

**STONECREST DEVELOPMENT AUTHORITY
INTERGOVERNMENTAL AGREEMENT**

THIS INTERGOVERNMENTAL AGREEMENT (this "Agreement") is made and entered into on this ____ day of _____, 2023 by and between the CITY OF STONECREST, GEORGIA (hereinafter referred to as the "City"), and the STONECREST DEVELOPMENT AUTHORITY, GEORGIA (hereinafter referred to as the "Authority");

WHEREAS, the City of Stonecrest was created by Senate Bill 208, passed in the Georgia General Assembly during the 2016 Session and subsequently confirmed by referendum; and

WHEREAS, pursuant to Title 62 Chapter 36 of the Official Code of Georgia ("Development Authorities Law") municipalities of this state are authorized to establish public bodies corporate and politic to be known as "development authorities;" and

WHEREAS, the Mayor and Council of the City of Stonecrest ("City Council") pursuant to O.C.G.A. § 36-62-3 et seq established the Stonecrest Development Authority by ordinance for the purpose of developing and promoting trade, commerce, industry and employment opportunities; and

WHEREAS, the City and the Authority share a joint desire and ambition to spur economic redevelopment in various areas of the City; and

WHEREAS, the City and the Authority wish to enter into this intergovernmental agreement by which they may set forth in writing the parameters for their relationship in pursuing their joint ambitions and goals for the development of the City.

NOW, THEREFORE, for and in consideration of the promises, mutual covenants, and agreements contained herein, the parties do hereby covenant and agree as follows:

ARTICLE I: PURPOSE OF AGREEMENT

The purpose of this Agreement shall be to establish the parameters under which the Authority operates as it endeavors to facilitate the revitalization and development of underutilized and underdeveloped areas in the City, attract private investment, strengthen the City's economic base and tax digest, attract new industries, create jobs, and benefit the residents and citizens of the City.

ARTICLE II: FUNDING AND APPROPRIATIONS

In consideration of the commitments made by the Authority herein, and for use by the Authority in carrying out the activities provided for herein; the City shall appropriate funds to be used by the Authority as and when it is deemed prudent and necessary by the City's governing body.

In addition, from time to time during the term of this Agreement, the governing body of the City shall review the progress of the Authority, and the financial condition of the Authority. While all such decisions, and the appropriation function, shall remain the exclusive province of the City's governing body, which it may exercise in its sole discretion, the City will consult in good faith with the Authority regarding the suitable level of appropriation, and will, in all events, appropriate sufficient funds to meet all contractual obligations of the Authority, the Authority complies with the terms of this Agreement. Any action violating the terms and provisions of this Agreement will result in the immediate end to any future appropriation of funds.

ARTICLE III: DEVELOPMENT ACTIVITIES

In consideration of the payments and appropriations made by the City under this Agreement, and the other promises and commitments made hereunder, the Authority agrees that it shall undertake the following activities whenever and wherever needed in the City, in coordination and cooperation with the City:

- a. The Authority shall act as a non-exclusive development agent for the City exercising its powers under Georgia law for the benefit of the City.
- b. The Authority may assist in the creation of such tax allocation districts as may be deemed necessary or prudent or otherwise provide for tax abatement programs, the City requests however, that the Authority inform the City prior to extending to any project or entity an incentive or tax abatement.
- c. The Authority may enter into and execute any contracts, leases, mortgages, or other agreements, including agreements with bondholders or lenders, determined by the Authority to be necessary or convenient to implement the provisions and effectuate the purposes of this Agreement. The City requests review prior to execution.
- d. From time to time, the Authority may acquire property, real or personal, or interests therein, for redevelopment and development purposes, and use or dispose of such property or interests, either through the City or directly with private parties.
- e. The Authority may conduct other planning and implementation activities as are deemed necessary and prudent, including planning and predevelopment activities such as site analysis, environmental analysis, development planning, market analysis, financial feasibility studies, preliminary design, zoning compliance, facilities inspections, and overall analysis of proposed redevelopment plans to ensure consistency with the City's overall goals, and short-term and long-term plans.
- f. The Authority may negotiate and enter into public-private ventures, provide loans to private enterprises, and enter into intergovernmental and other agreements as needed. The City requests review prior to execution.

Legal counsel and bond counsel when applicable for the Authority (“Counsel”) must be selected and approved by the City annually. The term of Counsel will coincide with the beginning and end of the City’s fiscal year. Failure by the Authority to obtain the suitable approval for appointment of its Counsel will be deemed a violation of this Agreement. Failure to obtain the suitable approval by the City will result in termination of the Authority’s Counsel.

- g. The Authority shall be responsible for preparing for the review by its Counsel and for its execution and filing by the Authority and filing any financial reporting documents for the Authority, including any reports required to be filed with the Georgia Department of Community Affairs pursuant to O.C.G.A. § 36-81-8(b)(2).
- h. The City shall name the Authority as an additional insured under its general liability policies.
- i. For purposes of this Agreement, “approved by the City” or “approval by the City” shall mean communication, in writing, from the City Manager that the City Council has approved the action by resolution.

ARTICLE IV: DEVELOPMENT AUTHORITY OPERATIONS

- a. The City expressly authorizes the Authority to utilize the City Hall for its meetings and other operational purposes. The Authority shall also have reasonable access to City staff time and resources to conduct its operations. The City shall appoint one staff member to function as the Authority’s Executive Director, who shall be responsible for the maintenance of all Authority minutes, records, contracts and other official documents, and for ensuring Authority compliance with State law and City ordinances. All such utilization shall be coordinated through and at the direction of the City Manager.
- b. As part of City staff functions, the Executive Director will take charge of all Authority assets and property, and on behalf of the Authority manage the day-to-day operation and maintenance of all such sites. Where appropriate, the Executive Director, or its assignee, shall market for sale or lease, such properties as is deemed in the best interest of the City and the Authority. All such transfer of title or leasehold interest shall be approved by the Authority and the City. The Authority appoints the Executive Director as an agent of the Authority who is hereby authorized to take administrative actions in this regard on behalf of the Authority. The City Manager shall deliver to the City and the Authority, at least quarterly, a report of activity of Authority property.
- c. The Authority agrees that except as expressly provided in any other agreement between the City and the Authority, the Executive Director, with such City staff support as directed by the City Manager, shall perform the day-to-day management, including budgeting and annual audit review, of all funds, bank accounts and assets of the Authority.

- d. The Authority acknowledges that all of its current assets were either transferred to it by the City, or acquired through revenue bonds supported by the revenue from a specific project, or acquired by financing arrangements guaranteed by the City's full faith and credit. As such, it hereby pledges to hold all such assets, and any income derived from the operation or sale of such assets, in trust for the benefit of the City. The City Manager, through City staff is hereby appointed as custodian of all liquid Authority assets, and shall maintain such assets in such accounts as if they were City funds. With notice to the Authority, and provided that such transfer will not place the Authority in risk of default on its contractual obligations, the City may transfer funds and assets from such accounts to accounts of the City consistent with the City's established policies, budgeting procedures, and standards promulgated by the Governmental Accounting Standards Board. If requested by the City, the Authority shall promptly convey title in any of the real property of the Authority to the City. The City Manager may transfer such assets to City accounts, without further approval of the Authority, in such manner as is consistent with this Agreement.
- e. The Authority shall process all open records requests pursuant to O.C.G.A. § 50-18-70 et seq. The Executive Director shall serve as the designated records custodian for open record requests for public records of the Authority. The Authority shall be authorized to charge and retain fees authorized by O.C.G.A. § 50-18-71, et. al.
- f. The City shall provide space within City Hall or other City property for the Authority to conduct public meetings, as that term is defined under O.C.G.A. § 50-14-1. The City and the Authority will confer prior to scheduling meetings for the Authority to ensure sufficient space is available. The Authority shall post notices of the public meeting, in accordance with O.C.G.A. § 50-14-1, at the meeting location, and on the website calendar of the City.
- g. The Authority, pursuant to O.C.G.A. § 36-62-5 (d), may make bylaws and regulations for its governance. The City Council must approve all amendments to the Authority's bylaws.
- h. The Authority may delegate to one or more of its officers, agents, and employees such powers and duties as may be deemed necessary and proper pursuant to O.C.G.A. § 36-62-5 (d). The appointed member of the City's governing authority serving as a director on the Authority shall also serve as the Authority's chair.
- i. The Authority acknowledges that this Agreement is not an exclusive agreement and that the City may contract with other governmental entities for the provision of similar services.

ARTICLE V: INDEMNIFICATION

It is the intent of the parties to be covered under the auspices of any applicable immunity granted by law. To the extent permitted by law, the Authority hereby agrees to defend, indemnify, and hold harmless the City and its officers, employees, or agents from any and all claims, liability, losses or damages, including attorneys' fees and costs of defense which the Authority or its officers, employees, or agents may incur as a result of any claim, demand, suit, or cause of action or proceeding of any kind or nature arising out of, relating to, or resulting from the Authority's actions or inactions in performing under this

Agreement. The Authority and City shall promptly notify each other of all such claims, shall cooperate with the defense and resolution of each claim, and shall not settle or otherwise dispose of the claim without first consulting with all parties hereto. The indemnification under this Agreement shall survive termination of this Agreement for any claims that may be filed after the termination date of this Agreement, provided that such claims are based upon actions or alleged actions that occurred during the term of this Agreement.

ARTICLE VI: GENERAL PROVISIONS

- a. **ASSIGNMENT.** This Agreement may not be assigned without the express written consent of all other parties to this Agreement.
- b. **NOTICE.** Any notice required or permitted to be delivered hereunder shall be deemed received when sent by United States certified mail, return receipt requested, or statutory overnight delivery, at the addresses set forth below:

City of Stonecrest, Georgia
Stonecrest City Hall
3120 Stonecrest Blvd,
Suite 190,
Stonecrest, GA 30038.
Attention: City Manager

City of Stonecrest Development Authority
Stonecrest City Hall
3120 Stonecrest Blvd,
Suite 190,
Stonecrest, GA 30038.
Attention: Chair

- c. **STATE LAW TO APPLY.** This contract shall be construed under and in accordance with the laws of the State of Georgia.
- d. **PARTIES BOUND.** The contract shall be binding upon and inure to the benefit of the Parties hereto and their respective legal representatives, successors, and assigns where permitted by this Agreement.
- e. **SEVERABILITY.** In case any one or more of the provisions contained in this contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this contract shall be construed as is such invalid, illegal, or unenforceable provision had never been contained herein.
- f. **PRIOR AGREEMENTS SUPERSEDED.** Except as expressly provided for herein, this Agreement constitutes the sole and only Agreement of the Parties hereto with respect to

the subject matter described herein, and supersedes any prior understandings or written or oral Agreements between the parties respecting the within subject matter. This provision shall not apply to the following agreements or transactions:

- i. Any agreements pertaining to any outstanding bonds of the Authority.
 - ii. Any security agreements between the Authority and the City.
 - iii. Any outstanding notes evidencing loans of funds from the City to the Authority.
- g. **TIME OF ESSENCE.** Time is of the essence of this contract.
- h. **AMENDMENT.** This Agreement may not be modified, amended or terminated in whole or in part in any manner other than by an agreement in writing duly signed and appropriately approved by all parties hereto.
- i. **GENDER.** Words of any gender used in this contract shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.
- j. **HEADINGS.** The headings for each paragraph or section of this Agreement are for convenience of reference only and shall not be deemed a part of this Agreement for the purposes of interpreting any provision of said Agreement.
- k. **COUNTERPARTS.** This Agreement may be executed in any number of identical counterparts, and each counterpart hereof shall be deemed to be an original instrument, but all counterparts hereof taken together shall constitute but a single instrument.
- l. **CONSTRUCTION OF AGREEMENT.** This Agreement shall not be construed more strongly against any party regardless of which party is responsible for its preparation.
- m. **DATES.** If the final date of any time period or the date for the performance of any obligation hereunder falls upon a Saturday, Sunday, or a bank or government holiday under the laws of the State of Georgia, then the time of such period or the time for the performance of such obligation shall be extended to the next day which is not a Saturday, Sunday, or a bank or government holiday under the laws of the State of Georgia.
- n. **EFFECTIVE DATE AND TERM OF AGREEMENT.** The Effective Date of this Agreement shall be the date on which the last party fully executed this Agreement, and the term of this Agreement shall extend for a period of 10 years unless terminated by the City or the Authority upon 30 days' written notice.

[SIGNATURES APPEAR ON FOLLOWING PAGE.]

IN WITNESS WHEREOF, the City and the Authority as Parties hereto have caused this Agreement to be executed by their duly authorized representatives and delivered as their act and deed, intending to be legally bound by the terms and provisions of this Agreement.

CITY OF STONECREST

**CITY OF STONECREST DEVELOPMENT
AUTHORITY**

City Manager

Chair

ATTEST:

ATTEST:

City Clerk

Secretary

APPROVED AS TO FORM:

City Attorney

DRAFT