



## CITY OF STONECREST, GEORGIA

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*Honorable Mayor Jason Lary, Sr.*

*Council Member Jimmy Clanton, Jr. – District 1*

*Council Member Rob Turner- District 2*

*Council Member Jazzmin Cobble – District 3*

*Council Member George Turner- District 4*

*Council Member Tammy Grimes – District 5*

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### CITY COUNCIL SPECIAL CALLED MEETING AGENDA

VIRTUAL MEETING

AUGUST 28, 2020

6:00 p.m.

- I. CALL TO ORDER**
- II. ROLL CALL:** Megan Reid, City Clerk
- III. AGENDA ITEMS**
  - a. **Housing Authority IGA** (page 002-007)
  - b. **COVID-19 Agreement- Stonecrest Cares** (page 008-013)
  - c. **Executive Session**
    - i. **Real Estate Matters**
    - ii. **Litigation**
- IV. ADJOURNMENT**

**INTERGOVERNMENTAL AGREEMENT  
FOR THE PROVISION OF ADMINISTRATIVE SERVICES  
BETWEEN  
THE STONECREST HOUSING AUTHORITY and  
THE CITY OF STONECREST, GEORGIA**

THIS INTERGOVERNMENTAL AGREEMENT is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2020, between the City of Stonecrest, Georgia ("City"), a municipal corporation, and the Stonecrest Housing Authority ("Housing Authority").

**WHEREAS**, the City of Stonecrest is a municipality created by the 2016 Georgia General Assembly pursuant to Senate Bill 208 (hereinafter referred to as "SB 208"); and

**WHEREAS**, the City of Stonecrest elected to create the Housing Authority in order to serve the citizens of the City of Stonecrest; and

**WHEREAS**, the City and the Housing Authority desire to maintain a mutually beneficial, efficient and cooperative relationship that will promote the interests of the citizens; and

**WHEREAS**, the Housing Authority desires to contract with the City to conduct all the administrative services for the Housing Authority and to provide a location for its public meetings pursuant to the applicable laws of the State of Georgia.

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

**ARTICLE 1  
TERM OF AGREEMENT**

This Agreement shall commence on the date that it is executed by or on behalf of the governing authority of the City, will renew on an annual basis, and will terminate as set forth herein.

**ARTICLE 2  
DUTIES AND RESPONSIBILITIES**

Pursuant to this Agreement, the City shall provide the personnel, materials, supplies, equipment and facilities to perform the enumerated services (the "Services"):

2.1 The City shall be responsible for maintaining and storing the Public Records of the Housing Authority. "Public Records" shall have the same meaning as defined in O.C.G.A. § 50-18-70(b)(2). The City shall be responsible for retaining the Public Records in accordance with the applicable retention schedules under state law. The City shall provide all software, products, and other administrative services required to maintain and store the Public Records of the Housing Authority.

2.2 The City shall process all open records requests pursuant to O.C.G.A. § 50-18-70 *et seq.* The City Clerk shall serve as the designated records custodian for open record requests for Public Records of the Housing Authority. The City shall be authorized to charge and retain fees authorized by O.C.G.A. § 50-18-71.

2.3 The City shall provide space within City Hall or other City property for the Housing Authority to conduct Public Meetings, as that term is defined under O.C.G.A. § 50-14-1. The City and Housing Authority will confer prior to scheduling meetings for the Housing Authority to ensure sufficient space is available. The City 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. The City Clerk or her designee shall attend the meetings and record the proceedings thereof.

2.4 The City shall be responsible for preparing for the review by the Housing Authority Attorney and for its execution and filing by the Housing Authority any financial reporting documents for the Housing 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).

2.5 The City shall name the Housing Authority as an additional insured under its general liability policies.

**ARTICLE 3  
COMPENSATION AND CONSIDERATION**

In consideration for the City performing the Services, the Housing Authority shall pay the City on each December 31 during the Term the greater of One Thousand and no/100 Dollars (\$1,000) or ten percent (10%) of the issuer fees collected by the Housing Authority during the calendar year then ended.

**ARTICLE 4  
LEGAL RESPONSIBILITIES**

4.1 The Housing Authority shall be solely responsible for any liability resulting from any claims or litigation arising from or pertaining to its actions, except claims or litigation regarding the City’s responsibilities and its provision of Services under Article 2 and claims or litigation regarding the acts of agents or employees of the City in connection with this Agreement. The City agrees to reimburse the Housing Authority for all costs, including, but not limited to, court costs and attorney fees for the Housing Authority’s attorney or outside counsel, incurred by the Housing Authority as a result of any such claim or litigation, except claims or litigation regarding the acts of agents or employees of the Housing Authority.

4.2 It is the intent of the parties to be covered under the auspices of any applicable immunity granted by law.

**ARTICLE 5  
EMPLOYMENT STATUS**

All City personnel assigned under this Agreement are and will continue to be employees of the City 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.

**ARTICLE 6  
TERMINATION AND REMEDIES**

This Agreement shall be for a period of five (5) years from the date hereof. Either party may unilaterally terminate this Agreement, in whole or in part, for any reason whatsoever by notice in writing to the other party delivered at least one hundred twenty (120) days prior to the effective date of the termination. All fees payable for any year having less than 12 months during the Term shall be prorated.

**ARTICLE 7  
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 notice. Future changes in address shall be effective upon written notice being given by the City or the Housing Authority via certified first-class U.S. mail, return receipt requested. Notices shall be addressed to the parties at the following addresses:

If to the City:  
City of Stonecrest, Georgia  
3120 Stonecrest Blvd.  
Stonecrest, GA 30038  
Attention: Mayor

with copy to:

Fincher Denmark LLC  
100 Hartsfield Centre Parkway, Suite 400  
Atlanta, GA 30354  
Attention: Winston Denmark

If to the Housing Authority:  
Chairman, Stonecrest Housing Authority  
c/o City Clerk  
3120 Stonecrest Blvd.  
Stonecrest, GA 30038

With a copy to:

Coleman Talley LLP  
3475 Lenox Road N.E., Suite 400  
Atlanta, Georgia 30326  
Attention: Housing Authority Attorney

**ARTICLE 8  
NON-ASSIGNABILITY**

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

**ARTICLE 9  
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 Housing Authority. All parties must sign any subsequent changes in the Agreement.

**ARTICLE 10  
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 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 11  
BINDING EFFECT**

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

**ARTICLE 12  
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 FOLLOW ON NEXT PAGE]**

**IN WITNESS WHEREOF**, the City and Housing Authority have executed this Agreement through their duly authorized officers on the day and year first above written.

**CITY OF STONECREST HOUSING AUTHORITY, GEORGIA**

By: \_\_\_\_\_  
Name: William Bruckner  
Its: Chairman

**CITY OF STONECREST, GEORGIA**

\_\_\_\_\_ (SEAL)  
**JASON LARY, SR.**  
Mayor

**ATTEST:**

\_\_\_\_\_  
**CITY CLERK**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**CITY ATTORNEY**

## COMMERCIAL LEASE AGREEMENT

This Lease Agreement (this "Lease") is dated as of August \_\_\_\_\_, 2020, by and between the City of Stonecrest, Georgia ("Landlord"), and DeKalb County Board of Health (DCBOH) ("Tenant"). The parties agree as follows:

### PREMISES

Landlord, in consideration of the lease payments provided in this Lease, leases to Tenant full access to the front parking lot of the Property as shown in Exhibit "A" attached hereto and incorporated by reference herein. Access to the Building is limited daily for storing of supplies at the end of the day. Access to the Building may be granted for times during inclement weather conditions where a designated City of Stonecrest employee will open Building for access. Access shall be granted from the entrance on Stonecrest Parkway (the "Premises") located at 2994 Turner Hill Rd. Stonecrest, Georgia 30038 and other designated entrances for traffic flow.

### TERM

The lease term will begin on \_\_\_\_\_, 2020, and will terminate on December 11, 2020.

### LEASE PAYMENTS

Tenant shall pay to Landlord monthly installments of \$1.00, payable in advance on the first day of the month. Lease payments shall be made to the Landlord at 3120 Stonecrest Blvd, Stonecrest, Georgia, 30038. The payment address may be changed from time to time by the Landlord.

### POSSESSION

Tenants shall be entitled to possession on the first day of the term of this Lease and shall yield possession to Landlord on the last day of the term of this Lease, unless otherwise agreed by both parties, in writing. At the expiration term, Tenant shall remove its goods and effects and peaceably yield up the Premises to Landlord in as good a condition as when delivered to Tenant, ordinary wear and tear is accepted.

### USE OF PREMISES

Tenant may use the Premises only as a COVID-19 testing site. DCBOH shall setup, at its sole cost and expense, all testing tents, provide for all security with DeKalb County Police, all required traffic control into and out of the Property as a COVID-19



testing site. DCBOH shall promptly remove all tents, debris, and equipment from the Property upon the termination of the Lease Agreement. DCBOH shall provide its own power. Landlord shall provide on-site restrooms to works at the property. The Premises may be used for any other purpose only with the prior written consent of the Landlord, which shall not be unreasonably withheld. Tenant shall notify Landlord of any anticipated extended absence from the Premises no later than the first day of the extended absence.

## **PARKING**

Tenant shall be entitled to use the majority of parking spaces for the parking of the Tenant's customers/guests as it related to the COVID-19 Drive-Through Testing Site. The Landlord thereby reserves a small portion of the parking lot to be used for a few city events allowing for 1 ½ lanes at the far right of the entrance.

## **LIABILITY INSURANCE AND INDEMNIFICATION**

Tenant shall maintain liability insurance in a total aggregate sum of at least \$1,000,000. Tenant shall deliver appropriate evidence to Landlord as proof that adequate insurance is in full force issued by companies reasonably satisfactory to Landlord. Landlord shall receive written notice from insurer prior to termination of such insurance policies. Tenant shall, to the extent allowed by Law, indemnify and hold Landlord, its agents, officers and employees, harmless for any claims related to the activities of Tenant on the Property, including, but not limited to, any claims related to COVID-19 testing, infection or transmission.

## **MAINTENANCE**

Landlord's obligation for maintenance shall include all other items of maintenance not specifically delegated to the Tenant under this Lease.

Tenant's obligation for maintenance shall include the daily cleaning of the parking lot, driveways, and sidewalks.

## **TERMINATION UPON SALE OF PREMISES**

Notwithstanding any other provision of this Lease, Landlord may terminate this lease upon 15 days' written notice to Tenant that the Premises have been sold.

## **DEFAULTS**

Tenant shall be in default of this Lease if Tenant fails to fulfill any lease obligation or term of the Tenant. Subject to any governing provisions of law to the contrary, if Tenant fails to cure any financial obligation within 5 days (or other obligations within 10 days) after written notice of such default is provided by Landlord to Tenant, Landlord may take possession of the Premises without further notice (to the extent permitted by law), and without prejudicing Landlord's rights to damages. In the alternative, Landlord may elect to cure any default and the cost of such action shall be added to Tenant's financial obligations under this Lease. Tenant shall pay all costs, damages, and expenses (including reasonable attorney fees and expenses) suffered by Landlord by reason of Tenant's defaults. All sums of money or charges required to be paid by Tenant under this Lease shall be additional rent, whether or not such sums or charges are designated as "additional rent". The rights provided by this paragraph are cumulative in nature and are in addition to any rights afforded by law.

## **CUMULATIVE RIGHTS**

The rights of the parties under this Lease are cumulative and shall not be constructed as exclusive unless otherwise required by law.

## **ACCESS BY LANDLORD TO PREMISES**

Subject to Tenant's consent (which shall not be unreasonably withheld), Landlord shall have the right to enter the Premises to make inspections, provide necessary services, or show the unit to prospective buyers, mortgages, tenants or workers. However, Landlord does not assume any liability for the care or supervision of the Premises. As provided by law, in case of an emergency, Landlord may enter the Premises without Tenant's consent. During this Lease, or any extension of this Lease, Landlord shall be allowed to display the usual leasing signs and show the Premises to prospective clients or vendors.

## **DANGEROUS MATERIALS**

Tenant shall not keep or have on the Premises any article of thing of a dangerous, flammable, or explosive character that might substantially increase the danger of fire on the Premises, or that might be considered hazardous by a responsible insurance company unless the prior written consent of Landlord is obtained and proof of adequate insurance protection is provided by Tenant to Landlord.

## **COMPLIANCE WITH REGULATIONS**

Tenant shall promptly comply with all laws, ordinances, requirements and regulations of the federal, state, county, municipal, and other authorities, and the fire insurance underwriters. However, Tenant shall not by this provision be required to make alternations to the exterior of the building or alterations of a structural nature to the property unless it is agreed by the Landlord. Changes to the design of drive through tents or signage or temporary structures to the parking lot are hereby authorized.

**ASSIGNABILITY/SUBLETTING**

Tenant may not assign or sublease any interest in the Premises, not effect a change in the majority ownership of the Tenant (from the ownership existing at the inception of this lease), nor assign, mortgage or pledge this Lease, without the prior written consent of Landlord.

**NOTIFICATION**

All notices or other communications required or permitted to be given under this Lease Agreement shall be in writing and shall be deemed to have been duly given when delivered personally in hand, or when mailed by certified or registered mail, return receipt requested with proper postage prepaid, addressed to the appropriate party at the following addresses:

If to DCBOH:  
(Tenant)                      Dianne McWethy  
                                         Division Director, Administration  
                                         DeKalb County Board of Health  
                                         445 Winn Way, P.O. Box 987  
                                         Decatur, GA 30031

If to Landlord:                The City of Stonecrest, Georgia  
                                         Jason Lary, Mayor  
                                         3120 Stonecrest Boulevard  
                                         Stonecrest, Georgia 30038

Such addresses may be changed from time to time by any party by providing notice as set forth above. Notice mailed in accordance with the above provisions shall be deemed received on the third day after posting.

**GOVERNING LAW**

This Lease shall be construed in accordance with the laws of the State of Georgia.

**ENTIRE AGREEMENT/AMENDMENT**

This Lease Agreement contains the entire agreement of the parties and there are no other promises, conditions, understandings or other agreements, whether oral or written, relating to the subject matter of this Lease. This Lease may be modified or amended in writing, if the writing is signed by the party obligated under the amendment.

**SEVERABILITY**

If any portion of this Lease shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Lease is invalid or unenforceable, but that by limiting such provision, it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

**WAIVER**

The failure of either party to enforce any provisions of this Lease shall not be construed as a waiver of that party's rights to subsequently enforce and compel strict compliance with every provision of this Lease.

**BINDING EFFECT**

The provisions of this Lease shall be binding upon and inure to the benefit of both parties and their respective legal representatives, successors, and assigns.

*SIGNATURES FOLLOW*

In agreement hereto, representatives of the agreeing Parties, The City of Stonecrest, Georgia and DeKalb County Board of Health, affix their signatures below:

**The City of Stonecrest**

**DeKalb County Board of Health**

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Jason Lary  
Mayor

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S. Elizabeth Ford, M.D., M.B.A.  
District Health Director

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Date

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Date

Attest:

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Dianne McWethy  
Division Director, Administration