

**CITY OF PINE LAKE
SPECIAL CALLED
ZOOM MEETING AGENDA
AUGUST 17, 2020
3:00 PM**

CALL TO ORDER

- 1) **Approval of Cooperation Agreement with DeKalb County for CDBG HOME funds**
- 2) **Discuss the CARES Act Funding**

ADJOURNMENT

Residents may access this meeting by calling:

Conference line 1 (929) 205-6099

115 Meeting ID 813-0156-9377

COOPERATION AGREEMENT

STATE OF GEORGIA

COUNTY OF DEKALB

This COOPERATION AGREEMENT made this _____ day of _____, 2020, by DeKalb County, a political subdivision of the State of Georgia (hereinafter sometimes referred to as "COUNTY") and the City of Pine Lake, a political subdivision of the State of Georgia (hereinafter sometimes referred to as "CITY").

WHEREAS, the U.S. Department of Housing and Urban Development has determined that DeKalb County possesses the powers necessary to undertake essential community development and housing activities in only the unincorporated areas of the COUNTY; and;

WHEREAS, the consent of the governing body of an incorporated area in the COUNTY must be provided and a written agreement executed in order for the COUNTY to undertake essential community development and housing activities in the incorporated areas of the COUNTY; and

WHEREAS, this COOPERATION AGREEMENT covers the Community Development Block Grant Program (CDBG) and, as applicable, the HOME Investment Partnership Program (HOME); and

WHEREAS, this COOPERATION AGREEMENT covers the three-year period January 1, 2021 through December 31, 2021 and will be automatically renewed for each successive three-year period, unless the COUNTY or the CITY provides written notice that it elects not to participate for a new qualification period.

NOW THEREFORE, the CITY and the COUNTY herein agree to the terms and provisions outlined herein:

1. The COOPERATION AGREEMENT shall remain in effect until the CDBG (and HOME, where applicable) funds and program income received with respect to the activities carried out during current and subsequent three-year qualification periods are expended and the funded activities completed. Neither party can terminate or withdraw from the COOPERATION AGREEMENT while it remains in effect.
2. Both parties agree to cooperate to undertake, or assist in undertaking, community renewal and lower income housing assistance activities, specifically urban renewal and publicly assisted housing.
3. COUNTY agrees to notify CITY of its right to elect not to participate in subsequent three-year periods that would otherwise, in accordance with the terms of this COOPERATION AGREEMENT, be automatically renewed within the timeframes required by HUD.
4. CITY agrees to notify COUNTY of its determination to elect not to participate in subsequent three-year periods, in accordance with the requirements established by HUD.
5. As required by HUD, both parties agree to adopt any amendment to the COOPERATION AGREEMENT to incorporate the changes that are necessary to comply with requirements established by HUD, as written in the Urban Qualification Notice that is applicable to the three year period. The parties further agree to ensure that such amendment is submitted to HUD as required in order to avoid the automatic nullification of the automatic renewal of the qualification period.
6. The COUNTY shall have the final responsibility for selecting CDBG (and HOME, where applicable) activities and submitting a Consolidated Plan to HUD.
7. Neither party shall be permitted to veto or otherwise restrict the implementation of the approved Consolidated Plan during the period covered by the COOPERATION

AGREEMENT (including subsequent automatically renewable qualification periods, as applicable).

8. Urban County funds may not be used for activities, in or in support of, any CITY that does not affirmatively further fair housing within its own jurisdiction or that impedes the COUNTY's actions to comply with the COUNTY's fair housing certification.
9. The CITY shall not apply for grants from appropriations under the Small Cities or State CDBG Programs for the fiscal years during the period in which it participates with the Urban County.
10. The CITY may only participate in the HOME Program through the Urban County. If the COUNTY does not receive a HOME allocation, the CITY cannot form a HOME consortium with other local governments during the period in which the CITY is a part of the Urban County.
11. Pursuant to 24 CFR 570.501(b), the unit of local government is subject to the same requirements applicable to subrecipients, including the requirement of a written agreement described in 24 CFR 570.503.
12. Both parties agree to take all actions necessary to assure compliance with all Federal, State, and local regulatory requirements, specifically including but not limited to, 24 CFR 570, 24 CFR 92 (if applicable), Urban County Certification required by section 104(b) of Title I of the Housing and Community Development Act of 1974, as amended, Title VI of the Civil Rights Act of 1964, the Fair Housing Act, Section 109 of Title I of the Housing and Community Development Act of 1974, and other applicable laws.
13. The cooperating unit of general local government (CITY) shall have adopted and be enforcing (1) a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations, and (2) a policy of enforcing applicable State and local laws against

physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within jurisdictions.

14. The cooperating unit of general local government (CITY) shall not sell, trade, or otherwise transfer all or any portion of such funds to a metropolitan city, urban county, unit of general local government, or Indian tribe, or insular area that directly receives CDBG funds in exchange for any other funds, credits, or non-Federal considerations, but must use such funds for activities eligible under Title I of the Housing and Community Development Act of 1974, as amended.

[Signatures continue on following page.]

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

PINE LAKE, GEORGIA

DEKALB COUNTY, GEORGIA

By: _____ (SEAL)
Signature

(SEAL)
by Dir.

Melanie Hammet
Name (Typed or printed)
Mayor

MICHAEL L. THURMOND
Chief Executive Officer
DeKalb County, Georgia

Date

Date

ATTEST:

ATTEST:

Signature
Valerie Caldwell
Name (Typed or Printed)
City Administrator

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

Date

Date

APPROVED AS TO SUBSTANCE:

APPROVED AS TO FORM:

County Department Director

County Attorney Signature

Date

County Attorney Name (Typed or Printed)

Date

**DeKalb County Contract
No. 1214308**



DeKalb County Government

Manuel J. Maloof Center
1300 Commerce Drive
Decatur, Georgia 30030

Master

File Number: 2020-0682

File ID: 2020-0682

Type: Resolution

Status: Action

Version: 1

Action
Type:

Controlling Body: Board of
Commissioners

File Created: 06/17/2020

Subject:

Final Action:

Title:

Commission District(s): Districts 4 & 7

City of Pine Lake inclusion in the HUD Urban County designation for DeKalb County
for the three-year period beginning January 1, 2021 through December 31, 2023

Internal Notes:

Sponsors:

Enactment Date:

Attachments: Pine Lake (1)

Enactment Number:

Recommendation:

Hearing Date:

Entered by: bhcamp@dekalbcountyga.gov

Effective Date:

Related Files:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Committee of the Whole	07/07/2020	Accepted to the BOC agenda and assigned	PECS-Planning, Economic Development & Community Services Committee	07/21/2020	07/21/2020	
	Action Text:	This agenda item was Accepted to the BOC agenda and assigned to the PECS-Planning, Economic Development & Community Services Committee due back on 7/21/2020 .					
1	Board of Commissioners	07/14/2020	deferred to the next meeting	PECS-Planning, Economic Development & Community Services Committee	07/28/2020	07/21/2020	Pass

Action Text: MOTION was made by Kathie Gannon, seconded by Lorraine Cochran-Johnson, that this agenda item be deferred to the next meeting and assigned to the Planning, Economic Development & Community Services Committee (PECS), and return to the Board on July 28, 2020. Items 2020-0682 and 2020-0733 were heard together. The motion carried by the following vote:

Yes: 7 Commissioner Jester, Commissioner Rader, Commissioner Johnson, Commissioner Bradshaw, Commissioner Davis Johnson, Commissioner Gannon, and Commissioner Cochran-Johnson

1 PECS-Planning, 07/21/2020 recommended for Board of 07/28/2020 Pass
Economic Development approval. Commissioners
& Community Services
Committee

Action Text: MOTION was made by Lorraine Cochran-Johnson, seconded by Steve Bradshaw, that this agenda item be recommended for approval. to the Board of Commissioners, due back on 7/28/2020. The motion carried by the following vote:

Yes: 3 Chairperson Gannon, Member Bradshaw, and Member Cochran-Johnson

1 Board of Commissioners 07/28/2020 approved Pass

Action Text: MOTION was made by Kathie Gannon, seconded by Lorraine Cochran-Johnson, that this agenda item be approved. The motion carried by the following vote:

Yes: 7 Commissioner Jester, Commissioner Rader, Commissioner Johnson, Commissioner Bradshaw, Commissioner Davis Johnson, Commissioner Gannon, and Commissioner Cochran-Johnson

Text of Legislative File 2020-0682

Public Hearing: YES NO

Department: Community Development

SUBJECT:

Commission District(s): Districts 4 & 7

City of Pine Lake inclusion in the HUD Urban County designation for DeKalb County for the three-year period beginning January 1, 2021 through December 31, 2023

Information Contact: Allen Mitchell, Director

Phone Number: 404-371-2727

PURPOSE:

To consider approving the Cooperation Agreement with the City of Pine Lake to be included as a part of the HUD Urban County designation for DeKalb County for the three-year period beginning January 1, 2021 through December 31, 2023.

NEED/IMPACT:

The County is currently in the HUD Urban County requalification period for years 2021 through 2023. During this period, the County must notify each included unit of general local government of its right to elect to be included in or excluded from participation in the Urban County during each requalification

period.

The City of Pine Lake has elected to be included as a part of the Urban County designation for DeKalb County for the three-year period beginning January 1, 2021 through December 31, 2023.

FISCAL IMPACT:

No Cost to the County.

RECOMMENDATION:

To approve the Cooperation Agreement with the City of Pine Lake to be included as a part of the Urban County designation for DeKalb County for the three-year period beginning January 1, 2021 through December 31, 2023.

July 31, 2020

**INTERGOVERNMENTAL AGREEMENT FOR THE DISTRIBUTION AND USE
OF PROCEEDS FROM THE CORONAVIRUS RELIEF FUND**

THIS AGREEMENT is made and entered into this ___ day of July _____ August, 2020, by and between DeKalb County, a political subdivision of the State of Georgia (hereinafter the "County"), and the City of Avondale Estates, the City of Brookhaven, the City of Chamblee, the City of Clarkston, the City of Decatur, the City of Doraville, the City of Dunwoody, the City of Lithonia, the City of Pine Lake, the City of Stonecrest, the City of Stone Mountain, and the City of Tucker, municipal corporations of the State of Georgia (hereinafter collectively the "Municipalities" and, individually, as the context requires, "Municipality"). This Agreement does not include the City of Atlanta, ~~the portion of the City of Atlanta which is~~ located in DeKalb County, ~~which because the City of Atlanta received payment through the Coronavirus Relief Fund ("CRF") directly from the United States Treasury.~~

WITNESSETH:

WHEREAS, the parties to this Agreement consist of the County and the Municipalities;
and

WHEREAS, the County and the Municipalities seek to administer and distribute services and CRF proceeds in a collaborative manner to comprehensively combat the public health crises and economic impact of the coronavirus pandemic within the County's geographic area; and

WHEREAS, on April 24, 2020, the County received \$125,341,475 in CRF proceeds, which proceeds were based on the population of both incorporated and unincorporated areas of DeKalb County (except the City of Atlanta); and

WHEREAS, the CARES Act, H.R. 748, 116th Cong. § 5001 (2020) (the "Act"), authorizes local government recipients of CRF proceeds to transfer a portion of said proceeds to political subdivisions that lie within its geographical area, including cities, for necessary expenditures incurred due to the public health emergency, so long as said expenditures meet the criteria of the Act; and

WHEREAS, the County and the Municipalities have reviewed the Act and agreed upon a method to distribute CRF proceeds ~~so that payments to the Municipalities in a manner that accounts for annexations and new cities created after the most recent decennial census;~~ and

WHEREAS, the County and the Municipalities are authorized to enter into this Agreement pursuant to the Act and related guidance published by the Treasury Department; and

WHEREAS, the County and the Municipalities are authorized to enter into this Agreement by Georgia law, specifically including Article IX, Section III, Paragraph I of the Constitution of the State of Georgia.

NOW, THEREFORE, in consideration of the mutual promises and understandings made in this Agreement, and for other good and valuable consideration, the County and the Municipalities consent and agree as follows:

Section 1. Representations and Mutual Covenants

(A) The County makes the following representations and warranties which may be specifically relied upon by all parties as a basis for entering this Agreement:

- (i) The governing authority of the County is duly authorized to execute, deliver and perform this Agreement; and
- (ii) This Agreement is a valid, binding, and enforceable obligation of the County; and
- (iii) The County is retaining services from the Municipalities to administer and distribute ~~CFR-CRF~~ proceeds to ensure a collaborative and comprehensive approach to combating the public health emergency and resulting economic impact;
- (iv) The County and Municipalities intend to collaborate in making the necessary expenditures incurred due to the public health emergency and other criteria for use of CRF as described in the Act, without duplicating efforts.

(B) Each of the Municipalities, on its own behalf, makes the following representations and warranties, which may be specifically relied upon by all parties as a basis for entering this Agreement:

- (i) The governing authority of the Municipality is duly authorized to execute, deliver and perform this Agreement;
- (ii) This Agreement is a valid, binding, and enforceable obligation of the Municipality;
- (iii)

(iii) Each Municipality's projects funded by CRF proceeds are identified on the Municipality's corresponding list of projects in Attachment A, which is attached hereto and incorporated herein by this reference and are necessary expenditures incurred due to the public health emergency, were not accounted for in the budget most recently approved as of March 27, 2020 for the Municipality, and were incurred during the period that begins on March 1, 2020 and ends on December 30, 2020, and meets the other criteria for use of CRF as described in the Act shall comply with the requirements of the Act, as interpreted and clarifications issued by the United States Treasury Department's July 8, 2020 Frequently Asked Questions, found at <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Frequently-Asked-Questions.pdf>, and with the CRF Guidance for State, Territorial, Local, and Tribal Governments, dated June 30, 2020, found at <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance->

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for-State-Territorial-Local-and-Tribal-Governments.pdf, and any subsequent guidance issued by the Treasury Department.

- (iv) Each Municipality certifies compliance with ~~these eligible expenses the Act~~ as interpreted and clarified by the Treasury Department, by executing this Agreement;
- (v) Each Municipality shall administer and distribute CRF proceeds ~~to complete the above referenced projects~~ to complete the Municipality's portion of the County's collaborative and comprehensive approach to combating the public health emergency and resulting economic impact; and

Commented [BD1]: This carryover language from the SPLOST IGA really isn't applicable. There are no "projects."

- (C) It is the intention of the County and Municipalities to comply in all applicable respects with the Act.
- (D) The County and the Municipalities agree to maintain thorough and accurate records concerning their respective receipt and expenditure of CRF proceeds. Each Municipality agrees to maintain an accounting system integrated with adequate internal fiscal and management controls to capture and report ~~CFR-CRF~~ Funds data with accuracy, providing full accountability for revenues, expenditures, assets and liabilities. This system shall provide reasonable assurance that the Municipality is managing federal and state financial assistance programs in compliance with all applicable laws and regulations.

Section 2. Term

All CRF proceeds distributed to the Municipalities from the County must be expended by December 30, 2020 or a later date that is authorized by the Act and/or guidance issued by the Treasury Department. ~~Any CRF proceeds that are not expended by that date shall be immediately returned to the County.~~

Section 3. Effective Date and Term of this Agreement

This Agreement shall commence upon the date of its execution and shall terminate upon the later of December 30, 2020 ~~or an alternative date that is authorized by the Act.~~

Commented [BD2]: This doesn't make sense. The Act isn't going to tell the County and the Cities when the term of their agreement should end. To the extent we really need a term, I suggest we just make it December 31, 2021, which should provide more than sufficient time for all the moneys to be expended pursuant to the time frames required by the Act, as interpreted by the Treasury Department.

Section 4. County CRF; Separate Accounts; No Commingling

- (A) Each Municipality shall create a special fund ~~to be designated as the "municipality name"~~ to be designated as the "municipality name" Coronavirus Relief Fund. Each municipality shall select a bank with an office or branch physically located within DeKalb County which shall act as a depository and custodian of the CRF proceeds received by each Municipality upon such terms and conditions as may be acceptable to the Municipality.
- (B) All CRF proceeds shall be maintained by each Municipality in the separate accounts or funds established pursuant to this Section. CRF proceeds shall not be commingled with other funds of the Municipalities and shall be used exclusively for the purposes detailed in this Agreement. No funds other than CRF proceeds

Commented [BD3]: Need clarification from Law Department. The terms "funds" and "accounts" are used interchangeably and confusingly, but they are different accounting concepts.

July 31, 2020

and accrued interest shall be placed in such funds or accounts.

Section 5. Procedure for Disbursement of CRF Proceeds

- (A) Within ten (10) days of the effective date of this Agreement, the County shall disburse to the Municipalities the portion of the CRF proceeds received by the County that will be distributed to the Municipalities in the following agreed amounts shall be distributed to the Municipalities pursuant to the percentages of the overall amount received by the County as set forth below:

DRAFT

CARES Act Coronavirus Relief Fund - Allocation by City		
Recipient	Allocation \$	Pct of City Share
Avondale Estates	354,891	1.09%
Brookhaven	6,300,934	19.32%
Chamblee	3,437,420	10.54%
Clarkston	1,433,288	4.39%
Decatur	2,914,440	8.93%
Doraville	1,164,256	3.57%
Dunwoody	5,597,957	17.16%
Lithonia	264,382	0.81%
Pine Lake	85,519	0.26%
Stonecrest	6,227,098	19.09%
Stone Mountain	712,391	2.18%
Tucker	4,127,920	12.65%

- (B) Upon receipt by a Municipality of CRF proceeds, each Municipality shall immediately deposit said proceeds in a separate fund established by each government entity in accordance with Section 4 of this Agreement. The monies in each fund shall be held and applied in accordance with the Act, which includes oversight, auditing, and reporting, each Municipalities' respective expenses.
- (C) Within 30 days of receipt of funds under this Agreement, each recipient City shall provide by resolution or ordinance a proposed list of spending items to be funded from proceeds under this Agreement.
- (B)(D) Any and all funds distributed by the County pursuant to this Agreement shall be allocated or spent no later than December 1, 2020.

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Section 6. Audits and Records Retention

- (A) The County and each Municipality receiving CRF proceeds shall be responsible for the cost of their respective audits. All records and expenditures are subject to, and each Municipality agrees to comply with, monitoring, examinations, demand for documents, and/or audits conducted by any and all federal or County officials and auditors, including but not limited to, the U.S. Department of the Treasury Inspector General, the County, or their duly authorized representatives or designees. Each Municipality shall maintain adequate records that enable federal and County officials and auditors to ensure proper accounting for all costs and performances related to this Agreement.

Municipalities that expend \$750,000.00 or more of federal funds during their fiscal year are required to submit an organization-wide financial and compliance audit report. The audit must be performed in accordance with the Government Accountability Office's Government Auditing Standards, which may be accessed online at <http://www.gao.gov/govaud/ybk01.htm>, and in accordance with 2 C.F.R.

§200.514 Scope of Audit. Audit reports are currently due to the Federal Audit Clearinghouse no later than nine months after the end of the recipient's fiscal year. In addition, each such Municipality must submit the audit report to the County.

~~If required to submit an audit report under the requirements of 2 C.F.R. § 200(f), Municipalities shall provide the County with written documentation showing that it has complied with the single audit requirements. Each Municipality shall immediately notify the County in writing at any time that it is required to conduct a single audit and provide documentation within a reasonable time period showing compliance with the single audit requirement.~~

If any audit, monitoring, investigations, review of awards or other compliance review reveals any discrepancies, inadequacies or deficiencies which are necessary to correct in order to maintain compliance with this Agreement, applicable laws, regulations, or the Municipality's obligations hereunder, each Municipality agrees to comply with all applicable State and Federal audit requirements, including proposing and submitting to the County State a corrective action plan to correct such discrepancies or inadequacies within thirty (30) calendar days after the Municipality's receipt of the findings. The Municipality's corrective action plan is subject to the approval by the County.

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~~Each Municipality understands and agrees that the Municipalities must make every effort to address and resolve all outstanding issues, findings or actions identified by federal or County officials and auditors through the corrective action plan or any other corrective plan. Failure to address these findings promptly and adequately may result in other related requirements being imposed or other sanctions and penalties. Each Municipality agrees to complete any corrective action approved by the County within the time period specified by the County State and to the satisfaction of the County, at the sole cost of the Municipality. Each Municipality shall provide to the County periodic status reports, upon reasonable request, information regarding the Municipality's resolution of any audit, corrective action plan, or other compliance activity for which the Municipality is responsible that relates to the CRF proceeds.~~

- (B) Each Municipality shall maintain appropriate audit trails to provide accountability for all expenditures of grant funds, reporting measures, and funds received from the County under this Agreement. Audit trails maintained by the Municipalities will, at a minimum, identify the supporting documentation prepared by the Municipality to permit an audit of its accounting systems and payment verification with respect to the expenditure of any funds awarded under this grant agreement.

Each Municipality must maintain fiscal records and supporting documentation for all expenditures resulting from this grant agreement pursuant to 2 C.F.R. § 200.333 and state law. Each Municipality must retain these records and any supporting

documentation for a minimum of seven (7) years from the later of the completion of this project's public objective after final payment is made using CRF funds; submission of the final expenditure report; or any litigation, dispute or audit related to the CRF proceeds. Records related to real property and equipment acquired with CRF-~~CRF~~ funds must be retained for seven (7) years after final disposition. The County may direct the Municipality to retain documents for longer periods of time or to transfer certain records to the County or federal custody when it is determined that the records possess long term retention value in accordance with retention schedules approved by the County or the federal government.

Section 7. Repayment of Misused Funds

If the Federal Government, United States Treasury Department, and/or State of Georgia requires the repayment by the County of any of the CRF proceeds due to a violation of the Act by a Municipality, said Municipality acknowledges and hereby expressly grants the authority to the DeKalb County Tax Commissioner to unilaterally deduct the amount to be repaid from the ad valorem tax proceeds to be distributed to the Municipality, and is directed to forward that amount as directed by the County, at the County's sole discretion, directly to the Federal Government, United States Treasury Department, State of Georgia, or the County as full payment for the misused CRF proceeds. said Municipality shall immediately refund such sums as directed to either the County or to the United States Treasury, as directed by the applicable auditing agency.

Section 8. Notices

All notices, consents, waivers, directions, requests or other instruments or communications provided for under this Agreement shall be deemed properly given when delivered personally or sent by registered or certified United States mail, postage prepaid to the following addresses. The parties agree to give each other non-binding duplicate email notice. Future changes in address shall be effective upon written notice being given by the Municipality to the County Executive Assistant or by the County to the City Manager via certified first class U.S. mail, return receipt requested.

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DeKalb County:
Chief Executive Officer
Executive Assistant
DeKalb County, Georgia
1300 Commerce Drive
Decatur, Georgia 30030

City of Avondale Estates:
~~Mr. Clai Brown~~ Patrick Bryant
City Manager
21 N. Avondale Plz.
Avondale Estates, GA 30002-13

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With a copy to:

County Attorney
DeKalb County, Georgia
1300 Commerce Drive
Decatur, Georgia 30030

With a copy to:

Robert E. Wilson, Esq.
Wilson, Morton & Downs LLC
125 Clairmont Avenue, Ste. 420
Decatur, GA 30030

July 31, 2020

City of Brookhaven:

Mr. Christian Sigman
City Manager
4362 Peachtree Road
Brookhaven, GA 30319

City of Chamblee:

Jon Walker
City Manager
5468 Peachtree Road
Chamblee, GA 30341-2398

With copy to:

Chris Balch
Balch Law Group
1270 Carolina St., Suite D120-315830 Glenwood Ave., SE
Williams, P.A.
Suite 510-220
Atlanta, GA 3031607
Road, Suite 220

With copy to:

Joe L. Fowler
Fowler, Hein, Cheatwood &
2970 Clairmont Road, Suite 220
Atlanta GA 303292970 Clairmont
Atlanta, GA 30329

City of Clarkston:

Keith BarkerRobin Gomez
Arnold
City Manager
1055 Rowland Street
Clarkston, GA 30021-1711

City of Decatur:

Peggy MerrissAndrea
City Manager
509 N. McDonough Street
Decatur, GA 30030

With copy to:

Stephen G. Quinn
Wilson, Morton & Downs LLC
125 Clairmont Ave., Ste. 420
Decatur, GA 30030

With copy to:

Bryan Downs
Wilson, Morton & Downs LLC
125 Clairemont Ave., Ste. 420
Decatur, GA 30030

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City of Doraville:

Christopher Eldridge Regina Williams-Gates
Interim City Manager
3725 Park Avenue
Ashford Dunwoody Road
Doraville, GA 30340-1197

City of Dunwoody:

Eric Linton
City Manager
41 Perimeter Ctr. East, Suite 2504800
Dunwoody, GA 30346

With copy to:

Cecil C. McLendon, Esq.
3725 Park Avenue
2504800 Ashford Dunwoody Road

With copy to:

Cecil McLendon, Esq.
41 Perimeter Center East, Suite

July 31, 2020

Doraville, GA 30340

Dunwoody, GA 30346

City of Lithonia:

City of Pine Lake:

LaThaydra Sands Cheryl Foster

Valerie

Caldwell

City Administrator
6920 Main Street
Lithonia, GA 30058

City Manager
425462 Allgood Rd. Clubhouse Drive
Pine Lake, Georgia 30072

With copy to:

With copy to:

Winston A. Denmark, Esq.
Fincher Denmark LLC

Laurel E. Henderson Susan Moore
2367 N. Decatur Rd Sumner Meeker

LLC

8024 Fair Oaks Court 100 Hartsfield Center Parkway Decatur, GA 30030
Suite 400 14 East Broad Street
Jonesboro Atlanta, GA 30236 354 Newnan, GA 30263

City of Stone Mountain:

City of Stonecrest:

Ms. ChaQuias Miller Thornton
City Manager
875 Main Street
Stone Mountain, GA 30083

Michael C. Harris Plez Joyner
Deputy City Manager
3120 Stonecrest Blvd.
Stonecrest, GA 30038

With copy to:

With copy to:

Joe L. Fowler Jeffrey M. Strickland
Denmark, Esq. Thompson Kurrie, Jr.
Fowler, Hein, Cheatwood Jarrard & Davis, L.P.
Fincher Denmark LLC Coleman Talley LLP
222 Webb Street & Williams, P.A.
Parkway
Suite 400 3475 Lenox Road, NE, Suite 400
Cumming, GA 30040 2970 Clairmont Road, Suite 220
Atlanta, GA 30354 Atlanta, GA 30326
Atlanta, GA 30329

Winston A.

100 Hartsfield Center

City of Tucker:

Tami Hanlin
City Manager
4119 Adrian Street 1975 Lakeside Pkwy
Suite 350
Tucker, GA 30084

July 31, 2020

With copy to:

Brian Anderson
Anderson Legal Counsel
4119 Adrian Street
Tucker, GA 30084
1975 Lakeside Pkwy
Suite 350
Tucker, GA 30084

Section 9. Entire Agreement

This Agreement, including any attachments or exhibits, constitutes all of the understandings and agreements existing between the County and the Municipalities with respect to the distribution and use of the proceeds from the CRF. Furthermore, this Agreement supersedes all prior agreements, negotiations and communications of whatever type, whether written or oral, between the parties hereto with respect to distribution and use of said CRF. No representation oral or written not incorporated in this Agreement shall be binding upon the County or the Municipalities.

Section 10. Amendments

This Agreement shall not be amended or modified except by agreement in writing executed by the County and the Municipalities.

Section 11. Severability, Non-Waiver, Applicable Law, 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 provision of this Agreement require judicial interpretation, it is agreed that the arbitrator or 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.

Section 12. Compliance with Law

During the term of this Agreement, the County and each Municipality shall comply with all State and Federal law applicable to the use of the CRF proceeds, specifically including the Act.

Section 13. Defense and Hold Harmless

Each Municipality shall be responsible from the execution date or from the time of receipt of its share of the CRF ~~Proceeds~~proceeds, whichever shall be the earlier, for all injury or damage of any kind resulting from receipt or use of its share of the CRF ~~Proceeds~~proceeds. To the extent allowed by law, the Municipality shall defend and save harmless the County, its elected officials, officers, employees, agents and servants, hereinafter collectively referred to in this Section as "the County Officials," from and against all claims or actions based upon or arising out of any damage or injury (including without limitation any injury or death to persons and any damage to property) caused by or sustained in connection with the performance of this Agreement by the Municipality or by conditions created thereby or arising out of or any way connected with receipt or use of its share of the CRF ~~Proceeds~~proceeds under this Agreement, as well as all expenses incidental to the defense of any such claims, litigation, and actions. ~~Furthermore, the Municipality shall assume and pay for, without cost to the County Officials, the defense of any and all claims, litigation, and actions suffered through any act or omission of the Municipality, or any Subcontractor, or anyone directly or indirectly employed by or under the supervision of any of them.~~ Notwithstanding any language or provision in this Agreement, the Municipality shall not be required to indemnify or defend any County Official against claims, actions, or expenses based upon or arising out of the County Officials' sole negligence. As between the County Officials and the Municipality as the other party, the Municipality shall assume responsibility and liability for any damage, loss, or injury, including death, of any kind or nature whatever to person or property, resulting from any kind of claim made by Municipality's employees, agents, vendors, Suppliers or Subcontractors caused by or resulting from the Municipality's receipt and use of its share of the CRF proceeds under this Agreement, or caused by or resulting from any error, omission, or the negligent or intentional act of the Municipality, ~~its~~ vendors, Suppliers, or Subcontractors, or any of their officers, agents, servants, or employees. To the extent allowed by law, the Municipality shall defend and hold harmless the County Officials from and against any and all claims, loss, damage, charge, or expense to which they or any of them may be put or subjected by reason of any such damage, loss, or injury. The Municipality expressly agrees to provide a full and complete defense against any claims brought or actions filed against the County Officials, where such claim or action involves, in whole or in part, the Municipality's receipt and use of its share of the CRF proceeds, whether such claims or actions are rightfully or wrongfully brought or filed. ~~The County has the sole discretion to choose the counsel who will provide the defense.~~ No provision of this Agreement and nothing herein shall be construed as creating any individual or personal liability on the part of any elected official, officer, employee, agent or servant of the County, nor shall the Agreement be construed as giving any rights or benefits hereunder to anyone other than the parties to this Agreement. The parties' obligations pursuant to this Section shall survive any termination or expiration of this Agreement. In the event any Municipality undertakes any duty to defend the County under this Agreement, or if a Court or Arbitrator orders any Municipality to undertake defense of any such claim, such Municipality shall have the sole right and option to select and retain counsel to defend such claim or allegation and any counsel selected or chosen by the County, with the exception of the County Law Department, shall have no right or ability to look to such Municipality for payment of fees or expenses related to any litigation, claim, or other obligation.

The duties and obligations of the Municipalities under this Section shall only apply to the extent such duties and obligations are allowed by law. Nothing contained in this Agreement shall

July 31, 2020

be construed to be a waiver of a Municipality's sovereign immunity or any individual's qualified, good faith or official immunities. Ratification of this Agreement by a majority of a Municipality's City Council shall authorize its Mayor to execute this Agreement on behalf of such Municipality.

Section 14. Dispute Resolution

Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

- (A) Claims shall be heard by a single arbitrator, unless the claim amount exceeds \$500,000, in which case the dispute shall be heard by a panel of three arbitrators. Where the claim is to be heard by single arbitrator, the arbitrator shall be selected pursuant to the list process provided for in the Commercial Arbitration Rules unless the parties to the arbitration are able to select an arbitrator independently by mutual agreement. The arbitrator shall be a lawyer with at least 10 years of active practice in commercial law and/or local government law. Where the claim is to be heard by a panel of three arbitrators, selection shall occur as follows. Within 15 days after the commencement of arbitration, the Municipality or Municipalities party to the arbitration shall select one person to act as arbitrator and the County shall select one person to act as an arbitrator. The two selected arbitrators shall then select a third arbitrator within ten days of their appointment. If the arbitrators selected by the parties are unable or fail to agree upon the third arbitrator, the third arbitrator shall be selected by the American Arbitration Association. This third arbitrator shall be a former judge in the State or Superior Courts of Georgia or a former federal district judge.
- (B) The arbitration shall be governed by the laws of the State of Georgia, including the Rules of Evidence.
- (C) The standard provisions of the Commercial Rules shall apply.
- (D) Arbitrators will have the authority to allocate the costs of the arbitration process among the parties, but will only have the authority to allocate attorneys' fees if a particular law permits them to do so, specifically including O.C.G.A. § 9-15-14.
- (E) The award of the arbitrators shall be accompanied by a written opinion that includes express findings of fact and conclusions of law.

Section 15. No Consent to Breach

No consent or waiver, express or implied, by any party to this Agreement, to any breach of any covenant, condition or duty of another party shall be construed as a consent to or waiver of any future breach of the same.

July 31, 2020

Section 16. 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.

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July 31, 2020

IN WITNESS WHEREOF, the County and the Municipalities acting through their duly authorized agents have caused this Agreement to be signed, sealed and delivered for final execution by the County on the date indicated herein.

DEKALB COUNTY, GEORGIA

_____(SEAL)
MICHAEL L. THURMOND
Chief Executive Officer

ATTEST:

BARBARA SANDERS-NORWOOD, CCC
Clerk to the Board of Commissioners
and Chief Executive Officer

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM AND
LEGAL VALIDITY:**

ZACHARY L. WILLIAMS
Chief Operating Officer

VIVIANE H. ERNSTES
County Attorney

July 31, 2020

**CITY OF AVONDALE ESTATES,
GEORGIA**

Attest:

(SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM AND
LEGAL VALIDITY:**

City Manager

City Attorney

DRAFT

July 31, 2020

CITY OF BROOKHAVEN, GEORGIA

Attest:

_____(SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM;
AND LEGAL VALIDITY:**

City Manager

City Attorney

R

F

July 31, 2020

CITY OF CLARKSTON, GEORGIA

Attest:

(SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney

DATA

July 31, 2020

CITY OF DECATUR, GEORGIA

Attest:

_____(SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney

REF

July 31, 2020

CITY OF DORAVILLE, GEORGIA

Attest:

_____(SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney

REF

July 31, 2020

CITY OF DUNWOODY, GEORGIA

Attest:

_____(SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney

DATA

July 31, 2020

CITY OF LITHONIA, GEORGIA

Attest:

_____(SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney

RR

July 31, 2020

CITY OF PINE LAKE, GEORGIA

Attest:

_____(SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney

DRAFT

July 31, 2020

**CITY OF STONE MOUNTAIN,
GEORGIA**

Attest:

_____(SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney

DRAFT

CITY OF STONECREST, GEORGIA

Attest:

_____(SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney

CITY OF TUCKER, GEORGIA

Attest:

_____(SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney