signal repairs and maintenance, signal timing, pavement markings installation and maintenance;
- (6) Traffic engineering, to the extent such planning is initiated by the County and at the County's discretion, which may include sign and signal warrant studies, traffic calming studies, and street light studies;
- (7) Transportation planning to the extent such planning is initiated by the County and at the County's discretion, which may include coordination with any State or local transit or transportation agency, MARTA, railroads, and community improvement districts for right-of-way improvements and maintenance;
- (8) Emergency response for incidents in the rights-of-way including inclement weather, snow and ice, or roadway flooding; or after-hours calls related to signal failures, downed stop signs, or roadway sinkholes;

- (9) Construct right-of-way improvements that, the County shall consider the City's requests for improvements as provided for herein but, in its sole discretion, may accept or reject such requests and may determine that an improvement request be given a higher or lower priority than requested by the City;
- (10) Maintain an annual accounting of all expenditures made on roads, bridges or related infrastructure located in or servicing the City, including any accounting or audit costs and deliver such accounting of the previous year's expenditures to the City;
- (11) Designate a contact person or persons authorized to communicate with the City and its residents regarding road and bridge maintenance, repairs and improvements.

(B) The City agrees to the following:

- (1) With pre-approval by the County, the City shall, by ordinance, also be empowered to provide road and bridge repair, maintenance, and improvements to its citizens;
- (2) The City shall designate a contact person authorized to communicate with the County regarding the maintenance, repair and improvement of roads and bridges;
- (3) The City agrees to cooperate and coordinate with the County as to any capital improvement programs or projects planned or initiated by the County, including programs funded or partially funded by SPLOST;
- (4) The City shall cooperate with the County with regard to any road or bridge construction, or related stormwater construction deemed to be necessary under the terms of this Agreement.

(C) By entering into this Agreement, the City agrees that the County's employees and agents shall have an unlimited right to access and inspect the City's roads, bridges, and related infrastructure on City property in furtherance of the activities set forth herein;

(D) Reporting and database.

- (1) The County shall make its best effort to track all maintenance requests and activities in the City in the Oracle 311 database, by location (street address and/or 100-block), and by activity type.

- (2) On a monthly basis, the County will provide a GIS map and a report to the City of Tucker of the open and closed maintenance requests in the City limits, listing the activity type, and the location.
 - (3) City and County staff shall meet monthly to review these reports, and to discuss how the prioritization of maintenance requests have been scheduled for the previous month, based on available County resources, and based on the general principle that the road or drainage assets are being repaired based on condition assessment, and safety concerns.
 - (4) As soon as the County's Oracle 311 system has been upgraded from an on-premise database to a cloud-based (web-based) database, the County shall provide secure access to designated City of Tucker staff for read-only access to the database (estimated to be 4th Quarter 2018).
 - (5) The reporting procedures will be reviewed by the County and City on an annual basis; and
- (E) In no event shall the County be obligated to undertake or expend monies on roads or bridges except by mutual written consent.

3. Compensation and Consideration

(A) For and in consideration of the Road Services to be rendered during the term of this Agreement, the City agrees to remain within the DeKalb County tax district. The City agrees to remain within the County's special service tax district and that the County shall continue to be entitled to impose and collect the district tax annually in the same manner and at the same rate that such tax is imposed and collected within the portion of the DeKalb County tax district that is located in unincorporated DeKalb County. Nothing in this Agreement shall preclude the County's right to continue to collect DeKalb County district taxes from the residents of the City for all services originating within the City of Tucker.

(B) Notwithstanding the authorization granted in paragraph (A) immediately above, the County shall not include, be entitled to impose or collect that portion of the DeKalb County tax district that is designated for parks or parks related services within the unincorporated area.

4. Indemnification and Defense of Claims

It is understood by the parties that no employees, officers, or agents of either party shall be under or subject to the direction or control of the other party, its officers, employees or agents for any of the services provided pursuant to this Agreement. The City shall defend and indemnify the County against any and all claims, suits, actions, liabilities and judgments from third parties resulting from the City's actions or inactions pursuant to the enactment of this intergovernmental agreement or performance of the City's duties as set forth herein, including all costs of defending the same.

5. Notice

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 notice. All notices sent to the addresses listed below shall be binding unless said address is changed in writing no less than fourteen days before such notice is sent. 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, Georgia 30084

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

All notices sent to the above addresses shall be binding unless said address is changed in writing to the other party.

6. Extension

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

7. Termination

Either party may unilaterally terminate this Agreement, in whole or in part, for any reason whatsoever. The terminating party shall terminate by delivering to the other party with at least one-hundred and eighty (180) days' notice to the other party, a Notice of Termination specifying the nature, extent, and effective date of termination.

8. Third Party Beneficiaries

This Agreement is for the benefit of the parties hereto only and is not intended to benefit any third party or to give rise to any duties to or causes of action for any third party.

9. Governing Law

This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Georgia.

10. Venue

This agreement shall be deemed to have been made and performed in DeKalb County, Georgia. For the purposes of venue, all suits or causes of action arising out of this Agreement shall be brought in the courts of DeKalb County, Georgia.

11. Successors and Assigns

Neither party shall assign, sublet or transfer its interest in this Agreement without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officers, agents or officials either party.

12. Entire Agreement

This Agreement constitutes the entire Agreement between the parties hereto as to all matters contained herein. No representation, oral or written, not incorporated herein shall be binding upon the parties hereto. All parties must sign any subsequent changes to this Agreement.

13. Severability

In the event any section of this Agreement is declared and adjudged to be invalidated or unconstitutional, such declaration or adjudication shall not affect the remaining portions of this Agreement.

14. 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.

15. Binding Agreement

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

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in three counterparts, each to be considered as an original by their authorized representative, on the day and date hereinabove written.

This ____ day of _____, 2018.

DEKALB COUNTY, GEORGIA

ATTEST:

MICHAEL L. THURMOND
Chief Executive Officer
DeKalb County, Georgia

BARBARA H. SANDERS-NORWOOD
Clerk of the Chief Executive Officer
and Board of Commissioners of
DeKalb County, Georgia

APPROVED AS TO SUBSTANCE:

APPROVED AS TO FORM:

WILLIAM “TED” RHINEHART
Deputy Chief Operating Officer of
Infrastructure, DeKalb County

MARIAN C. ADEIMY
Assistant County Attorney

CITY OF TUCKER, GEORGIA

ATTEST:

_____(SEAL)
FRANK AUMAN
Mayor

City Clerk

APPROVED AS TO SUBSTANCE:

APPROVED AS TO FORM:

TAMI HANLIN
City Manager

BRIAN ANDERSON
City Attorney