



CALL TO ORDER: Mayor Millirons or Mayor Pro Tem Slaton
PLEDGE OF ALLEGIANCE: All
INVOCATION:

1. **APPROVAL OF MEETING AGENDA:**

(Agenda Item 09-11-41)
To add or remove items from the Agenda.

2. **CONSENT AGENDA:**

(Agenda Item 09-11-42)
1. Approval of Minutes from the October 27, 2009 Regular Meeting.

3. **REPORTS AND PRESENTATIONS:**

1. Swearing in of Ronald Freeman, Sr. as Municipal Court Judge
(Performed by Mayor or Mayor Pro Tem)
2. Presentation of a Proclamation declaring the month of November 2009 as Georgia Family Month in the City of Morrow. (To be presented by Mayor or Mayor Pro Tem)

4. **FIRST PRESENTATION:**

None at this time

5. **OLD BUSINESS:**

- (Agenda Item 09-10-38)
1. Approval of an Ordinance to Levy the Hotel/Motel Tax at the Rate of Eight Percent; To Repeal prior Levies; To Amend Provisions consonant with State Law; To Provide for an Effective Date; and for other purposes.
(This is a 2nd reading)

6. **NEW BUSINESS:**

(Agenda Item 09-10-40)

1. Approval of an Intergovernmental Contract between the City of Morrow and Morrow Downtown Development Authority for the Transfer of Real Estate, Old Waffle Palace Property located at 1442 Southlake Parkway, Morrow, Georgia, 30260 and as more particularly described or shown on Exhibit "A" attached hereto.

7. **COMMENTS:**

Citizens-
City Manager-
Mayor and Council –

8. **ADJOURNMENT:**

PROCLAMATION

WHEREAS: The state of Georgia recognizes the family as the fundamental unit of society and an essential part of the cultural, social and spiritual fabric that comprises our communities; and

WHEREAS: Throughout Georgia's history, families have been the foundation of our society and a source of stability and love for every generation; and

WHEREAS: Strong families teach children to live moral lives and help us pass down the values that define a caring society. Families provide children with the encouragement, support and love they need to become confident, compassionate and successful members of society; and

WHEREAS: Upholding the timeless values that have sustained our social order throughout history will result in the enhancement of the health and security of Georgia's families; and

WHEREAS: Spending more family time together facilitates the development of positive and open relationships between parents and children. These relationships help parents encourage their children to make positive choices; now

THEREFORE: WE, THE MAYOR AND COUNCIL OF THE CITY OF MORROW, GEORGIA, do hereby proclaim November 2009, as FAMILY MONTH in the City of Morrow and urge all citizens to spend quality time with family members to strengthen relationships between parents and children.

In witness thereof, I have hereunto set my hand this 9th Day of November, 2009.

Virlyn Slaton, Mayor Pro Tem

CITY OF MORROW

1500 Morrow Road
Morrow, GA 30260

CITY COUNCIL AGENDA ITEM

TO: City Council

DATE: November 5, 2009

FROM: City Manager

AGENDA ITEM:

Approval of an Ordinance to Levy the Hotel/Motel Tax at the Rate of Eight Percent; To Repeal prior Levies; To Amend Provisions consonant with State Law; To Provide for an Effective Date; and for other purposes.

MEETING DATE: Monday, November 9, 2009

Supporting Documentation – see attached

APPROVAL BY CITY MANAGER: APPROVED NOT APPROVED

CITY ATTORNEY APPROVAL REQUIRED: YES NO

CITY ATTORNEY REVIEW REQUIRED: YES NO

APPROVAL BY CITY ATTORNEY APPROVED NOT APPROVED

PLACED ON AGENDA FOR: APPROVAL AND ADOPTION

REMARKS:

STATE OF GEORGIA
COUNTY OF CLAYTON

ORDINANCE NO. _____

AN ORDINANCE TO LEVY THE HOTEL/MOTEL TAX AT THE RATE OF EIGHT PERCENT; TO REPEAL PRIOR LEVIES; TO AMEND PROVISIONS CONSONANT WITH STATE LAW; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

BE IT ORDAINED by the Mayor and Council of the City of Morrow, Georgia, and by the authority thereof that:

Section 1. Section 3-2-21 of the Code of Ordinances of the City of Morrow, as amended, is further amended, by deleting Paragraph (8) in its entirety and inserting the following in lieu thereof:

“(8) Permanent resident. Any occupant as of a given date who has or shall have occupied, or has or shall have the right of occupancy, of any guest room in a hotel or motel for at least thirty (30) consecutive days next preceding the given date; provided that state and local government officials and employees traveling on official governmental business shall be considered permanent residents pursuant to O.C.G.A. § 48-13-51(g)(3).”

Section 2. Section 3-2-22 of the Code of Ordinances is repealed in its entirety and the following section inserted in lieu thereof:

“(a) There is hereby levied and imposed an excise tax on any person or legal entity licensed by or required to pay a business or occupation tax to the City of Morrow for operating a hotel, motel, inn, lodge, tourist camp, tourist cabin, campground, or any other place in which rooms, lodgings, or accommodations are regularly furnished for value at a tax at the rate of eight percent (8%) of the lodging charges actually collected from the hotel or motel guest and who receives a room, lodging, or accommodation that is subject to the tax. The City’s prior levy of a six percent (6%) occupancy tax is hereby repealed as of July 1, 2010; provided that such repeal shall not affect any existing liability for amounts still due and owing by operators and the City retains the right to full payment of those outstanding obligations along with any applicable interest and penalties.

(b) The proceeds of this tax shall be used and applied in accordance with O.C.G.A. § 48-13-51(b). Specifically, the allocations of the eight percent (8%) levy shall be as follows: 3% for general city operations; 3 ½% for the purpose of promoting tourism, conventions and trade shows; 1% for the purpose of dispensing information about the qualities of the City and promoting business in the municipality and to pay for the Morrow Visitors' Center bond; and ½% devoted to tourism product development, such amount to be divided through the annual budget and allocated among Olde Town Morrow and the Morrow Conference Center. Sums devoted to promoting tourism, conventions and trade shows shall be administered through the Morrow Business and Tourism Association pursuant to its contract with the City of Morrow and in accordance with the budget established by MBTA and approved by the City in its annual budget process."

Section 3. The provisions of Section 3-2-24 are amended by changing "the first ten days of continuous occupancy" in line 5 to "the first 30 days of continuous occupancy."

Section 4. The provisions of Section 3-2-26(a) are amended by changing the title "City Clerk" to "City Finance Director."

Section 5. The provisions of Section 3-2-26(c) are amended by deleting the language of that subsection in its entirety and inserting the following in lieu thereof:

"(c) Operators collecting a tax shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting, and payment of the tax due, only if the amount is not delinquent at the time of payment. The rate of deduction shall be 3% of the amount due."

Section 6. The provisions of Section 3-2-27(a) are deleted in their entirety and the following is inserted in lieu thereof:

"(a) If the City Finance Director is not satisfied with the return or returns of the tax or the amount of the tax required to be paid to the City by any person, he may compute and determine the amount required to be paid upon the basis of any information within his possession or that may come into his possession and shall report such discrimination to the governing authority for confirmation. One or more deficiency determinations may be made of the amount due for one or more monthly periods."

Section 7. Section 3-2-28(a) is amended by deleting the language of that paragraph in its entirety and inserting the following in lieu thereof:

“(a) If any person fails to make a return, the City Finance Director shall make an estimate of the amount of the gross receipts of the person, or as the case may be, of the amount of the total rentals in the City which are subject to the tax. The estimate shall be made for the period or periods in respect to which the person fails to make the return and shall be based upon any information which is or may come into the possession of the City’s Finance Director. Such determination shall be reported to and confirmed by the governing authority. Written notice of the determination shall be given in a manner prescribed in Section 3-2-27(c).”

Section 8. Section 3-2-28 is amended by adding a new Paragraph (c) thereto which shall read as follows:

“(c) In addition to the interest provided for by Subsection (b) of this Section, delinquent penalties shall be added to all unpaid balances at the rates prescribed by O.C.G.A. § 48-13-58.”

Section 9. Section 3-2-30 of said Code is further amended, by deleting the language of that Section in its entirety and inserting the following in lieu thereof:

“(a) Any person responsible for reporting, return or payment of the taxes levied pursuant to this Article shall be punished as provided in O.C.G.A. § 48-13-58.1 through § 48-13-63. In the event any such person is in violation of any of the provisions of this Article that are not otherwise covered by state law then, upon conviction, such person shall be deemed guilty of an offense and shall be punished in Municipal Court to the extent of that Court’s authority.”

(b) Such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Article is committed, continued, or permitted by that person, and shall be punished accordingly. Any operator or any other person who fails to register as required herein, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the City, or who renders a false or fraudulent return shall be deemed guilty of an offense and upon conviction thereof shall be punished as aforesaid.”

Section 10. Section 3-2-31(a) of said Code shall be further amended by deleting the language of that Paragraph in its entirety and inserting the following in lieu thereof:

“(a) At any time within three (3) years after any tax or any amount of tax required to be collected becomes due and payable, and at any time within three (3) years after the delinquency of any tax or any amount of tax required to be collected under this Article, the City may bring an action in a court of competent jurisdiction to collect the amount delinquent, together with the interest, court fees, filing fees, attorneys’ fees and other legal fees incident thereto.”

Section 11. This Ordinance is contingent upon adoption of a Local Act by the Georgia General Assembly during its 2010 Legislative Session authorizing imposition of a Hotel/Motel Tax by the City of Morrow at the rate of eight percent (8%). In the event that the General Assembly fails to pass such local legislation as required by O.C.G.A. § 48-13-50, et seq., then this Ordinance shall be null and void and the previous tax levied at the rate of six percent (6%) shall continue in operation.

Section 12. Provided the General Assembly enacts the Local Act authorizing the City of Morrow to levy the tax at the rate of eight percent (8%), then such eight percent (8%) levy shall be effective as of July 1, 2010, and shall continue from year to year thereafter.

Section 13. All taxes imposed by the City of Morrow pursuant to the six percent (6%) levy last amended by Ordinance # 2005-04 adopted June 28, 2005, shall remain valid obligations payable to the City. Nothing in this Ordinance shall relieve the operator of any hotel or motel in this City from complying with the six percent (6%) levy and making return and full payment thereof.

So Ordained this 9th day of November, 2009.

Jim Millirons, Mayor

ATTEST:

Evyonne Browning, City Clerk

APPROVED AS TO FORM

Laurel E. Henderson, City Attorney

CITY OF MORROW

1500 Morrow Road
Morrow, GA 30260

CITY COUNCIL AGENDA ITEM

TO: City Council

DATE: November 5, 2009

FROM: City Manager

AGENDA ITEM:

Approval of an Intergovernmental Contract between the City of Morrow and Morrow Downtown Development Authority for the Transfer of Real Estate, Old Waffle Palace Property located at 1442 Southlake Parkway, Morrow, Georgia, 30260 and as more particularly described or shown on Exhibit "A" attached hereto.

MEETING DATE: Monday, November 9, 2009

Supporting Documentation – see attached

APPROVAL BY CITY MANAGER: () **APPROVED** () **NOT APPROVED**

CITY ATTORNEY APPROVAL REQUIRED: () **YES** () **NO**

CITY ATTORNEY REVIEW REQUIRED: () **YES** () **NO**

APPROVAL BY CITY ATTORNEY: () **APPROVED** () **NOT APPROVED**

PLACED ON AGENDA FOR: APPROVAL AND ADOPTION

REMARKS:

STATE OF GEORGIA
CITY OF MORROW

**INTERGOVERNMENTAL CONTRACT BETWEEN THE CITY OF MORROW
AND MORROW DOWNTOWN DEVELOPMENT AUTHORITY
FOR TRANSFER OF REAL ESTATE**

COME NOW the Parties to this Agreement, the City of Morrow, Georgia ("City"), a municipal corporation organized under the laws of the State of Georgia and the Morrow Downtown Development Authority ("DDA") created by resolution of the Mayor and Council of the City pursuant to O.C.G.A. § 36-42-1, et seq., who enter into this Agreement governing the transfer of certain properties to the DDA; the financial obligations assumed by DDA as a result of such transfers; and for other purposes. The City and DDA are each a "Party" to this Agreement and may be collectively referred to as "Parties."

WHEREAS, the City has over time acquired a number of properties either through subdivision of parcels originally obtained for public purposes and/or acquisition of properties for the purposes of redevelopment in accordance with the City's Urban Redevelopment Plan; and

WHEREAS, the DDA was established by the City to spearhead redevelopment efforts in the City and to serve as a catalyst for redevelopment of older areas of the City through a combination of public and private investment; and

WHEREAS, the City has expended a total of \$28,457,011 in capital expenditures, property purchases, and advances to DDA between January 1, 2006 and October 23, 2009, the purpose of which has been to stimulate redevelopment in the City; and

WHEREAS, on November 6, 2007, the City sold to DDA the former Macy's building at Southlake Mall, the purchase of which was financed by DDA through the issuance of a \$10,000,000 bond which was refinanced in 2008 and remains outstanding; and

WHEREAS, as of October 27, 2009, the City has advanced to DDA a total of \$2,734,371.23 ["The Reimbursement Account"], most of which has gone toward the City's guarantee of DDA's bond payments on the \$10,000,000 bond issue; and

WHEREAS, the Reimbursement Account balance will fluctuate with additional advances to and reimbursements from DDA while the DDA works toward self-sufficiency; and

WHEREAS, the City continues to staff the DDA operations at City expense and anticipates continuing to underwrite staff costs in the near future until DDA can become self-sustaining; and

WHEREAS, the City has, through October 23, 2009 expended \$4,130,437 toward Olde Morrow Infrastructure, \$1,722,167 for the Olde Morrow Bridge, \$3,105,193 for moving and reconstruction of historic structures at Olde Morrow; and \$1,335,856 on the Olde Morrow shops for a total expenditure through October 23 of \$8,957,797 toward the Olde Morrow project, exclusive of land acquisition; and

WHEREAS, the City has received reimbursement of some development monies expended through SPLOST proceeds (Olde Morrow shops) and DOT condemnation (Waffle Palace property); and

WHEREAS, the City is desirous of transferring certain properties in its possession to the DDA so that those properties can contribute toward the DDA's redevelopment efforts; and

WHEREAS, the City seeks as a condition of such transfer that proceeds from the sale, or rental prior to sale, of such properties shall be utilized as provided in this Agreement, to support outstanding bond issues, to fully pay off the Reimbursement Account, and for other legitimate public purposes.

The City and DDA agree to the following terms:

Section 1. The City shall convey to DDA by warranty deed or by such other form of deed as the attorney closing the transfer deems appropriate, the following properties:

- a. Old Waffle Palace Property located at 1442 Southlake Parkway, Morrow, Georgia, 30260, and as more particularly described or shown on Exhibit A hereto;
- b. The Shopping Center Property located at 6221 to 6233 Highway 54, Morrow, Georgia 30260, as more particularly described on Exhibit B hereto, including a perpetual easement of right-of-way reserved to the City;
- c. The Young Property consisting of multiple buildings presently designated as 5950 Highway 54, 5900 Northlake Drive, 5948 Highway 54, and 5936 Highway 54, Morrow, Georgia, 30260, and as more particularly described on Exhibit C hereto;

Section 2. The Shopping Center Property and the Young Property are currently occupied by a variety of tenants who are identified, with their rental rates, on Exhibit D attached hereto. The City hereby transfers, conveys and assigns all rights and interest it has under any leases with the tenants identified in Exhibit D to the DDA, which shall assume all obligations and liabilities of the Lessor from the date of deed conveyance.

Section 3. The closing on the transfer of properties identified in Section 1 shall be performed by a licensed attorney authorized to bind title insurance as soon as practicable after the approval of this Agreement by the City and DDA. Time is of the essence in this Agreement.

Section 4. As owner of the properties identified in Section 1, DDA has discretion to continue management of the properties or to sell the properties; provided the sale of any property must be made for no less than fair market value as determined by current appraisal completed or updated within 60 days of such sale by an appraiser licensed by the State of Georgia to perform that service with no less than five (5) years' commercial appraisal experience.

Section 5. DDA shall prepare and update on a semi-annual basis, an operating budget of projected income and expenses, for all properties transferred under Sections 1 and 8 of this Agreement, and shall provide a copy of such operating budget to the City to assist the City in estimating DDA's cash needs and projecting the City's cash flow requirements in supporting DDA.

Section 6. All proceeds from a subsequent sale by DDA of any properties transferred under Section 1 of this Agreement shall be dedicated in their entirety to the payment of interest and outstanding principal of the Ten Million Dollar (\$10,000,000.00) Downtown Development Authority of the City of Morrow, Georgia, Revenue Refunding Bond (Conference Center Project) Series 2008 ("Conference Center Bond") and repayment in full of any outstanding balance in the Reimbursement Account. Once the Conference Center Bond has been retired and the Reimbursement Account repaid in full, DDA shall have exclusive authority over any further use of proceeds from the Properties transferred under Paragraph 1 of this Agreement. For the purpose of this Agreement, "outstanding principal" means the entire principal balance remaining on the Conference Center Bond, not just the amount due at the next scheduled principal pre-payment date. In the event that DDA seeks release from the requirements of this Section on a case by case basis concerning use of proceeds from sales of the properties, DDA shall prepare a proposal to the City outlining the proposed use of the sales proceeds for operational expenses or other redevelopment activities. Such proposal must allocate a substantial portion of the proceeds to payments toward the Conference Center Bond and/or the Reimbursement Account; remaining proceeds shall be allocated toward the desired use, showing detailed cash flow projections involving all expenditures. The City shall consider all such proposals submitted by DDA but retains sole discretion as to whether

such proposal shall be accepted. In the event of non-acceptance of such a proposal, the allocation of proceeds shall be made as provided for in the first sentence of this Section.

Section 7. Lease proceeds from the properties transferred under Section 1 of this Agreement shall be applied first toward expenses of maintaining and leasing those properties, including those operational costs identified in Section 12. Any lease proceeds in excess of those required for maintenance and leasing of the properties transferred by Section 1, shall be allocated in accordance with the budget established pursuant to Section 5 of this Agreement.

Section 8. In addition to those Properties identified in Paragraph 1 of this Agreement, the City shall also transfer to DDA that area designated as Olde Town Morrow District, including all those parcels and common areas more specifically described on Exhibit E attached hereto. Closing on this transfer shall occur simultaneously with and in the same manner as described in Section 3.

Section 9. The sum of \$219.68 is established as a per square foot expenditure for the existing historic structures in the Olde Town Morrow District.

Section 10. The purpose and aim of the development of Olde Town Morrow is to serve as a center for restaurants, entertainment and vendors of handcrafted items and as a catalyst to redevelopment of the aging retail area of the City including and surrounding Southlake Mall. It is anticipated that the DDA shall operate Olde Town Morrow as an entity.

Section 11. In that regard, DDA shall enter into leases with tenants and vendors for use of premises in Olde Town Morrow in such a manner that will be commercially viable to those tenants as well as providing the eventual repayment of the obligations identified in this Agreement and for such other expenditures as necessary to bring Olde Town Morrow to completion. Any leases or letters of intent previously entered into by the City are transferred and assigned to DDA as of the date of deed transfer of the property, and DDA shall assume all responsibility and liability for those leases and letters of intent from that date forward. Copies of all leases and letters of intent are attached as Exhibit F. Coterminous with the transfer of real estate under this Agreement, all contracts between the City and any private party for construction, development or other activity related to the development of Olde Town Morrow shall be transferred and assigned to DDA which assumes all responsibility and liability of the City under those Agreements. Copies of such contracts are attached as Exhibit G.

Section 12. Proceeds from the operation and leases in Olde Town Morrow shall be dedicated to operating expenses and/or further development of Olde Town Morrow. For purposes of this Agreement, "operational costs" include all financing costs, contract costs following conveyance of the property to DDA, grounds maintenance, utilities,

repair costs, security costs, promotional costs (excluding costs incurred by MBTA under its agreement with the City for use of tourism funds), costs of personnel, reasonable legal fees, taxes, insurance, commissions, surveys, appraisals, and any other costs directly related to the operation of Olde Town Morrow.

Section 13. DDA shall use its best efforts to fully lease Olde Town Morrow and may sell both vacant and improved parcels within that development to ultimate users, provided that before any sales of land take place, DDA shall develop a series of protective covenants governing use and operation of all parcels within the Olde Town Morrow District, and such covenants shall be filed of record with the Clayton County deed records, and shall bind all subsequent purchasers and lessees of buildings and other premises in Olde Town Morrow. Additionally, DDA shall establish design standards for all new construction in Olde Town Morrow to ensure design compatibility between existing historic structures and any new construction. Potential purchasers of parcels in Olde Town Morrow shall be provided with copies of both the covenants and design standards prior to entering into a contract for purchase.

Section 14. Prior to sale of any parcel, whether vacant or improved, in Olde Town Morrow, DDA shall obtain an appraisal meeting the standards of Section 4 of this Agreement. The sales price finally established shall be no less than the appraised value if a vacant parcel or the lesser of the appraised value or the square foot value established in section 9 for an improved parcel.

Section 15. All proceeds from the sale of parcels in Olde Town Morrow, whether vacant or improved, shall be dedicated 100% to repayment of the Conference Center Bond and repayment of the Reimbursement Account. Upon retirement of the Bond and repayment of the Reimbursement Account, all further proceeds for the sales of parcels in Olde Town Morrow shall be retained by DDA for redevelopment purposes. "Redevelopment purposes" as used in this section, includes payment of all salaries and expenses of DDA staff that are assumed by DDA under its intergovernmental agreement with the City or incurred directly by DDA as part of its ongoing operations. In the event that DDA seeks release from the requirements of this Section on a case by case basis concerning use of proceeds from sales of the parcels, DDA shall prepare a proposal to the City outlining the proposed use of the sales proceeds for operational expenses or other redevelopment activities. Such proposal must allocate a substantial portion of the proceeds to payments toward the Conference Center Bond and/or the Reimbursement Account; remaining proceeds shall be allocated toward the desired use, showing detailed cash flow projections involving all expenditures. The City shall consider all such proposals submitted by DDA but retains sole discretion as to whether such proposal shall be accepted. In the event of non-acceptance of such a proposal, the allocation of proceeds shall be made as provided for in the first sentence of this Section.

Section 16. DDA shall exercise care in the selection of tenants and purchasers of properties in the Olde Town Morrow District and shall ensure that those tenants and purchasers contribute toward the overall mission of the District, are each financially responsible, and provide the District with a mix of food, entertainment, and vendors such as will attract both city residents and patrons from well beyond the City's borders to the Olde Morrow District and will also serve as a tourism magnet for the City.

Section 17. DDA shall retain ownership, maintenance and overall responsibility of all common areas of the Olde Town Morrow District, shall ensure that the common areas are maintained in a clean, orderly, and pleasing appearance, shall provide adequate security for the Olde Town Morrow District whether in the form of establishing a Friendship Force or arranging for off-duty uniformed Police Officers, as is necessary to maintain the District as a safe, interesting and fun place for residents of and visitors to the City.

Section 18. In the event that DDA desires to enter into additional bond transactions for additional development in accordance with the Urban Redevelopment Plan or such other redevelopment goals as established by the City, DDA shall make an analysis of the financial requirements and cash flow for such projects in detail and shall demonstrate to the City that such bond issues shall not impair the existing obligations of the City under either the Conference Center Bond Issue or the \$5,000,000.00 Conference Center Bond Issue Series 2009.

Section 19. It is recognized that the establishment of the Olde Morrow District has been an integrated effort and has received active support from both the City and the DDA. The City and the DDA wish to maintain a close working relationship with respect to the Olde Town Morrow District. In the event that services are needed on the buildings or grounds of properties owned by DDA in Olde Town Morrow District and DDA does not have sufficient resources to perform those repairs or acts itself, it may request through the City Manager the temporary borrowing of employees from the City and shall identify the functions and time periods for which such persons are needed. The City shall in its discretion designate suitable persons to perform the requested functions if it is in the City's capacity to do so without jeopardizing ongoing City operations. All such employees loaned by the City to DDA on a temporary basis shall be at no charge to DDA, and shall remain City employees subject to all City personnel rules and regulations. Such employees shall be subject to the direction of DDA upon report to DDA projects, and shall return to City direction upon completion of their assignments or reassignment by the City, whichever comes first.

Section 20. In the event that it becomes impossible or unfeasible for either Party to fulfill its obligations under this Agreement, then the City and DDA agree to negotiate in good faith for an amendment to the terms of this Agreement, and if such negotiations do not yield a substitute Agreement which is agreeable to both Parties, then the Parties

agree to proceed to mediation with a neutral, detached mediator to resolve their differences.

Section 21. The City shall continue to provide bookkeeping and accounting services to DDA at no charge to DDA. Any employees lent to DDA by the City (other than on a temporary basis as provided by section 18) shall be subject to the Intergovernmental Agreement between the City and DDA for Leased Employees.

Section 22. At the time of the execution of this Agreement, the properties identified in this Agreement are covered for casualty and liability risks through the City's participation in the Georgia Interlocal Risk Management Agency (GIRMA). The City will endeavor to keep such properties so covered so long as they remain in DDA ownership. However, at any time, should GIRMA decline to continue such coverage, DDA will be responsible for providing casualty and liability insurance coverage to protect against losses caused by injury and/or property damage for all properties covered by this Agreement.

Section 23. Miscellaneous Legal Provisions.

- (a) The headings in this Agreement are inserted for convenience and identification only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any of the provisions of this Agreement.
- (b) Every provision of this Agreement is intended to be severable. If any term or provision hereof is determined to be invalid by a court of competent jurisdiction, it is the intent of the Parties hereto that such invalidation shall not affect the remaining portions of this Agreement which shall remain of full force and effect.
- (c) The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude nor waive its rights to use any or all other remedies. Any rights provided to the Parties under this Agreement are given in addition to any other rights the Parties may have by law, statute, ordinance or otherwise.
- (d) In the event of any action or proceeding brought by either Party against another Party under this Agreement, the prevailing Party shall be entitled to recover its fees of its attorneys in such action or proceeding, including costs of appeal, if any, in such amount as the court may adjudge reasonable as attorneys' fees.
- (e) This Agreement contains the entire agreement between the Parties respecting the matters addressed herein and supersedes all prior agreements between the Parties respecting such matters. This Agreement shall survive the closing of the transfer of the properties referenced herein and continue as an obligation of both the City and DDA.
- (f) This Agreement shall be governed and construed in accordance with the laws of the State of Georgia.

- (g) The Parties to this Agreement may, by affirmative vote in open public session of each body, agree to deviation on a one-time basis, from any term of this Agreement, provided that any such deviation shall require the approval of both the City and DDA.
- (h) No waiver of any breach by either Party of the terms of this Agreement shall be deemed a waiver of any subsequent breach of the Agreement.
- (i) No presumption shall be made for or against any Party based on the drafting of this Agreement.

This Agreement is entered into this ____ day of _____, 2009.

City of Morrow
 By: _____
 Mayor

Morrow Downtown Development Authority
 By: _____
 Chairman

This ___ day of _____, 2009.

This ___ day of _____, 2009.

Attest:

Attest:

 City Clerk

 Secretary