

CITY OF STONECREST, GEORGIA

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 Diane Adoma – District 5

SPECIAL CALLED MEETING

January 3, 2018

10:00 A.M.

Stonecrest City Hall

3120 Stonecrest Blvd.

Stonecrest, Georgia

I. CALL TO ORDER: Mayor Jason Lary

II. ROLL CALL: Brenda James, Interim City Clerk

III. AGENDA ITEMS:

1. Administration of Oath of Office for Council Member Jimmy Clanton, district 1, Council Member Jazzmin Cobble, District 3 and Council Member Diane Adoma, District 5.
2. Resolution requesting the Local Delegation of the General Assembly to Sponsor Legislation Adopting a new City Charter
3. Amendment to the Purchasing Policy for City Manager's Authorization.

IV. EXECUTIVE SESSION:

V. ADJOURNMENT:

WHEN AN EXECUTIVE SESSION IS REQUIRED, ONE WILL BE CALLED FOR THE FOLLOWING ISSUES: 1) PERSONNEL, 2) LITIGATION, 3) REAL ESTATE



CITY COUNCIL AGENDA ITEM

SUBJECT: Administration of the Oath of Office

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|--|-------------------------------------|---|
| <input type="checkbox"/> ORDINANCE | <input type="checkbox"/> POLICY | <input type="checkbox"/> STATUS REPORT |
| <input type="checkbox"/> DISCUSSION ONLY | <input type="checkbox"/> RESOLUTION | <input checked="" type="checkbox"/> OTHER |

Date Submitted: 01/02/2018

Special Called Meeting: 01/03/2018

SUBMITTED BY: City Clerk

PURPOSE: Three Council Members were elected in November 2017 back to their position. This is the administration of the Oath of Office for Council Member Clanton, Cobble and Adoma.

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Administration of Oath

CITY OF STONECREST
OATH OF OFFICE

"I **Jimmy Clanton** do solemnly swear or affirm that I will faithfully execute the office of Councilmember, of the City of Stonecrest, and will to the best of my ability support and defend the Constitution of the United States, the Constitution of Georgia, and the charter, ordinances, and regulations of the City of Stonecrest. I am not the holder of any unaccounted for public money due this state or any political subdivision or authority thereof. I am not the holder of any office of trust under the government of the United States, any other state, or any foreign state which I by the laws of the State of Georgia am prohibited from holding. I am otherwise qualified to hold said office according to the Constitution and laws of Georgia. I have been a resident of my district and the City of Stonecrest for the time required by the Constitution and laws of this state and by the municipal charter. I will perform the duties of my office in the best interest of the City of Stonecrest to the best of my ability without fear, favor affection, reward, or expectations thereof."

This 2nd Day of January 2018

Council Member Jimmy Clanton

Judge Jonathan Weintraub

CITY OF STONECREST
OATH OF OFFICE

"I **Jazzmin Cobble** do solemnly swear or affirm that I will faithfully execute the office of Councilmember, of the City of Stonecrest, and will to the best of my ability support and defend the Constitution of the United States, the Constitution of Georgia, and the charter, ordinances, and regulations of the City of Stonecrest. I am not the holder of any unaccounted for public money due this state or any political subdivision or authority thereof. I am not the holder of any office of trust under the government of the United States, any other state, or any foreign state which I by the laws of the State of Georgia am prohibited from holding. I am otherwise qualified to hold said office according to the Constitution and laws of Georgia. I have been a resident of my district and the City of Stonecrest for the time required by the Constitution and laws of this state and by the municipal charter. I will perform the duties of my office in the best interest of the City of Stonecrest to the best of my ability without fear, favor affection, reward, or expectations thereof."

This 2nd Day of January 2018

Council Member Jazzmin Cobble

Judge Jonathan Weintraub

CITY OF STONECREST
OATH OF OFFICE

"I **Diane Daniels Adoma** do solemnly swear or affirm that I will faithfully execute the office of Councilmember, of the City of Stonecrest, and will to the best of my ability support and defend the Constitution of the United States, the Constitution of Georgia, and the charter, ordinances, and regulations of the City of Stonecrest. I am not the holder of any unaccounted for public money due this state or any political subdivision or authority thereof. I am not the holder of any office of trust under the government of the United States, any other state, or any foreign state which I by the laws of the State of Georgia am prohibited from holding. I am otherwise qualified to hold said office according to the Constitution and laws of Georgia. I have been a resident of my district and the City of Stonecrest for the time required by the Constitution and laws of this state and by the municipal charter. I will perform the duties of my office in the best interest of the City of Stonecrest to the best of my ability without fear, favor affection, reward, or expectations thereof."

This 2nd Day of January 2018

Council Member Diane Daniels Adoma

Judge Jonathan Weintraub



CITY COUNCIL AGENDA ITEM

SUBJECT: Resolution requesting the Local Delegation of the General Assembly to Sponsor Legislation Adopting a new City Charter

- | | | |
|--|--|--|
| <input type="checkbox"/> ORDINANCE | <input type="checkbox"/> POLICY | <input type="checkbox"/> STATUS REPORT |
| <input type="checkbox"/> DISCUSSION ONLY | <input checked="" type="checkbox"/> RESOLUTION | <input type="checkbox"/> OTHER |

Date Submitted: 01/02/2018

Special Called Meeting: 01/03/2018

SUBMITTED BY: City Attorney

PURPOSE: This Resolution of to request the Local Delegation Sponsor Legislation for the Adoption of a new City Charter to included revisions requested by Mayor and Council.

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Recommendation of Mayor and Council

1 A RESOLUTION OF THE CITY OF STONECREST, GEORGIA, AUTHORIZING AND
2 APPROVING THE SPONSORSHIP OF A BILL BY MEMBERS OF THE LOCAL
3 DELEGATION OF DEKALB COUNTY FOR AN ACT BY THE GENERAL ASSEMBLY
4 OF GEORGIA TO ENACT A NEW CHARTER FOR THE CITY OF STONECREST; TO
5 REVISE BOUNDARIES OF THE CITY; TO REVISE GENERAL POWERS AND
6 LIMITATIONS ON POWERS; TO REVISE THE GOVERNING AUTHORITY OF
7 SUCH CITY AND THE POWERS, DUTIES, AUTHORITY, COMPENSATION,
8 EXPENSES, QUALIFICATIONS AND PROHIBITIONS RELATIVE TO THE MAYOR
9 AND COUNCILMEMBERS THEREOF; TO PROVIDE FOR INQUIRIES AND
10 INVESTIGATIONS; TO REVISE THE FORM OF ORGANIZATION AND
11 PROCEDURES; TO REVISE THE PROCEDURE FOR ORDINANCES; TO CONTINUE
12 TO PROVIDE FOR A CHARTER COMMISSION IN 2022; TO REVISE THE OFFICE
13 OF MAYOR AND TO REVISE THE EXECUTIVE DUTIES AND POWERS RELATIVE
14 TO THE OFFICE OF MAYOR INCLUDING BUT NOT LIMITED TO THE
15 SUPERVISION AND DIRECTION OF THE CITY MANAGER; TO ELIMINATE THE
16 VOTING POWER OF THE MAYOR EXCEPT IN THE EVENT OF A TIE VOTE OF
17 COUNCILMEMBERS; TO PROVIDE FOR THE VETO POWER OF THE MAYOR
18 AND LIMITATIONS THEREOF; REVISE THE ADMINISTRATIVE
19 RESPONSIBILITIES OF THE CITY MANAGER; TO REVISE THE RESIDENCY
20 REQUIREMENTS FOR BOARDS, COMMISSIONS, AND AUTHORITIES; TO
21 PROVIDE FOR A FINANCE DIRECTOR IN LIEU OF A CITY ACCOUNTANT; TO
22 REVISE THE QUALIFICATIONS OF THE JUDGES OF THE MUNICIPAL COURT;
23 TO REVISE THE MILLAGE RATE CAP TO ALSO INCLUDE THE ROLLBACK BY
24 DEKALB COUNTY OF MILLAGE ASSESSED FOR SERVICES ASSUMED BY THE
25 CITY; TO PROVIDE FOR THE ASSESSMENT AND LEVY OF AN 8% HOTEL
26 MOTEL TAX; TO REVISE CERTAIN PROVISIONS OF THE COMMUNITY
27 IMPROVEMENT DISTRICT, TO REVISE EFFECTIVE DATES FOR HOMESTEAD
28 EXEMPTIONS; TO PROVIDE THAT MAY 8, 2017 IS THE COMMENCEMENT DATE
29 FOR THE TRANSITIONAL PROVISIONS GOVERNING THE TRANSFER OF
30 VARIOUS FUNCTIONS AND RESPONSIBILITIES FROM DEKALB COUNTY TO
31 THE CITY OF STONECREST; TO CONTINUE OTHER PROVISIONS OF THE
32 FORMER CHARTER NOT OTHERWISE REVISED IN THIS NEW CHARTER.

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

36
37 WHEREAS, Senate Bill 208 provided a charter for the City of Stonecrest (the "City Charter");

38
39 WHEREAS, the mayor and councilmembers desire that the City Charter be cancelled and
40 replaced with a new City Charter (the "New City Charter");

STATE OF GEORGIA
COUNTY OF DEKALB
CITY OF STONECREST

RESOLUTION 2018-_____

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Approved:

Jason Lary, Sr., Mayor

Diane Adoma, Councilmember

Jazzmin Cobble, Councilmember

Jimmy Clanton, Councilmember

George Turner, Councilmember

Rob Turner, Councilmember

Attest:

Brenda James, City Clerk

- 82 a. Economic development, education and public services are best
83 managed by the executive branch subject to the legislative authority of
84 the councilmembers.
85 b. The mayor should not vote except in the event of tie.
86 c. The mayor may veto ordinances, subject to an override of such veto by
87 the council members.
88 d. The mayor should have the supervisory, direction and control over the
89 city manager.
90 e. The governance of the city should have a clear delineation between the
91 executive and legislative branch as a balance to the activities of an
92 executive mayor.
93 f. The governance of the city should place the control of the city
94 departments under the planning, direction and control of the city
95 manager.
- 96 5. The legislative branch has and should continue to possess:
97 a. The authority to develop policy.
98 b. The authority to create, abolish, merge and consolidate departments,
99 authorities and other branches of the city government.
100 c. The authority to investigate the activities of departments and other
101 offices of the city.
102 d. The authority to appropriate and adopt the annual budget.
103 e. The authority to confirm mayoral appointments of city officers and
104 members of boards, authorities and commissions of the city.;

105
106 **WHEREAS**, the mayor and councilmembers of the City of Stonecrest have determined that the
107 New City Charter should be adopted by local act of the General Assembly; and
108

109 **WHEREAS**, the mayor and councilmembers of the City of Stonecrest hereby request that and
110 authorize the members of the DeKalb County local delegation to submit such
111 New City Charter to the General Assembly.
112

113 **THEREFORE**, the mayor and councilmembers of the City of Stonecrest, Georgia, hereby
114 resolve as follows:

115 **Section 1:** That the New City Charter attached hereto and incorporated herein by reference
116 be submitted to the members of the local delegation of DeKalb County with the request and
117 authorization by this city council to sponsor legislation to the General Assembly during the 2018
118 session for the enactment of the New City Charter.

119 This Resolution shall be effective immediately upon its adoption.

120 **SO RESOLVED** this the _____ day of January, 2018.

154

EXHIBIT TO RESOLUTION

155

CITY OF STONECREST

156

NEW CITY CHARTER

157

158

[ATTACHED]

42 **WHEREAS,** Article IX, Section II, Paragraph II of the Constitution of the State of Georgia,
43 which is titled Home Rule for Municipalities, allows the General Assembly of the
44 State of Georgia to provide by law for the self-government of municipalities,
45 which the General Assembly has done with the Municipal Home Rule Act of
46 1965, provided in O.C.G.A. 36-35-1 *et seq.*;

47
48 **WHEREAS,** Article III, Section I, Paragraph I of the Constitution of the State of Georgia vests
49 the legislative power of the state exclusively in the General Assembly;

50
51 **WHEREAS,** the power to adopt an entirely New City Charter cannot be found in either or both
52 of the home rule statutes (Article IX, Section II, Paragraph II of the Constitution
53 of the State of Georgia and O.C.G.A. 36-35-1 *et seq.*);

54
55 **WHEREAS,** the legislative power to adopt an entirely New City Charter resides in the General
56 Assembly. Jackson v. Inman, 232 Ga. 566 (1974);

57
58 **WHEREAS,** the mayor and councilmembers of the City of Stonecrest have determined by the
59 following findings that substantive changes are necessary and appropriate for the
60 improvement of the government of the city:

- 61
62 1. The form of charter enacted in Senate Bill 208 is substantially similar to
63 charters adopted the General Assembly for new cities in North DeKalb
64 County wherein the mayor's executive powers are limited.
- 65 2. The form of the existing charter does not permit the City of Stonecrest to
66 adequately govern because of the inherent differences in the demographics of
67 the populace and industries of the city when compared to the new cities
68 created in North DeKalb County because:
- 69 a. The average annual median income of its residents is lower;
 - 70 b. The opportunities for employment of businesses within the city limits
71 is lower;
 - 72 c. There is a lack of rail serving the city unlike Brookhaven and
73 Dunwoody;
 - 74 d. There is a lower availability to grocery, retail and dining opportunities;
75 and,
 - 76 e. There is a lack of primary and secondary school alternatives.
- 77 3. By the end of the transition period, the city will need to assume certain of the
78 public works and public safety services of DeKalb County which were not
79 contemplated when the city was initially incorporated.
- 80 4. The governance of the city possesses and further requires the amplification of
81 the office of the mayor as an executive and not a ceremonial position.

A BILL TO BE ENTITLED
AN ACT

To ~~incorporate the City of Stonecrest in DeKalb County; to provide for~~enact a new charter for the City of Stonecrest; to ~~revise~~provide for incorporation, boundaries, and powers of the city; to ~~provide for~~revise general powers and limitations on powers; to ~~revise~~ provide for ~~a~~the governing authority of such city and the powers, duties, authority, ~~election, terms, method of filling vacancies;~~ compensation, expenses, qualifications and; prohibitions, ~~and districts~~ relative to the mayor and councilmembers thereof of such governing authority; to continue to provide for inquiries and investigations; to revise the form of ~~provide for~~ organization and procedures; to revise the procedureprovide for ordinances; ~~to provide for codes;~~ to continue to provide for a charter commission in 2022; to ~~revise~~provide for the office of mayor and to revise the executive~~certain~~ duties and powers relative to the office of mayor including but not limited to the supervision and direction of the city manager; to eliminate the voting power of the mayor except in the event of a tie vote of councilmembers; to provide for the veto power of the mayor and limitations thereof; revise the administrative responsibilities of the city manager; to revise the residency requirementsprovide for boards, commissions, and authorities; to provide for a city manager, a city attorney, a city clerk, a tax collector, a finance director in lieu of a city accountant; and other personnel; to revise the qualifications of ~~provide for a municipal court and the judge or the judges of the municipal court~~thereof; to revise the millage rate cap to also include the rollback by DeKalb County of millage assessed for services assumed by the city; to provide for the assessment and levy of an 8% hotel motel tax; ~~to provide for practices and procedures;~~ to provide for ~~ethics and disclosures;~~ to provide for taxation, licenses, and fees; to provide for franchises, service charges, and assessments; to provide for bonded and other indebtedness; to provide for accounting and budgeting; to provide for purchases; to revise certain provisions ofprovide for the creation of ~~a~~the community improvement district, to revise effective dates provide for homestead exemptions; to provide for bonds for officials; to provide for other matters relative to the foregoing; to provide ~~provide for a referendum;~~ to ~~provide effective dates and~~ that May 8, 2017 is the

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~~commencement date for the transitional provisions governing the transfer of various functions and responsibilities from DeKalb County to the City of Stonecrest; to continue provide other provisions of the former charter not otherwise revised in this new charter for severability; to provide an effective date; to repeal conflicting laws; and for other purposes.~~

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

ARTICLE I

CREATION, INCORPORATION, POWERS

SECTION 1.01.

Incorporation.

This Act shall constitute the charter of the City of Stonecrest, Georgia. The City of Stonecrest, Georgia, in the County of DeKalb, and the inhabitants thereof, are constituted and declared a body politic and corporate under the same name and style of the "City of Stonecrest" and by that name shall have perpetual succession, may sue and be sued, plead and be impleaded, in all courts of law and equity, and in all actions whatsoever, and may have and use a common seal.

SECTION 1.02.

Corporate boundaries.

The boundaries of the City of Stonecrest shall be those set forth and described in Appendix A of this charter, and said Appendix A is incorporated into and made a part of this charter. The city clerk shall maintain a current map and written legal description of the corporate boundaries of the city, and such map and description shall incorporate any changes which may hereafter be made in such corporate boundaries.

SECTION 1.03.

Powers and construction.

(a) This city shall have all powers possible for a city to have under the present or future Constitution and laws of this state as fully and completely as though they were specifically

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enumerated in this Act. This city shall have all the powers of self-government not otherwise prohibited by this Act or by general law.

(b) The powers of this city shall be construed liberally in favor of the city. The specific mention or failure to mention particular powers shall not be construed as limiting in any way the powers of this city. These powers shall include, but not be limited to, the following:

(1) Animal regulations. To regulate and license or to prohibit the keeping or running at large of animals and fowl, and to provide for the impoundment of same if in violation of any ordinance or lawful order; to provide for the disposition by sale, gift, or humane destruction of animals and fowl when not redeemed as provided by ordinance; and to provide punishment for violation of ordinances enacted hereunder;

(2) Appropriations and expenditures. To make appropriations for the support of the government of the city; to authorize the expenditure of money for any purposes authorized by this charter and for any purpose for which a municipality is authorized by the laws of the State of Georgia; and to provide for the payment of expenses of the city;

(3) Building regulation. To regulate and to license the erection and construction of buildings and all other structures; to adopt building, housing, plumbing, electrical, gas, and heating and air conditioning codes; and to regulate all housing and building trades to the extent permitted by general law;

(4) Business regulation and taxation. To levy and to provide for the collection of regulatory fees, franchise fees and taxes on privileges, occupations, trades, and professions as authorized by Title 48 of the O.C.G.A. or other such applicable laws as are or may hereafter be enacted; to permit and regulate the same; to provide for the manner and method of payment of such regulatory fees, franchise and taxes; and to revoke such permits after due process for failure to pay any city taxes or fees;

(5)(A) Condemnation. To condemn property inside the corporate limits of the city for present or future use and for any public purpose deemed necessary by the city council utilizing procedures enumerated in Title 22 of the O.C.G.A. or such other applicable laws as are or may hereafter be enacted; and

(B) The municipality shall have the right to condemn and cause to be remediated or removed any building, structure, or existing condition within its corporate limits that is

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dangerous to life, limb, or property, by reasons of decay, dilapidation, or unsanitary condition. Nothing in this subparagraph shall be construed to relieve the municipality of any duty to give owners or interested persons reasonable notice and opportunity to remedy the situation. Nothing in this subparagraph shall be construed as relieving the municipality of liability to any interested person for damages to person or property taken or destroyed in furtherance of this subparagraph. This subparagraph shall not be construed as authorizing the doing of any act or thing contrary to the Constitution of this state and the policy of the general laws of this state. The municipality shall have authority to adopt reasonable ordinances and resolutions for the purpose of carrying out this subparagraph;

(6) Contracts. To enter into contracts and agreements with other governmental entities and with private persons, firms, and corporations;

(7) Emergencies. To establish procedures for determining and proclaiming that an emergency situation exists within or without the city, and to make and carry out all reasonable provisions deemed necessary to deal with or meet such an emergency for the protection, safety, health, or well-being of the citizens of the city;

(8) Environmental protection. To protect and preserve the natural resources, environment, and vital areas of the city, the region, and the state through the enactment of ordinances that preserve and improve air quality, restore and maintain water resources, the control of erosion and sedimentation, manage storm water and establish a storm-water utility, manage solid and hazardous waste, and provide other necessary or beneficial actions for the protection of the environment. These ordinances shall include, without limitation, ordinances that protect, maintain, and enhance the public health, safety, environment, and general welfare and minimize public and private losses due to flood conditions in flood hazard areas, as well as protect the beneficial uses of flood plain areas for water quality protection, stream bank and stream corridor protection, wetlands preservation, and ecological and environmental protection. Such ordinances may require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction; may restrict or prohibit uses which are dangerous to health, safety, and property due to flooding or erosion hazards, or which increase flood heights, velocities, or erosion; may control filling, grading, dredging, and other development which may increase flood damage or erosion; may

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prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands; may limit the alteration of natural flood plains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters; and may protect the storm-water management, water quality, stream bank protection, stream corridor protection, wetland preservation, and ecological functions of natural flood plain areas;

(9) Ethics. To adopt ethics ordinances and regulations governing such things as, but not limited to, the conduct of municipal elected officials, appointed officials, contractors, vendors, and employees, establishing procedures for ethics complaints, and setting forth penalties for violations of such rules and procedures;

(10) Fire regulations. To fix and establish fire limits and from time to time to extend, enlarge, or restrict the same; to prescribe fire safety regulations not inconsistent with general law, relating to both fire prevention and fire detection; and to prescribe penalties and punishment for violations thereof;

(11) Garbage fees. To levy, fix, assess, and collect a garbage, refuse, and trash collection and disposal and other sanitary service charge, tax, or fee for such services as may be necessary in the operation of the city from all individuals, firms, and corporations residing in or doing business therein benefiting from such services; to enforce the payment of such charges, taxes, or fees; and to provide for the manner and method of collecting such service charges, taxes, or fees;

(12) General health, safety, and welfare. To define, regulate, and prohibit any act, practice, conduct, or use of property which is detrimental to health, sanitation, cleanliness, welfare, and safety of the inhabitants of the city, and to provide for the enforcement of such standards;

(13) Gifts. To accept or refuse gifts, donations, bequests, or grants from any source for any purpose related to powers and duties of the city and the general welfare of its citizens, on such terms and conditions as the donor or grantor may impose;

(14) Health and sanitation. To prescribe standards of health and sanitation and to provide for the enforcement of such standards;

- (15) Homestead Exemption. To establish and maintain procedures for offering homestead exemptions to residents of the city and maintaining current homestead exemptions of residents of the city as authorized by Act of the General Assembly;
- (16) Jail sentences. To provide that persons given jail sentences in the city's court may work out such sentences in any public works or on the streets, roads, drains, and other public property in the city; to provide for commitment of such persons to any jail; to provide for the use of pretrial diversion and any alternative sentencing allowed by law; or to provide for commitment of such persons to any county work camp or county jail by agreement with the appropriate county officials;
- (17) Motor vehicles. To regulate the operation of motor vehicles and exercise control over all traffic, including parking upon or across the streets, roads, alleys, and walkways of the city;
- (18) Municipal agencies and delegation of power. To create, alter, or abolish departments, boards, offices not specified in this charter, commissions, authorities, and agencies of the city, and other than reserved to the executive branch in this charter, to confer upon such agencies the necessary and appropriate authority for carrying out all the powers conferred upon or delegated to the same;
- (19) Municipal debts. To appropriate and borrow money for the payment of debts of the city and to issue bonds for the purpose of raising revenue to carry out any project, program, or venture authorized by this charter or the laws of the State of Georgia;
- (20) Municipal property ownership. To acquire, dispose of, lease, and hold in trust or otherwise any real, personal, or mixed property, in fee simple or lesser interest, inside or outside the property limits of the city;
- (21) Municipal property protection. To provide for the preservation and protection of property and equipment of the city and the administration and use of same by the public; and to prescribe penalties and punishment for violations thereof;
- (22) Municipal utilities. To acquire, lease, construct, operate, maintain, sell, and dispose of public utilities including, but not limited to, a system of waterworks, sewers and drains, sewage disposal, storm-water management, gasworks, electricity generating plants, cable television, internet and other telecommunications, transportation facilities, public airports, and any other

public utility; to fix the taxes, charges, rates, fares, fees, assessments, regulations, and penalties; and to provide for the withdrawal of service for refusal or failure to pay the same;

(23) Nuisance. To define a nuisance and provide for its abatement whether on public or private property;

(24) Penalties. To provide penalties for violation of any ordinances adopted pursuant to the authority of this charter and the laws of the State of Georgia;

(25) Planning and zoning. To provide comprehensive city planning for city land use, signage and outside advertising, and development by zoning; and to provide subdivision regulations and the like as the city council deems necessary and reasonable to ensure a safe, healthy, and aesthetically pleasing community, provided that the city council shall not have the power to require special land use permits, special exceptions, or special administrative permits for the industrial use of properties within an industrial use zoning district;

(26) Police and fire protection. To exercise the power of arrest through duly appointed police officers, and to establish, operate, or contract for a police and a fire-fighting agency;

(27) Public hazards; removal. To provide for the destruction and removal of any building or other structure that is or may become dangerous or detrimental to the public;

(28) Public improvements. To provide for the acquisition, construction, building, operation, maintenance, or abolition of public ways, parks and playgrounds, recreational facilities, cemeteries, public buildings, libraries, public housing, parking facilities, and charitable, cultural, educational, recreational, conservation, sport, detentional, penal, and medical institutions, agencies, and facilities; to provide any other public improvements inside the corporate limits of the city and to regulate the use of public improvements; and for such purposes, property may be acquired by condemnation under Title 22 of the O.C.G.A. or such other applicable laws as are or may hereafter be enacted;

(29) Public peace. To provide for the prevention and punishment of loitering, disorderly conduct, drunkenness, riots, and public disturbances;

(30) Public transportation. To organize and operate such public transportation systems as are deemed beneficial;

(31) Public utilities and services. To grant franchises or make contracts for, or impose taxes on, public utilities, cable companies and public service companies; and to prescribe the rates,

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fares, regulations, and standards and conditions of service applicable to the service to be provided by the franchise grantee or contractor, insofar as not in conflict with valid regulations of the Public Service Commission;

(32) Regulation of roadside areas. To prohibit or regulate and control the erection, removal, and maintenance of signs, billboards, trees, shrubs, fences, buildings, and any and all other structures or obstructions upon or adjacent to the rights of way of streets and roads or within view thereof, within or abutting the corporate limits of the city; and to prescribe penalties and punishment for violation of such ordinances;

(33) Employee benefits. To provide and maintain a retirement plan, insurance, and such other employee benefits for appointed officers and employees of the city as are determined by the city council;

(34) Roadways. To lay out, open, extend, widen, narrow, establish, or change the grade of, abandon or close, construct, pave, curb, gutter, adorn with shade trees, or otherwise improve, maintain, repair, clean, prevent erosion of, and light the roads, alleys, and walkways within the corporate limits of the city; to grant franchises and rights of way throughout the streets and roads and over the bridges and viaducts for the use of public utilities; and to require real estate owners to repair and maintain in a safe condition the sidewalks adjoining their lots or lands and to impose penalties for failure to do so;

(35) Solid waste disposal. To provide for the collection and disposal of garbage, rubbish, and refuse and to regulate the collection and disposal of garbage, rubbish, and refuse by others; and to provide for the separate collection of glass, tin, aluminum, cardboard, paper, and other recyclable materials and to provide for the sale of such items;

(36) Special assessments. To levy and provide for the collection of special assessments to cover the costs for any public improvements, subject to referendum;

(37) Taxes; ad valorem. To levy and provide for the assessment, valuation, revaluation, and collection of taxes on all property subject to taxation; provided, however, that:

(A) The millage rate imposed for ad valorem taxes on real property shall not exceed 3.35 plus the amount of any roll back or reduction by DeKalb County of its millage rate imposed for ad valorem taxes on real property within corporate limits of the city for any services assumed by the city from DeKalb County unless either (i) the millage rate is increased above

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such amount by a higher limit is recommended by resolution of the city council without voter approval through the exercise of home rule powers, or (ii) approved by a majority of the qualified electors of the City of Stonecrest voting on the issue, provided that the amount of millage associated with general obligation bonds or the creation of special tax districts pursuant to Article IX, Section II, Paragraph VI of the Constitution of the State of Georgia shall not count as part of the 3.35 limit since such millage is already subject to approval by the electors of the city in a separate referendum; and

(B) For all years, the fair market value of all property subject to taxation shall be determined according to the tax digest of DeKalb County, as provided in Code Section 48-5-352 of the O.C.G.A.;

(38) Taxes: To levy and collect an 8% excise tax on rooms, lodgings and accommodations pursuant Section 48-13-51(b) of the O.C.G.A.; provided, that;

(A) In each fiscal year during which such tax is collected, an amount equal to not less than 50 percent of the total amount of taxes collected that exceed the amount of taxes that would be collected at the rate of 5 percent shall be expended for promoting tourism, conventions, and trade shows by the destination marketing organization designated by the county or municipality levying the tax; and

(B) The remaining amount of taxes collected that exceed the amount of taxes that would be collected at the rate of 5 percent which are not otherwise expended under subparagraph (A) of this paragraph shall be expended for tourism product development.

(3938) Taxes: other. To levy and collect such other taxes and fees as may be allowed now or in the future by law;

(4039) Taxicabs. To regulate and license vehicles operated for hire in the city; to limit the number of such vehicles; to require the operators thereof to be licensed; to require public liability insurance on such vehicles in the amounts to be prescribed by ordinance; to inspect such vehicles and mandate standards of safety and cleanliness; and to regulate the parking of such vehicles;

(4140) Tourism, conventions, and trade shows. To provide for the structure, operation, or management of the Stonecrest Convention and Visitors Bureau created pursuant to

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Section 1.05 of this charter and to authorize the City of Stonecrest to contract with private sector nonprofit organizations or other governmental agencies to promote tourism, conventions, and trade shows;

(424) Urban redevelopment. To organize and operate an urban redevelopment program; and
(432) Other powers. To exercise and enjoy all other powers, functions, rights, privileges, and immunities necessary or desirable to promote or protect the safety, health, peace, security, good order, comfort, convenience, or general welfare of the city and its inhabitants; to exercise all implied powers necessary or desirable to carry into execution all powers granted in this charter as fully and completely as if such powers were fully stated herein; and to exercise all powers now or in the future authorized to be exercised by other municipal governments under other laws of the State of Georgia; and any listing of particular powers in this charter shall not be held to be exclusive of others or restrictive of general words and phrases granting powers, but shall be held to be in addition to such powers unless expressly prohibited to municipalities under the Constitution or applicable laws of the State of Georgia.

SECTION 1.04.

Exercise of powers.

All powers, functions, rights, privileges, and immunities of the city, its officers, agencies, or employees shall be carried into execution as provided by this Act. If this charter makes no provision, such shall be carried into execution as provided by ordinance or as provided by pertinent laws of the State of Georgia.

SECTION 1.05.

Tourism, conventions, and trade shows.

The Stonecrest Convention and Visitors Bureau is hereby created.

SECTION 1.06.

Stonecrest/~~Lithonia Industrial Park~~ Community Improvement District

(a) The purpose of this Section shall be to provide for the creation of a community improvement district within the City of Stonecrest subject to the conditions prescribed in Article IX, Section {2354542/12354542/2}

VII, Paragraph III of the Constitution of the State of Georgia. Such district shall be created for the provision of such of the following governmental services and facilities as may be provided for in the resolution activating the district created hereby, or as may be adopted by resolutions of the majority of the electors and the majority of the equity electors as defined in this Section:

- (1) Street and road construction and maintenance, including curbs, sidewalks, street lights, and devices to control the flow of traffic on streets and roads;
- (2) Parks and recreational areas and facilities;
- (3) Stormwater and sewage collection and disposal systems;
- (4) Development, storage, treatment, purification, and distribution of water;
- (5) Public transportation;
- (6) Terminal and dock facilities and parking facilities; and
- (7) Such other services and facilities as may be provided for by general law.

(b) Definitions. As used in this Section the term:

- (1) Agricultural means the growing of crops for sale or the raising of animals for sale or use, including the growing of field crops and fruit or nut trees, the raising of livestock or poultry, and the operation of dairies, horse boarding facilities, and riding stables.
- (2) Board means the governing body created for the governance of the community improvement district authorized by this Section.
- (3) Caucus of electors means the meeting of electors as provided in this Section 1.06 at which the elected board members of the district are elected or at which the governmental services and facilities to be provided by the district are determined. A quorum at such caucus shall consist of no less than twenty five percent (25%) of electors and no less than twenty five percent (25%) of equity electors present in person or proxy, and a majority of those present and voting shall be necessary to take any action. Notice of said meeting shall be given to said electors and equity electors by publishing notice thereof in the legal organ of the City of Stonecrest at least once each week for four weeks prior to such meeting.
- (4) Cost of the project or cost of any project means and includes:
 - (A) All costs of acquisition by purchase or otherwise, construction, assembly, installation, modification, renovation, or rehabilitation incurred in connection with any project or any part of any project;

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- (B) All costs of real property, fixtures, or personal property used in or in connect on with or necessary for any project or for any facilities related thereto, including, but not limited to, the cost of all land, estates for years, easements, rights, improvements, water rights, connections for utility services, fees, franchises, permits, approvals, licenses, and certificates; the cost of securing any such franchises, permits, approvals, licenses, or certificates; the cost of preparation of any application therefor; and the cost of all fixtures, machinery, equipment including all transportation equipment and rolling stock, furniture, and other property used in or in connection with or necessary for any project;
- (C) All financing charges and loan fees and all interest on bonds, notes, or other obligations of a district which accrue or are paid prior to and during the period of construction of a project and during such additional period as the board may reasonably determine to be necessary to place such project in operation;
- (D) All costs of engineering, surveying, architectural, and legal services and all expenses incurred by engineers, surveyors, architects, and attorneys in connection with any project.
- (E) All expenses for inspection of any project.
- (F) All fees of fiscal agents, paying agents, and trustees for bondholders under any trust agreement, indenture of trust, or similar instrument or agreement all expenses incurred by any such fiscal agents, paying agents, and trustees; and all other costs and expenses incurred relative to the issuances of any bonds, notes, or other obligations for any project;
- (G) All expenses of or incidental to determining the feasibility or practicability of any project;
- (H) All costs of plans and specifications for any project;
- (I) All costs of title insurance and examinations of title with respect to any project;
- (J) Repayment of any loans made for the advance payment of any part of the foregoing costs, including interest thereon and any other expenses of such loans;
- (K) Administrative expenses of the board and such other expenses as may be necessary for or incidental to any project or the financing thereof or the placing of any project in operation; and

(L) The establishment of a fund or funds for the creation of a debt service reserve, a renewal and replacement reserve, or such other funds or reserves as the board may approve with respect to the financing and operation of any project and as may be authorized by any bond resolution, trust agreement, indenture of trust, or similar instrument or agreement pursuant to the provisions of which the issuance of any bonds, notes, or other obligations of the district may be authorized.

Any cost, obligation, or expense incurred for any of the foregoing purposes shall be a part of the cost of the project and may be paid or reimbursed as such out of the proceeds of bonds, notes, or other obligations issued by the district.

(5) District means the geographical area designated as such by the resolution of the city council consenting to the creation of the community improvement district or as thereafter modified by any subsequent resolution of the city council within which the district is or is to be located, or a body corporate and politic being a community improvement district created and activated pursuant hereto, as the context requires or permits.

(6) Electors means the owners of real property used non-residentially within the district which is subject to taxes, fees, and assessments levied by the board, as they appear on the most recent ad valorem real property tax return records of DeKalb County, or one (1) officer or director of a corporate elector, one (1) trustee of a trust which is an elector, one (1) partner of a partnership elector, or one (1) designated representative of an elector whose designation is made in writing. An owner of property that is subject to taxes, fees, or assessments levied by the board shall have one (1) vote for an election based on numerical majority. An owner of multiple parcels has one (1) vote, not one (1) vote per parcel, for an election based on numerical majority. Multiple owners of one (1) parcel have one (1) vote for an election based on numerical majority which must be cast by one (1) of their number who is designated in writing.

(7) Equitably apportioned among the properties subject to such taxes, fees, and assessments according to the need for governmental services and facilities created by the degree of density of development of each such property, with reference to taxes, fees, and assessments levied by the board, means that the burden of the taxes, fees, and assessments shall be apportioned among the properties subject thereto based upon the values established in the most recent ad valorem tax reassessment of such properties certified by the chairperson of the DeKalb County Board of Tax Assessors, or with respect to fees and assessments may be apportioned among the properties subject thereto in direct or approximate proportion to the receipt of services or benefits derived from the improvements or other activities for which the taxes, fees, or assessments are to be expended, or with respect to fees and assessments may be apportioned in any other manner or combination of manners deemed equitable by the board, including, but not limited to, the recognition of differential benefits which may reasonably be expected to accrue to new land development in contrast to lands and improvements already in existence at the time of creation of the community improvement district.

(8) Equity electors means electors who cast votes equal to each one thousand dollars (\$1,000.00) in value of all owned real property within the district which is then subject to taxes, fees, and assessments levied by the board. The value of real property shall be the assessed value. In the event the owner shall have multiple owners or be a corporation, trust, partnership, limited liability company, or any other entity, one person shall be designated as elector and such designation shall be made in writing.

(9) Forestry means the planting and growing of trees for sale in a program which includes reforestation of harvested trees, regular underbrush and undesirable growth clearing, fertilizing, pruning, thinning, cruising, and marking which indicate an active tree-farming operation. It does not include the casual growing of trees on land otherwise idle or held for investment, even though some harvesting of trees may occur thereon.

(10) Project means the acquisition, construction, installation, modification, renovation, or rehabilitation of land, interests in land, buildings, structures, facilities, or other improvements, including operation of facilities or other improvements, located or to be located within or otherwise providing service to the district and the acquisition, installation, modification, renovation, rehabilitation, or furnishing of fixtures, machinery, equipment, furniture, or other property of any nature whatsoever used on, in, or in connection with any such land, interest in land, building, structure, facility, or other improvement; the creation, provision, enhancement, or supplementing of public services such as fire, police, and other services, provided that same do not conflict with or duplicate existing public services; and all for the essential public purposes set forth in subsection section (a) of this Section.

(11) Property owner or owner of real property means any entity or person shown as a taxpayer for one (1) or more parcels of real estate on the most recent ad valorem tax records of DeKalb County within the district. Ownership as shown by the most recent ad valorem real property tax records of DeKalb County shall be prima-facie proof of ownership. Multiple owners of one (1) parcel shall constitute one (1) property owner and shall designate in writing one (1) of their number to represent the whole.

(12) Property used non-residentially means property or any portion thereof used for neighborhood shopping, planned shopping center, general commercial, transient lodging facilities, tourist services, office or institutional, office services, light industry, heavy industry, central business district, parking, or other commercial or business use or vacant land zoned or approved for any of the aforementioned uses which do not include residential.

(13) Residential means a specific work or improvement undertaken primarily to provide single-family or multifamily dwelling accommodations for persons and families and such community facilities as may be incidental or appurtenant thereto.

(14) Taxpayer means an entity or person paying ad valorem taxes on real property whether on one (1) or more parcels of property within the district. Multiple owners of one (1) parcel shall constitute one (1) taxpayer and shall designate in writing one (1) of their number to represent the whole.

(c) Creation. Pursuant to Article IX, Section VII of the Constitution of the State of Georgia, there is created an administrative body being one community improvement district which may include any property used non-residentially to be located wholly within the City of Stonecrest, to be known as the Stonecrest/Lithonia Industrial Park Community Improvement District, provided that, the creation of the community improvement district shall be conditioned upon:

(1) The adoption of a resolution consenting to the creation of the community improvement district by the City of Stonecrest city council; and

(2) The written consent to the creation of the community improvement district by:

(A) A majority of the owners of real property within the district which will be subject to taxes, fees, and assessments levied by the administrative body of the community improvement district, and

(B) The owners of real property within the district which constitutes at least seventy-five (75) percent by value of all real property within the district which will be subject to taxes, fees, and assessments levied by the administrative body of the community improvement district. For this purpose, value shall be determined by the most recent approved DeKalb County ad valorem tax digest.

The written consent provided for in this paragraph shall be submitted to the tax commissioner of DeKalb County, who shall certify whether subparagraphs (A) and (B) of this paragraph have been satisfied with respect to each such proposed district.

Neither the community improvement district or the administrative body created pursuant to this Section 1.06 shall transact any business or exercise any powers under this Section until the foregoing conditions are met. A copy of such resolutions shall be filed with the Secretary of State, who shall maintain a record of the district activated under this Section, and filed with the Department of Community Affairs.

(d) Administration, appointment, and election of the members of the administrative body.

(1) The district created pursuant to this Section shall be administered by a board composed of seven (7) board members to be appointed and elected as provided in this section. Two (2) board members shall be appointed by the city council. Two board members shall be elected by the vote of electors, and three (3) members shall be elected by the vote of equity electors. The members representing the electors and equity electors shall be elected to serve in post positions 1 through 5, respectively. Each elected board member must receive a majority of the votes cast for the post for which he or she is a candidate. Votes for posts 1 and 2 shall be cast by electors and votes for posts 3, 4, and 5 shall be cast by equity electors. The initial term of office for the members representing posts 1 and 4 shall be one year. The initial term of office for the members representing posts 2 and 5 shall be two (2) years, and the initial term of office of the members representing post 3 shall be three (3) years. Thereafter, all terms of office for the elected board members shall be for three (3) years. The appointed board members shall serve at the pleasure of the city council.

(2) The initial board members to be elected as provided in subsection (a) of this section shall be elected in a caucus of electors which shall be held within ninety (90) days after the adoption of the resolutions and obtaining the written consents herein provided at such time and place within the district as the city council shall designate after notice thereof shall have been given to said electors by publishing same in the legal organ of the City of Stonecrest. Thereafter, there shall be conducted biennially, not later than sixty (60) days following the last day for filing ad valorem real property tax returns in DeKalb County, a caucus of electors at such time and place within the district as the board shall designate in such notice for the purpose of electing board members to those board member positions whose terms expire or are vacant. If a vacancy occurs in an elected position on the board the board shall, within sixty (60) days thereof, call a special election to fill the same to be held within sixty (60) days of the call unless such vacancy occurs within one hundred eighty (180) days of the next regularly scheduled election, in which case a special election may, but need not, be called.

(3) Board members shall be subject to recall as any other elected public official by the electors defined by this Section.

(4) Board members shall receive no compensation for their services, but shall be reimbursed for reasonable expenses actually incurred in the performance of their duties. They shall elect one (1) of their number as chairperson and another of their number as vice chairperson. They shall also elect a secretary and a treasurer, or a secretary-treasurer, either of whom may, but need not, be a member of the board or an elector.

(5) Chapter 2 of title 21 of the O.C.G.A., the "Georgia Election Code," shall not apply to the election of district board members. The district board may adopt such bylaws not inconsistent herewith to provide for any matter concerning such elections.

(e) Taxes, fees, and assessments.

(1) The board may levy taxes, fees, and assessments within the district only on real property used non-residentially, specifically excluding all property exempt from ad valorem taxation under the Constitution or laws of the State of Georgia; all property used for residential, agricultural, or forestry purposes; and all tangible personal property and intangible property. Any tax, fee, or assessment so levied shall not exceed 0.5 percent of the aggregate assessed value of all such real property. The taxes, fees, and assessments levied by the board shall be equitably apportioned among the properties subject to such taxes, fees, and assessments according to the need for governmental services and facilities created by the degree of density of development of each such property. The proceeds of taxes, fees, and assessments levied by the board shall be used only for the purpose of providing governmental services and facilities which are specially required by the degree of density of development within the district and not for the purpose of providing those governmental services and facilities provided to the county or municipality as a whole. Any tax, fee, or assessment so levied shall be collected by DeKalb County in the same manner as taxes, fees, and assessments are levied by DeKalb County. Delinquent taxes shall bear the same interest and penalties as DeKalb County taxes and may be enforced and collected in the same manner. The proceeds of taxes, fees, and assessments so levied, less a fee to cover the costs of collection of one (1) percent of such proceeds, but not more than twenty-five thousand dollars (\$25,000.00) at any one (1) calendar year, shall be transmitted by DeKalb County to the board and shall be expended by the board only for the purposes authorized by this Section.

(2) The board shall levy the taxes, fees, and assessments in Subsection (a) of this Section subsequent to the report of the assessed taxable values for the current calendar year and notify in writing DeKalb County so it may include the levy on its regular ad valorem tax bills. All taxes, fees, and assessments levied by the board and collected by DeKalb County shall be segregated, and neither the City of Stonecrest nor the DeKalb County Tax Commissioner shall expend such funds for any purpose not authorized by the board except as authorized in subsection (a) of this section.

(3) If, but for this provision, a parcel of real property is removed from the district or otherwise would become not subject to taxation, it shall continue to bear its tax millage then extant upon such event for bonded indebtedness of the district then outstanding until said bonded indebtedness then outstanding is paid or refunded.

(4) Each property owner paying taxes, fees, or assessments levied by the board for any public facility as set forth in Subsection (a) of this Section may, upon application to the city council, receive a credit equal to the present value of all such taxes, fees, and assessments toward any impact fee as may be levied by the City of Stonecrest against such property for system improvements which are in the same category as said public facility in accordance with chapter 71 of title 36 of the O.C.G.A., the "Georgia Development Impact Fee Section." Application for such development impact fee credit may be granted by legislative action of the city council in its discretion.

(f) Boundaries of the district.

(1) The boundaries of the district shall be as designated as such by the city council as set forth in the resolution required in Subsection (c) of this Section, or as may thereafter be added as provided in this Section.

(2) The boundaries of the district may be increased after the initial creation of the district pursuant to the following:

(A) Written consent of a majority of the owners of real property within the area sought to be annexed into the district and which will be subject to taxes, fees, and assessments levied by the board of the district;

(B) Written consent of owners of real property within the area sought to be annexed into the district which constitutes at least seventy-five (75) percent by value of the property which will be subject to taxes, fees, and assessments levied by the board. For this purpose, value shall be determined by the most recent approved county ad valorem tax digest;

(C) The adoption of a resolution consenting to the annexation into the district by the board of the district; and

(D) The adoption of a resolution consenting to the annexation into the district by the city council.

(g) Debt. Except as otherwise provided in this section, each district may incur debt without regard to the requirements of article IX, section V of the Constitution of Georgia, or any other provision of law, prohibiting or restricting the borrowing of money or the creation of debt by political subdivisions of the State of Georgia, which debt shall be backed by the full faith and credit and taxing power of the district but shall not be an obligation of the State of Georgia, DeKalb County, the City of Stonecrest or any other unit of government of the State of Georgia other than the district.

(h) Cooperation with the City of Stonecrest.

The services and facilities provided pursuant to this Section shall be provided for in a cooperation agreement executed jointly by the board and by the City of Stonecrest. The provisions of this section shall in no way limit the authority of the City of Stonecrest to provide services or facilities within the district; and the City of Stonecrest shall retain full and complete authority and control over any of its facilities located within its respective areas of any district. Said control shall include, but not be limited to, the modification of, access to, and degree and type of services provided through or by facilities of the county. Nothing contained in this section shall be construed to limit or preempt the application of any governmental laws, ordinances, resolutions, or regulations to the district or the services or facilities provided therein.

(i) Powers.

(1) The district and its board created pursuant hereto shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Section, including, without limiting the generality of the foregoing, the power:

(A) To bring and defend actions;

(B) To adopt and amend a corporate seal;

(C) To make and execute contracts, agreements, and other instruments necessary or convenient to exercise the powers of the board or to further the public purposes for which the district is created, including, but not limited to, contracts for construction of projects leases of projects, contracts for sale of projects, agreements for loans to finance projects contracts with respect to the use of projects, and agreements with other jurisdictions of community improvement districts regarding multi-jurisdictional projects or services or for other cooperative endeavors to further the public purposes of the district;

(D) To acquire by purchase, lease, or otherwise and to hold, lease, and dispose of real and personal property of every kind and character, or any interest therein, in furtherance of the public purposes of the district;

(E) To finance by loan, grant, lease, or otherwise; to construct, erect, assemble, purchase, acquire, own, repair, remodel, renovate, rehabilitate, modify, maintain, extend, improve, install, sell, equip, expand, add to, operate, or manage projects; and to pay the cost of any project from the proceeds of the district or any other funds of the district, or from any contributions or loans by persons, corporations, partnerships whether limited or general, or other entities, all of which the board is authorized to receive, accept, and use;

(F) To borrow money to further or carry out its public purposes and to execute bonds, notes, other obligations, leases, trust indentures, trust agreements, agreements for the sale of its bonds, notes or other obligations, loan agreements, security agreements, assignments, and such other agreements or instruments as may be necessary or desirable, in the judgment of the board, to evidence and to provide security for such borrowing;

(G) To issue bonds, notes, or other obligations of the district and use the proceeds for the purpose of paying all or any part of the cost of any project and otherwise to further or carry out the public purposes of the district and to pay all costs of the board incidental to, or necessary and appropriate to, furthering or carrying out such purposes;

(H) To make application directly or indirectly to any federal or county government or agency or to any other source, whether public or private, for loans, grants, guarantees, or other financial assistance in furtherance of the district's public purposes and to accept and use the same upon such terms and conditions as are prescribed by such federal, state, or county government or agency or other source;

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(I) To enter into agreements with the federal government or any agency thereof to use the facilities or services of the federal government or any agency thereof in order to further or carry out the public purposes of the district;

(J) To contract for any period, not exceeding fifty (50) years, with the State of Georgia, any institution or instrumentality of the State of Georgia, any municipal corporation, county or political subdivision of this state for the use by the district of any facilities or services of the state or any such institution or instrumentality of this state, municipal corporation, county, or political subdivision of this state, or for the use by any institution or instrumentality of this state, any municipal corporation, county, or political subdivision of this state of any facilities or services of the district, provided that such contracts shall deal with such activities and transactions as the district and any such political subdivision with which the district contracts are authorized by law to undertake;

(K) To receive and use the proceeds of any tax levied by the county to pay the costs of any project or for any other purpose for which the board may use its own funds pursuant hereto;

(L) To receive and administer gifts, grants, and devises of money and property of any kind and to administer trusts;

(M) To use any real property, personal property, or fixtures or any interest therein or to rent or lease such property to or from others or make contracts with respect to the use thereof or to sell, lease, exchange, transfer, assign, pledge, or otherwise dispose of or grant options for any such property in any manner as it deems to be the best advantage of the district and the public purposes thereof;

(N) To appoint, select, and employ engineers, surveyors, architects, urban or city planners, fiscal agents, attorneys, and others and to fix their compensation and pay their expenses;

(O) To encourage and promote the improvement and development of the district and to make, contracts for, or otherwise cause to be made long-range plans or proposals for the district in cooperation with DeKalb County and the City of Stonecrest;

(P) To adopt bylaws governing the conduct of business by the board, the election and duties of officers of the board, and other matters which the board determines to deal with in its bylaws;

(Q) To exercise any power granted by the laws of this state to public or private corporations which is not in conflict with the public purposes of the district;

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(R) To invest its funds, whether derived from the issuance of bonds or otherwise, in such manner as it may deem prudent and appropriate, without further restriction;

(S) To create, provide, enhance, or supplement public services such as fire, police, and other such services as may be deemed necessary, provided that said public services do not conflict with or duplicate existing DeKalb County or municipal services, and

(T) To do all things necessary or convenient to carry out the powers conferred by this section.

(2) The powers enumerated in each subparagraph of Paragraph (a) of this Subsection are cumulative of and in addition to those powers enumerated in this Subsection and elsewhere in this Section; and no such power limits or restricts any other power of the board.

(3) The powers enumerated in each subparagraph of Paragraph (a) of this Subsection are conferred for an essential governmental function for a public purpose, and the revenues and debt of any district are not subject to taxation.

(j) Bonds—Generally.

(1) Notes or other obligations issued by a district other than general obligation bonds shall be paid solely from the property pledged to pay such notes or other obligations. General obligation bonds issued by any district shall constitute a general obligation of the district to the repayment of which the full faith and credit and taxing power of the district shall be pledged.

(2) All bonds, notes, and other obligations of any district shall be authorized by resolution of its board, adopted by a majority vote of the board members at a regular or special meeting.

(3) Bonds, notes, or other obligations shall bear such date or dates, shall mature at such time or times not more than forty (40) years from their respective dates, shall bear interest at such rate or rates which may be fixed or may fluctuate or otherwise change from time to time, shall be subject to redemption on such terms, and shall contain such other terms, provisions, covenants, assignments, and conditions as the resolution authorizing the issuance of such bonds, notes, or other obligations may permit or provide. The terms, provisions, covenants, assignments, and conditions contained in or provided or permitted by any resolution of the board authorizing the issuance of such bonds, notes, or other obligations shall bind the board members of the district then in office and their successors.

(4) The board shall have power from time to time and whenever it deems it expedient to refund any bonds by the issuance of new bonds, whether or not the bonds to be refunded have matured, and may issue bonds partly to refund bonds then outstanding and partly for any other purpose permitted by this Section. The refunding bonds may be exchanged for the bonds to be refunded, with such cash adjustments as may be agreed upon, or may be sold and the proceeds applied to the purchase or redemption of the bonds to be refunded.

(5) There shall be no limitation upon the interest rates or any maximum interest rate or rates on any bonds, notes, or other obligations of any district, and the usury laws of this state shall not apply to bonds, notes, or other obligations of any district.

(6) Bonds issued by a district may be in such form, either coupon or fully registered, or both coupon and fully registered, and may be subject to such exchangeability and transferability provisions as the bond resolution authorizing the issuance of such bonds or any indenture or trust agreement may provide.

(7) All bonds issued by a district pursuant to this Section shall be issued and validated under and in accordance with article 3 of chapter 82 of title 36 of the O.C.G.A., the "Georgia Revenue Bond Law." The signature of the clerk of the Superior Court of DeKalb County may be made on the certificate of validation of such bonds by facsimile or by manual execution, stating the date on which such bonds were validated; and such entry shall be original evidence of the Section of judgment and shall be received as original evidence in any court in this state.

(8) In lieu of specifying the actual rate or rates of interest the principal amount and the maturities of such bonds, the notice to the district attorney or the attorney general, the notice to the public of the time, place, and date of the validation hearing, and the petition and complaint for validation may state that the bonds when issued will bear interest at a rate not exceeding a maximum per annum rate of interest which may be fixed or may fluctuate or otherwise change from time to time so specified and that the principal amount will not exceed a specified amount and the final maturity date will not be later a date specified in such notices and petition and complaint or may state that, in the event the bonds are to bear different rates of interest for different maturity dates, none of such rates will exceed the maximum rate which may be fixed or may fluctuate or otherwise change from time to time so specified; provided, however, that nothing in this subsection shall be construed as prohibiting or restricting the right of a board to sell such bonds at a discount, even if in doing so the effective interest cost resulting would exceed the maximum per annum interest rate specified in such notices and in the petition and complaint.

(9) The terms "cost of the project" and "cost of any project" shall have the meaning prescribed in this Section whenever those terms are referred to in bond resolutions of a board, in bonds, notes, or other obligations of the district, or in notices or proceedings to validate such bonds, notes, or other obligations of a district.

(k) Authorized contents of agreements and instruments; use of proceeds of sale bonds, notes, and other obligations; subsequent issues of obligations.

(1) Subject to the limitations and procedures provided by this section and by subsection (j) of this section 1.06, the agreements or instruments executed by a board may contain such provisions not inconsistent with law as shall be determined by the board.

(2) The proceeds derived from the sale of all bonds, notes, and other obligations issued by a district shall be held and used for the ultimate purpose of paying, directly or indirectly as permitted by this Section, all or part of the cost of any project, or for the purpose of refunding any bonds, notes, or other obligations issued in accordance with this Section.

(3) Issuance by a board of one (1) or more series of bonds, notes, or other obligations for one (1) or more purposes shall not preclude it from issuing other bonds, notes, or other obligations in connection with the same project or with any other projects; but the proceeding wherein any subsequent bonds, notes, or other obligations are issued shall recognize and protect any prior loan agreement, security agreement, or other agreement or instrument made for any prior issue of bonds, notes, or other obligations, unless in the resolution authorizing such prior issue the right is expressly reserved to the board to issue subsequent bonds, notes or other obligations on a parity with such prior issue.

(4) In the event that the district shall be terminated in accordance with this section 1.06, the board shall serve until December 31 of the year in which termination shall be approved for the purpose of concluding any ongoing matters and projects, but, if such cannot be concluded by December 31, then the city council shall assume the duties of the administrative board and shall be expressly authorized to exercise the authority of the administrative board. In the alternative, the city council may, by resolution, assume all rights and obligations of the district, either bonds or otherwise, and the district shall cease to exist upon the adoption of such resolution.

(l) Construction; applicability of chapter 5 of title 10 of the O.C.G.A., the "Georgia Uniform Securities Act of 2008"; notice, proceeding, publication, referendum. This Section shall be liberally construed to effect the purposes hereof. The offer, sale, or issuance of bonds, notes, or other obligations by a district shall not be subject to regulation under chapter 5 of Title 10 of the O.C.G.A., the "Uniform Georgia Act of 2008." No notice proceeding, or publication except those required hereby shall be necessary to the performance of any Section authorized hereby, nor shall any such Section be subject to referendum.

(m) Dissolution.

(1) Any district activated under the provisions of this Section 1.06 may be dissolved. The conditions for such dissolution shall be:

(A) The adoption of a resolution approving of the dissolution of the community improvement district by the city council; and

(B) The written consent to the dissolution of the community improvement district by:

(i) Two-thirds (2/3) of the owners of real property within the district which are subject to taxes, fees, and assessments levied by the board of the district; and

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(ii) The owners of real property constituting at least seventy-five (75) percent by value of all real property within the district which are subject to taxes, fees, and assessments levied by the board. For this purpose, value shall be determined by the most recent approved county ad valorem tax digest.

The written consent provided for in this paragraph shall be submitted to the DeKalb County Tax Commissioner, who shall certify whether subparagraphs (i) and (ii) of this Paragraph have been satisfied with respect to each proposed district dissolution.

(2) In the event that successful action is taken pursuant to this section to dissolve the district, the dissolution shall become effective at such time as all debt obligations of the district have been satisfied. Following a successful dissolution action and until the dissolution becomes effective, no new projects may be undertaken, obligations or debts incurred, or property acquired.

(3) Upon a successful dissolution action, all noncash assets of the district other than public facilities or land or easements to be used for such public facilities, as described in Subsection 1 of this Section, shall be reduced to cash and, along with all other cash on hand, shall be applied to the repayment of any debt obligation of the district. Any cash remaining after all outstanding obligations are satisfied shall be refunded to DeKalb County.

(4) When a dissolution becomes effective, the City of Stonecrest shall take title to all property previously in the ownership of the district and all taxes, fees, and assessments of the district shall cease to be levied and collected.

ARTICLE II
GOVERNMENT STRUCTURE, ELECTIONS, AND LEGISLATIVE BRANCH

SECTION 2.01.

City council creation; number; election.

(a) The legislative authority of the government of the City of Stonecrest, except as otherwise specifically provided in this Act, shall be vested in ~~thea councilmemberseity council of which the mayor shall be a voting member.~~

(b)(1) -The city council of Stonecrest, Georgia, shall consist of five councilmembers plus the mayor.

(2) There shall be five council districts, designated Council Districts 1 through 5, as described in Appendix B of this Act, which is attached to and made a part of this charter of the City of Stonecrest.

(3) One councilmember shall be elected from each of the five council districts and shall hold Council District Posts 1, 2, 3, 4, and 5, respectively. Each person desiring to offer as a candidate for councilmember for such posts shall designate the council post for which he or she is offering. Councilmembers for such posts shall be elected by a majority vote of the qualified electors of the respective council districts voting at the elections of the city. In the event that no candidate for a council post obtains a majority vote of the qualified electors of the council district voting in the election, a run-off election shall be held. The candidates receiving the two highest numbers of votes in the election for such council post shall be included in the run-off election. The person receiving the highest number of votes of the qualified electors of the council district voting at such run-off election shall be elected. Each candidate for election to the city council must reside in the district he or she seeks to represent.

(c) With the exception of the initial terms set forth in subsection (d) of this section, councilmembers shall be elected to terms of four years and until their successors are elected and qualified on a staggered basis in alternate election cycles.

(d) In order to assure staggered elections of the councilmembers, ~~in the first election of the city council, the terms for the candidates elected~~ councilmembers elected in the first election of city
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council for Council District Posts 1, 3, and 5 ~~shall expire~~ upon the administration of the oath of office to their successors elected in the regular elections held in November, 2017, as provided in subsection (b) of Section 2.02.—The terms for the candidates elected for Council District Posts 2 and 4 shall expire upon the administration of the oath of office to their successors elected in the regular elections held in November, 2019. Thereafter, a successor to each councilmember shall be elected at the November election immediately preceding the end of such councilmember's term of office and the term of each councilmember shall expire upon the administration of the oath of office to his or her successor.

(e) With the exception of the initial term of office, the mayor of the City of Stonecrest, with the powers and duties specified herein, shall be elected to a term of four years and until his or her successor is elected and qualified. The mayor shall be elected by a majority vote of the qualified electors of the city at large voting at the elections of the city. In the event that no candidate for mayor obtains a majority vote of the qualified electors of the city at large voting at the elections of the city, then a run-off election shall be held. The candidates receiving the two highest numbers of votes in the election shall be included in the run-off election and the candidate receiving the highest number of votes in the runoff of the qualified electors of the city at large voting at such runoff shall be elected. The term of the first elected mayor shall expire upon the administration of the oath of office to his or her successor elected in the regular election held in November, 2019, as provided in subsection (b) of Section 2.02. Thereafter, the successor to each mayor shall be elected at the November election immediately preceding the end of such mayor's term of office and the term of each mayor shall expire upon the administration of the oath of office to his or her successor.

SECTION 2.02.

Mayor and councilmembers; terms and qualifications for office.

(a) For all elections subsequent to the first election held on March 21, 2017 and run off held on April 18, 2017, the mayor and councilmembers shall serve for terms of four years and until their terms shall expire upon the administration of the oath of office to their successors. No person shall be eligible to serve as mayor or councilmember unless that person shall have reached the age of 21, shall have been a resident of the City of Stonecrest for a continuous period of at least 12 months

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immediately prior to the date of the election for mayor or councilmember, shall continue to reside therein during that person's period of service, and shall continue to be registered and qualified to vote in municipal elections of the City of Stonecrest. In addition to the above requirements, no person shall be eligible to serve as a councilmember representing a council district unless that person has been a resident of the district such person seeks to represent for a continuous period of at least six months immediately prior to the date of the election for councilmember and continues to reside in such district during that person's period of service.

(b) ~~An election shall be held on the date of the 2016 general election, to elect the first mayor and city council.~~ At the first such election, the first mayor and council ~~were~~ shall be elected to serve for the initial terms of office specified in subsections (d) and (e) of Section 2.01. Thereafter, the time for holding regular municipal elections shall be on the Tuesday next following the first Monday in November of each odd-numbered year beginning in 2021.

(c) The number of successive terms an individual may hold a position as mayor or as a councilmember shall be unlimited.

SECTION 2.03.

Vacancy; filling of vacancies; suspensions.

(a) Elected officials of the city shall not hold other elected or public offices. The elected offices of the city's government shall become vacant upon the member's death, resignation, removal, or forfeiture of office. The following shall result in an elected city official forfeiting his or her office:

(1) Violating the provisions of this charter or his or her oath of office;

(2) Being convicted of, or pleading guilty or "no contest" to, a felony or a crime of moral turpitude; or

(3) Failing to attend one-third of the regular meetings of the council in a three-month period without being excused by the council.

(b) The office of mayor shall become vacant upon the incumbent's death, resignation, forfeiture of office, or removal from office in any manner authorized by this Act or the general laws of the State of Georgia. A vacancy in the office of mayor shall be filled for the remainder of the unexpired term by a special election if such vacancy occurs 12 months or more prior to the

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expiration of the term of that office. If such vacancy occurs within 12 months of the expiration of the term of that office, the city council or those members remaining shall appoint a successor for the remainder of the term. This provision shall also apply to a temporary vacancy created by the suspension from office of the mayor.

(c) The office of a councilmember shall become vacant upon the incumbent's death, resignation, forfeiture of office, or removal from office in any manner authorized by this Act or the general laws of the State of Georgia. A vacancy in the office of a councilmember shall be filled for the remainder of the unexpired term by a special election if such vacancy occurs 12 months or more prior to the expiration of the term of that office. If such vacancy occurs within 12 months of the expiration of the term of that office, the mayor shall appoint a successor for the remainder of the term subject to the approval of the city council or those members remaining. This provision shall also apply to a temporary vacancy created by the suspension from office of a councilmember.

SECTION 2.04.

Nonpartisan elections.

Political parties shall not conduct primaries for city offices and all names of candidates for city offices shall be listed without party designation.

SECTION 2.05.

Election votes.

The candidates for mayor and city council who receive a majority vote of the qualified electors of the city pursuant to Section 2.01 of this Charter at the elections of the city shall be elected to a term of office.

SECTION 2.06.

Applicability of general laws; qualifying; other provisions.

All elections shall be held and conducted in accordance with Chapter 2 of Title 21 of the
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O.C.G.A., the "Georgia Election Code," as now or hereafter amended or otherwise provided by law. Except as otherwise provided by this Act, the city council shall, by ordinance or resolution, prescribe such rules and regulations as it deems appropriate including, but not limited to, the establishment of qualifying fees, to fulfill any options and duties under Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code," as now or hereafter amended or otherwise provided by law.

SECTION 2.07.

Compensation and expenses.

Commencing with the 2018 fiscal year, the The annual salary of the mayor shall be \$75,000.00 and the annual salary for each councilmember shall be \$25,000.00. Such salaries shall be paid from municipal funds in monthly installments. The mayor and each councilmember shall be reimbursed without limitation for reasonable travel, transportation and training expenses actually and necessarily incurred by the mayor and each councilmember in carrying out their duties as elected officials of the city; and, shall also be reimbursed for any other reasonable expenses actually and necessarily incurred in carrying out their duties as elected officials of the city but not to exceed during each fiscal year: provided an annual expense allowance of \$5,000.00 for the mayor and each councilmember shall be provided an annual expense allowance of \$3,000.00 for each councilmember for the reimbursement of reasonable expenses actually and necessarily incurred by the mayor and councilmembers in carrying out their duties as elected officials of the city.

SECTION 2.08.

Inquiries and investigations.

The city council may make inquiries and investigations into the affairs of the city and conduct of any department, office, or agency thereof and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the city council shall be punished as may be provided by ordinance.

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SECTION 2.09.

Meetings, oath of office, and mayor pro tempore.

(a) The city council shall meet on the first working day in January immediately following each regular municipal election. The meeting shall be called to order by the mayor-elect and the oath of office shall be administered to the newly elected mayor and councilmembers collectively by a judicial officer authorized to administer oaths. The oath shall, to the extent that it comports with federal and state law, be as follows:

"I do solemnly swear or affirm that I will faithfully execute the office of [councilmember or mayor, as the case may be] of the City of Stonecrest, and will to the best of my ability support and defend the Constitution of the United States, the Constitution of Georgia, and the charter, ordinances, and regulations of the City of Stonecrest. I am not the holder of any unaccounted for public money due this state or any political subdivision or authority thereof. I am not the holder of any office of trust under the government of the United States, any other state, or any foreign state which I by the laws of the State of Georgia am prohibited from holding. I am otherwise qualified to hold said office according to the Constitution and laws of Georgia. I have been a resident of my district and the City of Stonecrest for the time required by the Constitution and laws of this state and by the municipal charter. I will perform the duties of my office in the best interests of the City of Stonecrest to the best of my ability without fear, favor, affection, reward, or expectation thereof."

(b) At the first regular meeting of the city council in each January, ~~Following the induction of the mayor and councilmembers,~~ the city council, by a majority vote of the councilmembers, shall elect a councilmember to be mayor pro tempore, who shall serve ~~for a term of two years and until~~ a successor is elected and qualified. The number of successive terms an individual may hold the position of mayor pro tempore shall be unlimited.

(c) The mayor pro tempore shall assume the duties and powers of the mayor during the mayor's temporary disability, suspension, or absence. If the mayor pro tempore is absent because of sickness or disqualification, any one of the remaining councilmembers, chosen by a majority of the councilmembers present, shall be clothed with all the rights and privileges of the mayor as described herein and shall perform the mayor's duties in the same manner as the mayor pro tempore.

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(d) The city council shall, at least once a month, hold regular meetings at such times and places as prescribed by ordinance. The city council may recess any regular meeting and continue such meeting on any day or hour it may fix and may transact any business at such continued meeting as may be transacted at any regular meeting.

(e) Special meetings of the city council may be held on the call of either the mayor and one councilmember or three councilmembers. Notice of such special meetings shall be delivered to all councilmembers, the mayor, and the city manager personally, by registered mail, or by electronic means at least 24 hours in advance of the meeting. —Such notice of any special meeting may be waived by the mayor, a councilmember, or the city manager in writing before or after such a meeting and attendance at the meeting shall also constitute a waiver of notice. The notice of such special meeting shall state what business is to be transacted at the special meeting. Only the business stated in the notice may be transacted at the special meeting.

SECTION 2.10.

Quorum; voting.

(a) Four councilmembers shall constitute a quorum and shall be authorized to transact business for the city council. The mayor shall be counted toward the making of a quorum. Voting on the adoption of ordinances shall be taken by voice vote and the yeas and nays shall be recorded in the minutes, but on the request of any member there shall be a roll-call vote. In order for any ordinance, resolution, motion, or other action of the city council to be adopted, the measure must receive at least three affirmative votes and must receive the affirmative votes of a majority of those voting. ~~No~~Neither any councilmember ~~nor the mayor~~ shall abstain from voting on any matter properly brought before the city council for official action except when such councilmember has a reason which is disclosed in writing prior to or at the meeting and made a part of the minutes. ~~The mayor and each~~Each councilmember when present at a meeting shall have one vote on all matters brought before the council. In the event of a tie in the vote on any matter, the mayor, if present, shall vote to break the tie.

(b) The following types of actions require an ordinance in order to have the force of law:

(1) Adopt or amend an administrative code or establish, alter, or abolish a department,

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office not specified in this charter, or agency;

- (2) Provide for fine or other penalty;
- (3) Levy taxes;
- (4) Grant, renew, or extend a franchise;
- (5) Regulate a rate for a public utility;
- (6) Authorize the borrowing of money;
- (7) Convey, lease, or encumber city land;
- (8) Regulate land use and development; and
- (9) Amend or repeal an ordinance already adopted.

(c) The city council shall establish by ordinance procedures for convening emergency meetings. In an emergency, an ordinance may be passed without notice or hearings if the city council passes the ordinance by three-fourths vote; provided, however, that the city council cannot in an emergency meeting:

- (1) Levy taxes;
- (2) Grant, renew, or extend a franchise;
- (3) Regulate a rate for a public utility; or
- (4) Borrow money.

(d) (1) The mayor, within five business days of the adoption of an ordinance by councilmembers pursuant to Section 2.10(a), shall return it to the clerk with the mayor's written approval or disapproval. If within said five business day period of the time the mayor either approves the ordinance or fails to give the clerk notice of his or her veto thereof, it shall become law effective as of the date of the ordinance's adoption; if the ordinance is vetoed, the mayor shall submit to the councilmembers through the clerk a written statement of reasons for the veto. The clerk shall record upon the ordinance the date of its delivery to and receipt from the mayor.

(2) Any ordinance vetoed by the mayor shall be presented by the clerk to the city council at its next meeting. If the city council at its next meeting adopts the ordinance by an affirmative vote of four councilmembers, it shall become law as of such date.

(3) The mayor may disapprove or reduce any item or items of appropriation in any ordinance. The approved part or parts of any ordinance making appropriations shall become law, and the part or parts disapproved shall not become law unless subsequently passed by the city council over the

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mayor's veto as provided herein. The reduced part or parts shall be presented to city council as though disapproved and shall not become law unless overridden by the council as provided in subsection (b) of this section.

(4) The mayor shall have no power to veto any ordinance in which he or she voted to break a tie in the manner provided in Section 2.10(a).

SECTION 2.11.

General power and authority of the city council.

(a) Except as otherwise provided by law or by this charter, the city council shall be vested with all the powers of government of the City of Stonecrest as provided by Article I of this charter.

(b) In addition to all other powers conferred upon it by law, the city council shall have the authority to adopt and provide for the execution of such ordinances, resolutions, policies, rules, and regulations, not inconsistent with this charter and the Constitution and the laws of the State of Georgia, which it shall deem necessary, expedient, or helpful for the peace, good order, protection of life and property, health, welfare, sanitation, comfort, convenience, prosperity, or well-being of the inhabitants of the City of Stonecrest and may enforce such ordinances by imposing penalties for violation thereof.

SECTION 2.12.

Administrative and service departments.

(a) Except for the office of city manager and the elected positions provided for in this charter, the city council, by ordinance, may establish, abolish, merge, or consolidate offices not specified in this charter, ~~positions of employment, departments, and agencies of the city as it shall deem necessary for the proper administration of the affairs and government of the city. The city council shall prescribe the functions and duties of existing departments, offices, and agencies or of any departments, offices, and agencies hereinafter created or established; may provide that the same person shall fill any number of offices and positions of employment; and may transfer or change the functions and duties of offices, positions of employment, departments, and agencies of the city.~~

(b) The following departments of the city are established: Administration, Community Development, Economic Development, Information Technology, Parks and Recreation, Public Safety and Public Works. ~~The operations and responsibilities of each department now or hereafter established in the city shall be distributed among such divisions or bureaus as may be provided by ordinance of the city council. Each department shall consist of such officers, employees, and positions as may be provided by this charter or by ordinance and shall be subject to the general supervision and guidance of the mayor and city council.~~

SECTION 2.13.

Prohibitions.

(a) No elected official, appointed officer, or employee of the city or any agency or political entity to which this charter applies shall knowingly:

(1) Engage in any business or transaction or have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of official duties or which would tend to impair the independence of his or her judgment or action in the performance of official duties;

(2) Engage in or accept private employment or render services for private interests when such employment or service is incompatible with the proper discharge of official duties or would tend to impair the independence of his or her judgment or action in the performance of official duties;

(3) Disclose confidential information concerning the property, government, or affairs of the governmental body by which engaged without proper legal authorization or use such information to advance the financial or other private interest of himself or herself or others, except as required by law;

(4) Accept any valuable gift, whether in the form of service, loan, object, or promise, from any person, firm, or corporation which to his or her knowledge is interested, directly or indirectly, in any manner whatsoever in business dealings with the governmental body by which he or she is engaged; "valuable" shall be an amount determined by the city council; provided, however, that the amount shall not exceed \$100.00;

(5) Represent other private interests in any action or proceeding against this city or any portion of its government; or

(6) Vote or otherwise participate in the negotiation or in the making of any contract with any business or entity in which he or she, or members of his or her immediate family, has a financial interest.

(b) Any elected official, appointed officer, or employee who has any private financial interest, directly or indirectly, in any contract or matter pending before or within any department of the city

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shall disclose such private interest to the city council. "Private financial interest" shall include interests of immediate family. The mayor or any councilmember who has a private interest in any matter pending before the city council shall disclose in writing such private interest and such disclosure shall be entered on the records of the city council, and he or she shall disqualify himself or herself from participating in any decision or vote relating thereto. Any elected official, appointed officer, or employee of any agency or political entity to which this charter applies who shall have any private financial interest, directly or indirectly, in any contract or matter pending before or within such entity shall disclose such private interest to the governing body of such agency or entity.

(c) No elected official, appointed officer, or employee of the city or any agency or entity to which this charter applies shall use property owned by such governmental entity for personal benefit, convenience, or profit, except in accordance with policies promulgated by the city council or the governing body of such agency or entity.

(d) Any violation of this section which occurs with the knowledge, express or implied, of a party to a contract or sale shall render said contract or sale voidable at the option of the city council.

(e) Except as authorized by law, no member of the city council shall hold any other elective governmental office ~~or be employed by any city or county government during the term for which~~ elected.

SECTION 2.14.

Boards, commissions, and authorities.

- (a) All members of boards, commissions, and authorities of the city shall be (i) either residents of the city or any representative of a non-resident owner of real property located within the city used other than for residential purposes (as defined in Section 1.06(b)(13) of this Charter; and, (ii) appointed by the mayor subject to confirmation by the city council for such terms of office and such manner of appointment as provided by ordinance, except where other appointing authority, residency requirement, term of office, or manner of appointment is prescribed by this charter or by applicable state law.
- (b) No member of any board, commission, or authority of the city shall hold any elective office in the city or the County of DeKalb. However, up to two members of the city council, including the mayor, may be appointed by the Mayor to serve as ex officio members of such boards, commissions, or authorities, without a vote for a term expiring December 31 following the date of appointment.
- (c) Any vacancy in office of any member of a board, commission, or authority of the city shall be filled for the unexpired term in the manner prescribed for original appointment, except as otherwise provided by this charter or any applicable law of the State of Georgia. (d) No member of any board, commission, or authority shall assume office until he or she shall have executed and filed with the designated officer of the city an oath obligating himself or herself to faithfully and impartially perform the duties of his or her office, such oath to be prescribed by ordinance of the city council and administered by the mayor or a judicial officer authorized to administer oaths.
- (e) Any member of a board, commission, or authority may be removed from office for cause by a vote of a majority of the councilmembers in accordance with state laws.
- (f) Members of boards, commissions, and authorities may receive such compensation and expenses in the performance of their official duties as prescribed by ordinance.
- (g) Except as otherwise provided by this charter or by applicable state law, each board, commission, or authority of the city government shall elect one of its members as chairperson and one member as vice chairperson for terms of one year and may elect as its secretary one of its own members or may appoint as secretary an employee of the city. Each board, commission, or
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authority of the city government may establish such bylaws, rules, and regulations not inconsistent with this charter, ordinances of the city, or applicable state law as it deems appropriate and necessary for the conduct of its affairs, copies of which shall be filed with the designated officer of the city.

SECTION 2.15.

Ordinance form; procedures.

(a) Every proposed ordinance and resolution shall be introduced in writing and the city council shall have the authority to approve, disapprove, or amend the same. A resolution may be passed at the time it is offered, but an ordinance shall not be adopted at a regular or special meeting of the city council until the ~~title of said ordinance~~ shall have been presented by the city manager or city attorney at a work session of the city council ~~read at two city council meetings~~, provided that the beginning of said work session and meetings shall be neither less than 24 hours nor more than 60 days apart. This requirement ~~of for the adoption of ordinance~~ two readings shall not apply to emergency ordinances, ~~to ordinances passed during the first 90 days from the date on which the city begins operation, or~~ to ordinances adopted at the first business meeting of the city council in a calendar year, ~~or to ordinances adopted at the first meeting of the initial city council as elected under subsection (b) of Section 2.02 of this charter.~~ The catchlines of sections of this charter or any ordinance printed in boldface type, italics, or otherwise, are intended as mere catchwords to indicate the contents of the section, and:

- (1) Shall not be deemed or taken to be titles of such sections or as any part of the section; and
- (2) Shall not be so deemed when any of such sections, including the catchlines, are amended or reenacted unless expressly provided to the contrary. Furthermore, the chapter, article, and section headings contained in this Act shall not be deemed to govern, limit, or modify or in any manner affect the scope, meaning, or intent of the provisions of any chapter, article, or section hereof.

(c) The city council may, by ordinance or resolution, adopt rules and bylaws to govern the conduct of its business and those in attendance its meetings, including procedures and penalties for

compelling the attendance of absent councilmembers. Such rules may include punishment for contemptuous behavior conducted in the presence of the city council.

SECTION 2.16.

Submission of ordinances to the city clerk.

- (a) Every ordinance, resolution, and other action adopted by the city council shall be presented to the city clerk within ~~715~~ days of its adoption or approval. The city clerk shall record upon the ordinance the date of its delivery from the city council.
- (b) An ordinance or resolution that has been passed by the city council shall become effective on the date the ordinance is passed by the city council or on such other date as may be specified in the ordinance.

ARTICLE III EXECUTIVE BRANCH

SECTION 3.01.

Powers and duties of the mayor.

- (a) The mayor shall:
 - (1) Preside over all meetings of the city council;
 - (2) Set the agenda for meetings of the city council after receiving input from members of the city council, the city manager, and the public; provided, however that an additional item shall be added to the agenda upon the written request of any two members of the city council;
 - (3) Serve as the ~~ceremonial~~ chief executive officerhead of the city and as its official representative to federal, state, and local governmental bodies and officials;
 - (4) Sign all orders, checks, and warrants for payment of money within a level of authorization as established by the city council;
 - (5) Execute all contracts, deeds, and other obligations of the city within a level of authorization as established by the city council;

- (6) ~~Not vote~~Vote in ~~all~~any matters before the city council as provided in Section 2.10(a) of this charter except in the event of a tie vote of the councilmembers;
 - (7) Make all appointments of city officers as provided by this charter, subject to confirmation by the city council;
 - (8) Provide sole supervision, direction and guidance to the City Manager;
 - (9) ~~Establish, consolidate, merge and abolish~~ oversight and policy committees of the city council and appoint citizens and ~~no less than two~~ (2) one (1) council members, exclusive of the mayor, to serve thereon, subject to the direction and supervision of the mayor;
 - (10) ~~Serve~~ Shall devote his or her time and attention to the affairs of the city and be compensated accordingly; and
 - (11) Perform any other duties and exercise any other powers required by state or federal law or authorized by a duly adopted ordinance that is not in conflict with this charter.
- (b) The mayor shall have the authority to transfer appropriations between ~~within~~ a department, fund, service, strategy, or organizational unit but only with approval of the city council.
 - (c) The mayor shall have the authority to certify that a supplemental appropriation is possible if revenue increases in excess of the amount budgeted but only with approval of the city council.
 - (d) The mayor shall have all of the powers specifically granted to the mayor elsewhere in this charter regardless of whether such powers are enumerated in this section of this charter.
 - (e) The mayor may designate the official legal organ of the city subject to confirmation by the city council.

SECTION 3.02.

City manager; appointment and qualification.

The mayor shall appoint, subject to confirmation by the city council, an officer whose title shall be the "city manager." The city manager shall be appointed without regard to political beliefs and solely on the basis of his or her education and experience in the accepted competencies and practices of local government management. The city manager need not be a resident of the City of Stonecrest.

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SECTION 3.03.

City manager; chief administrative officer.

The city manager shall be the chief administrative officer of the government of the city. The city manager shall devote all of his or her working time and attention to the affairs of the city and shall report to and be supervised and guided by the mayor and shall be responsible to the mayor and city council for the proper and efficient administration of the affairs of the city over which such officer has jurisdiction.

SECTION 3.04.

City manager; powers and duties enumerated.

The city manager shall have the power, and it shall be his or her duty to:

- (1) See that all laws and ordinances are enforced;
- (2) Appoint and employ all necessary employees of the city, provided that the power of this appointment shall not include officers and employees who by this charter are appointed or elected by the mayor and the city council or departments not under the jurisdiction of the city manager;
- (3) Remove employees appointed and employed under paragraph (2) of this section, without the consent of the city council and without assigning any reason therefor;
- (4) Prescribe the divisions, functions and duties of existing departments or of any departments hereinafter created or established; manage and control the operations and functions of each department now or hereafter established in the city; and supervise and guide the employees and department heads of each department. ~~Exercise supervision and control of all departments and all divisions created in this charter or that may hereafter be created by the city council except as otherwise provided in this charter;~~
- (5) Attend all meetings of the city council, without a right to vote, but with a right to take part in the discussions as seen fit by the chairperson; provided, however, that regardless of the decision of the meeting chairperson the city manager may take part in any discussion and report on any matter requested and approved by the city council at such meeting. The city manager shall be entitled to notice of all special meetings;

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- (6) Recommend to the city council, after prior review and comment by the mayor, for adoption such measures as the city manager may deem necessary or expedient;
- (7) See that all terms and conditions imposed in favor of the city or its inhabitants in any public utility franchise are faithfully kept and performed and upon knowledge of any violation thereof to call the same to the attention of the city attorney, whose duty it shall be forthwith to take such steps as are necessary to protect and enforce the same;
- (8) Make and execute all lawful contracts on behalf of the city as to matters within the city manager's level of authorization as established by the city council to the extent that such contracts are funded in the city's budget, except such as may be otherwise provided by law; provided, however, that no contract purchase or obligation requiring a budget amendment shall be valid and binding until after approval of the city council;
- (9) Sign all orders, checks, and warrants for payment of money within the city manager's level of authorization as established by the city council to the extent that such contracts are funded in the city's budget, except such as may be otherwise provided by law; provided, however, that no such order, check, or warrant requiring a budget amendment shall be valid and binding until after approval of the city council;
- (10) Act as budget officer to prepare and submit to the city council, after review and comment by the mayor, no less than sixty (60) days prior to the beginning of each fiscal year a budget of proposed expenditures for the ensuing year, showing in as much detail as practicable the amounts allotted to each department of the city government and the reasons for such estimated expenditures;
- (11) Keep the city council at all times fully advised as to the financial condition and needs of the city;
- (12) Make a full written report to the city council on the fifteenth of each month showing the operations and expenditures of each department of the city government for the preceding month, and a synopsis of such reports shall be published by the city clerk;
- (13) Fix all salaries and compensation of city employees in accordance with the city budget and the city pay and classification plan;

(14) May transfer appropriations within a department, fund or service with the consent of the mayor and by giving notice of any such transfer to the councilmembers no later than the next regular meeting of the city council and

(154) Perform such other duties as may be prescribed by this charter or required by ordinance or resolution of the city council.

SECTION 3.05.

City council interference with administration.

Except for the purpose of inquiries and investigations under Section 2.08 of this charter or as provided in Section 3.01 and Section 3.03 of this charter neither the city council nor its members shall interfere with the performance of services by or give orders to any such officer or employee, either publicly or privately.

SECTION 3.06.

City manager; removal.

(a) The mayor and or/ the city council may remove the city manager from office in accordance with the following procedures:

(1) The mayor by proclamation or the city council by resolution by affirmative vote of a majority of all its members may remove the city manager from office after a suspension of the city manager from duty for a period not to exceed 45 days. A copy either such proclamation of the mayor or the resolution of the city council shall be delivered promptly to the city manager;

(2) Within 5 days after a copy of such proclamation or resolution is delivered to the city manager, he or she may file with the city council a written request for a public hearing and a reconsideration of the removal. This hearing shall be held at a city council meeting especially set for such purpose not earlier than 15 days nor later than 30 days after the request is filed. The city manager may file with the city council a written reply to the removal not later than 5 days before the hearing; and

(3) If the city manager either (i) does not request a public hearing and a reconsideration of the removal 5 days from the date when a copy of such proclamation or resolution was delivered to the city manager; or, (ii) if after the conclusion of the public hearing requested by the city manager for reconsideration of the removal the city council does not pass a resolution either reversing the action of the mayor or rescinding its resolution of removal, the city manager's removal shall be effective as of such date without further action by the city council.

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(b) Unless either the mayors action removing the city manager or the resolution of removal of the city manager is rescinded by majority of the members of the city council at the public hearing held at the request of city manager pursuant to this section 3.06, the city manager shall continue to receive his or her salary until the effective date of his or her removal.

(c) If the city manager is suspended in accordance with subsection (a) of this section or becomes disabled and is unable to carry out the duties of the office or if the city manager dies, the acting city manager shall perform the duties of the city manager until the city manager's disability is removed or until the city manager is replaced. Removal of the city manager because of disability shall be carried out in accordance with the provisions of subsection (a) of this section.

SECTION 3.07.

Acting city manager.

(a) The mayor with the approval of the city council may appoint any person to exercise all powers, duties, and functions of the city manager during the city manager's suspension under subsection (a) of Section 3.06 of this charter, temporary absence from the city, or during the city manager's disability.

(b) In the event of a vacancy in the office of city manager, the mayor may designate with the approval of the city council a person as acting city manager, who shall exercise all powers, duties, and functions of the city manager until a city manager is appointed.

SECTION 3.08.

City attorney.

The mayor shall appoint the city attorney together with such assistant city attorneys or special city attorneys as may be deemed appropriate subject to confirmation by the city council and shall provide for the payment of such attorneys for services rendered to the city. The rates or salary paid to any city attorney or assistant city attorney shall be approved in advance by the city council. The city attorney shall be responsible for representing and defending the city in all litigation in which the city is a party; may be the prosecuting officer in the municipal court; shall attend the meetings

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of the city council as directed; shall advise the city council, mayor, other officers, and employees of the city concerning legal aspects of the city's affairs; and shall perform such other duties as may be required by virtue of his or her position as city attorney. The city attorney shall review all contracts of the city but shall not have the power to bind the city unless authorized by resolution of the city council.

SECTION 3.09.

City clerk.

The mayor shall appoint a city clerk subject to confirmation by the city council to keep a journal of the proceedings of the city council; to maintain in a safe place all records and documents pertaining to the affairs of the city; and to perform such duties as may be required by law or ordinance or as the mayor or city manager may direct.

SECTION 3.10.

Tax collector.

The mayor may appoint a tax collector subject to confirmation by the city council to collect all taxes, licenses, fees, and other moneys belonging to the city subject to the provisions of this charter and the ordinances of the city; and the tax collector shall diligently comply with and enforce all general laws of Georgia relating to the collection, sale, or foreclosure of taxes by municipalities. In the absence of a tax collector, the finance director shall perform the functions of the tax collector.

SECTION 3.11.

~~City accountant~~ Finance director.

The city manager, with the consent of the mayor, may appoint a ~~city accountant~~ finance director subject to confirmation by the city council to perform the duties of a finance director and an accountant.

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SECTION 3.12.

City internal auditor.

The city council shall appoint an internal auditor to audit the financial records and expenditures of city funds and to report the results of such audits in writing to the city council at times and intervals set by the city council but no less than quarterly. Such audit reports shall, at a minimum, identify all city expenditures and other financial matters that the internal auditor either determines are not in compliance with or cannot conclusively be determined to be in compliance with:

- (1) The provisions of this charter;
- (2) The applicable city budget; and
- (3) Applicable ordinances, resolutions, or other actions duly adopted or approved under the provisions of this charter.

SECTION 3.13.

Consolidation of functions.

The city manager, with the approval of the city council, may consolidate any two or more of the positions of city clerk, city tax collector, and ~~city accountant~~ finance director, or any other positions or may assign the functions of any one or more of such positions to the holder or holders of any other positions. The city manager may also, with the approval of the city council, perform all or any part of the functions of any of the positions or offices in lieu of the appointment of other persons to perform the same.

SECTION 3.14.

Position classification and pay plans; employment at will.

The city manager shall be responsible for the preparation of a position classification and a pay plan which shall be submitted to the city council for approval. Said plan may apply to all employees of the City of Stonecrest, ~~and any of its agencies and offices~~ and elected officials. When a pay plan has been adopted by the city council, neither the city council nor the city manager shall increase or decrease the salaries of individual employees except in conformity with such pay plan or pursuant

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to an amendment of such pay plan duly adopted by the city council. Except as otherwise provided in this charter, all employees of the city shall be subject to removal or discharge, with or without cause, at any time.

ARTICLE IV
MUNICIPAL COURT

SECTION 4.01.

Creation.

There is established a court to be known as the Municipal Court of the City of Stonecrest which shall have jurisdiction and authority to try offenses against the laws and ordinances of such city and to punish for a violation of the same. Such court shall have the power to enforce its judgments by the imposition of such penalties as may be provided by law, including ordinances of the city; to punish witnesses for nonattendance and to punish also any person who may counsel or advise, aid, encourage, or persuade another whose testimony is desired or material in any proceeding before such court to go or move beyond the reach of the process of the court; to try all offenses within the territorial limits of the city constituting traffic cases which, under the laws of Georgia, are placed within the jurisdiction of municipal courts to the extent of, and in accordance with, the provisions of such laws and all laws subsequently enacted amendatory thereof. Such court shall be presided over by the judge of such court. In the absence or disqualification of the judge, the judge pro tempore shall preside and shall exercise the same powers and duties as the judge when so acting.

SECTION 4.02.

Judges.

(a) No person shall be qualified or eligible to serve as judge unless he or she shall have attained the age of ~~35~~²⁸ years and shall have been a member of the State Bar of Georgia for a minimum of ~~sevent~~^{three} years. The judges shall be nominated by the mayor subject to approval by the city council. The compensation and number of the judges shall be fixed by the city council.

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(b) The judge pro tempore shall serve as requested by the judge, shall have the same qualifications as the judge, shall be nominated by the mayor subject to approval of the city council, and shall take the same oath as the judge.

(c) Before entering on the duties of his or her office, the judge and judge pro tempore shall take an oath before an officer duly authorized to administer oaths in this state declaring that he or she will truly, honestly, and faithfully discharge the duties of his or her office to the best of his or her ability without fear, favor, or partiality. The oath shall be entered upon the minutes of the city council.

(d) The judge, or judge pro tempore, shall serve for a term of four years but may be removed from the position by a two-thirds vote of the entire membership of the city council or shall be removed upon action taken by the state Judicial Qualifications Commission for:

- (1) Willful misconduct in office;
- (2) Willful and persistent failure to perform duties;
- (3) Habitual intemperance;
- (4) Conduct prejudicial to the administration of justice which brings the judicial office into disrepute; or
- (5) Disability seriously interfering with the performance of duties, which is or is likely to become of a permanent character.

SECTION 4.03.

Convening.

The municipal court shall be convened at such times as designated by ordinance or at such times as deemed necessary by the judge to keep current the dockets thereof.

SECTION 4.04.

Jurisdiction; powers.

(a) The municipal court shall try and punish for crimes against the City of Stonecrest and for violation of its ordinances. The municipal court may fix punishment for offenses within its jurisdiction to the fullest extent allowed by state law.

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- (b) The municipal court shall have authority to recommend to the city council for approval a schedule of fees to defray the cost of operation.
- (c) The municipal court shall have authority to establish bail and recognizances to ensure the presence of those charged with violations before such court and shall have discretionary authority to accept cash or personal or real property as security for appearances of persons charged with violations. Whenever any person shall give bail for his or her appearance and shall fail to appear at the time fixed for trial, the bond shall be forfeited to the judge presiding at such time and an execution issued thereon by serving the defendant and his or her sureties with a rule nisi at least two days before a hearing on the rule nisi. In the event that cash or property is accepted in lieu of bond for security for the appearance of a defendant at trial, and if such defendant fails to appear at the time and place fixed for trial, the cash so deposited shall be on order of the judge declared forfeited to the City of Stonecrest, or the property so deposited shall have a lien against it for the value forfeited.
- (d) The municipal court shall have the authority to bind prisoners over to the appropriate court when it appears, by probable cause, that a state law has been violated.
- (e) The municipal court shall have the authority to administer oaths and to perform all other acts necessary or proper to the conduct of said court.
- (f) The municipal court may compel the presence of all parties necessary to a proper disposal of each case by the issuance of summons, subpoena, and warrants which may be served as executed by any officer as authorized by this charter or by state law.
- (g) The municipal court is specifically vested with all of the judicial jurisdiction and judicial powers throughout the entire area of the City of Stonecrest granted by state laws generally to municipal courts, and particularly by such laws as authorize the abatement of nuisances.

SECTION 4.05.

Certiorari.

The right of certiorari from the decision and judgment of the municipal court shall exist in all criminal cases and ordinance violation cases, and such certiorari shall be obtained under the sanction of a judge of the Superior Court of DeKalb County under the laws of the State of Georgia

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regulating the granting and issuance of writs of certiorari, as supplemented by the city council by ordinance.

SECTION 4.06.

Rules for court.

With the approval of the city council, the judges shall have full power and authority to make reasonable rules and regulations necessary and proper to secure the efficient and successful administration of the municipal court.

ARTICLE V
FINANCE AND FISCAL

SECTION 5.01.

Fiscal year.

The city council shall set the fiscal year by ordinance. Such fiscal year shall constitute the budget year and the year for financial accounting and reporting of each and every office, department or institution, agency, and activity of the city government, unless otherwise provided by state or federal law.

SECTION 5.02.

Preparation of budgets.

The city council shall provide, by ordinance, the procedures and requirements for the preparation and execution of an annual operating budget and a capital budget, including requirements as to the scope, content, and form of such budgets and programs.

SECTION 5.03.

Submission of operating budget to city council.

- (a) On or before a date fixed by the city council, but no later than the first day of the ~~eleventh~~^{tenth} month of the fiscal year currently ending, the city manager shall, after input, review, and comment by the mayor, submit to the city council a proposed operating budget and capital budget for the ensuing fiscal year. The budget shall be accompanied by a message from the mayor and city manager containing a statement of the general fiscal policies of the city, the important features of the budget, explanations of major changes recommended for the next fiscal year, a general summary of the budget, and such other comments and information as they may deem pertinent. The operating budget, capital budget, the budget message, and all supporting documents shall be filed in the office of the city manager and shall be open to public inspection.
- (b) Beginning in the third year of the city's operation, the city manager and mayor are required to present to the city council a budget which is balanced in projected spending and revenues.
- (c) Prior to passage of the budget, the city council shall hold a special public hearing at which the budget will be presented and public comment on the budget will be solicited. The date, time, and place of the special public hearing shall be announced no less than 30 days prior to the scheduled date for such hearing.
- (d) All unencumbered balances of appropriations in the current operating budget at the end of the fiscal year shall lapse into the unappropriated surplus or reserves of the fund or funds from which such appropriations were made. When a supplemental appropriation is certified by the city manager to exist, these appropriations may be spent during the current fiscal year following passage of a supplemental appropriation ordinance.

SECTION 5.04.

Action by city council on budget.

- (a) The city council may amend the operating budget or capital budget proposed by the city manager in accordance with subsection (a) of Section 5.03 of this charter, except that the budget, as finally amended and adopted, shall provide for all expenditures required by law or by other
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provisions of this charter and for all debt service requirements for the ensuing fiscal year; and the total appropriations from any fund shall not exceed the estimated fund balance, reserves, and revenues constituting the fund availability of such fund.

(b) The city council shall adopt a budget on or before the ~~fifteenth first~~ day of the ~~twelfth~~ ~~eleventh~~ month of the fiscal year currently ending. If the city council fails to adopt the budget by the prescribed deadline, the operating budget and capital budget proposed by the mayor and city manager shall be adopted without further action by the city council.

SECTION 5.05.

Procurement and property management.

No contract with the city shall be binding on the city unless it is in writing. The city council may adopt procedures for the authorization of certain contracts without city attorney review or city council approval. Absent the foregoing, no contract with the city shall be binding on the city unless:

- (1) It is drawn or submitted and reviewed by the city attorney and, as a matter of course, is signed by the city attorney to indicate such drafting or review; and
- (2) It is made or authorized by the city council and such approval is entered in the city council journal of proceedings.

SECTION 5.06.

Purchasing.

The city council shall by ordinance prescribe procedures for a system of centralized purchasing for the city.

SECTION 5.07.

Audits.

(a) There shall be an annual independent audit of all city accounts, funds, and financial transactions by a certified public accountant selected by the city council. The audit shall be ~~{2354542/12354542/2}~~

conducted according to generally accepted accounting principles. Any audit of any funds by the state or federal government may be accepted as satisfying the requirements of this charter. Copies of all audit reports shall be available at printing cost to the public.

(b) As a minimum, all audits and budgets of the city shall satisfy the requirements of Chapter 81 of Title 36 of the O.C.G.A. relating to local government audits and budgets.

SECTION 5.08.

Homestead exemption; freeze.

(a) As used in this section, the term:

(1) "Ad valorem taxes for municipal purposes" means all municipal ad valorem taxes for municipal purposes levied by, for, or on behalf of the City of Stonecrest, including, but not limited to, ad valorem taxes to pay interest on and to retire municipal bonded indebtedness.

(2) "Base year" means the taxable year immediately preceding the taxable year in which the exemption under this section is first granted to the most recent owner of such homestead.

(3) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of the O.C.G.A., as amended, with the additional qualification that it shall include not more than five contiguous acres of homestead property.

(b) Each resident of the City of Stonecrest is granted an exemption on that person's homestead from City of Stonecrest ad valorem taxes for municipal purposes in an amount equal to the amount by which the current year assessed value of that homestead exceeds the base year assessed value of that homestead. This exemption shall not apply to taxes assessed on improvements to the homestead or additional land that is added to the homestead after January 1 of the base year. If any real property is added to or removed from the homestead, the base year assessed value shall be adjusted to reflect such addition or removal, and the exemption shall be recalculated accordingly. The value of that property in excess of such exempted amount shall remain subject to taxation.

(c) A person shall not receive the homestead exemption granted by subsection (b) of this section unless the person or person's agent files an application with the governing authority of the City of Stonecrest, or the designee thereof, giving such information relative to receiving such exemption as will enable the governing authority of the City of Stonecrest, or the designee thereof, to make a

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determination regarding the initial and continuing eligibility of such owner for such exemption. The governing authority of the City of Stonecrest, or the designee thereof, shall provide application forms for this purpose.

(d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year so long as the owner occupies the residence as a homestead. After a person has filed the proper application as provided in subsection (c) of this section, it shall not be necessary to make application thereafter for any year, and the exemption shall continue to be allowed to such person. It shall be the duty of any person granted the homestead exemption under subsection (b) of this section to notify the governing authority of the City of Stonecrest, or the designee thereof, in the event that person for any reason becomes ineligible for that exemption.

(e) The exemption granted by subsection (b) of this section shall not apply to or affect state ad valorem taxes, county ad valorem taxes for county purposes, or county or independent school district ad valorem taxes for educational purposes. The homestead exemption granted by subsection (b) of this section shall be in addition to and not in lieu of any other homestead exemption applicable to municipal ad valorem taxes for municipal purposes.

(f) The exemption granted by subsection (b) of this section shall apply only to taxable years 2018⁷ through 2019. Unless renewed or extended by subsequent Act of the General Assembly, the exemption granted by subsection (b) of this section shall not apply to taxable year 2020 or any subsequent taxable year.

SECTION 5.09.

Homestead exemption; senior citizens; disabled.

(a) As used in this section, the term:

(1) "Ad valorem taxes for municipal purposes" means all ad valorem taxes for municipal purposes levied by, for, or on behalf of the City of Stonecrest, including, but not limited to, any ad valorem taxes to pay interest on and to retire municipal bonded indebtedness.

(2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of the O.C.G.A., as amended.

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(3) "Income" means Georgia taxable net income determined pursuant to Chapter 7 of Title 48 of the O.C.G.A., as amended, for state income tax purposes, except income shall not include income received as retirement, survivor, or disability benefits under the federal Social Security Act or under any other public or private retirement, disability, or pension system, except such income which is in excess of the maximum amount authorized to be paid to an individual and such individual's spouse under the federal Social Security Act. Income from such sources in excess of such maximum amount shall be included as income for the purposes of this Act.

(4) "Senior citizen" means a person who is 65 years of age or over on or before January 1 of the year in which application for the exemption under subsection (b) of this section is made.

(b) Each resident of the City of Stonecrest who is disabled or is a senior citizen is granted an exemption on that person's homestead from City of Stonecrest ad valorem taxes for municipal purposes in the amount of \$14,000.00 of the assessed value of that homestead. The exemption granted by this subsection shall only be granted if that person's income, together with the income of the spouse who also occupies and resides at such homestead, does not exceed \$15,000.00 for the immediately preceding year. The value of that property in excess of such exempted amount shall remain subject to taxation.

(c)(1) In order to qualify for the exemption provided for in subsection (b) of this section due to being disabled, the person claiming such exemption shall be required to obtain a certificate from not more than three physicians licensed to practice medicine under Chapter 34 of Title 43 of the O.C.G.A., as amended, certifying that, in the opinion of such physician or physicians, such person is mentally or physically incapacitated to the extent that such person is unable to be gainfully employed and that such incapacity is likely to be permanent. Such certificate or certificates shall constitute part of and be submitted with the application provided for in paragraph (2) of this subsection.

(2) A person shall not receive the homestead exemption granted by subsection (b) of this section unless the person or person's agent files an application with the governing authority of the City of Stonecrest, or the designee thereof, giving the person's age, income, and such additional information relative to receiving such exemption as will enable the governing authority of the City of Stonecrest, or the designee thereof, to make a determination regarding the initial and continuing eligibility of such owner for such exemption. The governing

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authority of the City of Stonecrest, or the designee thereof, shall provide application forms for this purpose.

(d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year so long as the owner occupies the residence as a homestead. After a person has filed the proper application, as provided in subsection (c) of this section, it shall not be necessary to make application thereafter for any year and the exemption shall continue to be allowed to such person. It shall be the duty of any person granted the homestead exemption under subsection (b) of this section to notify the governing authority of the City of Stonecrest, or the designee thereof, in the event that person for any reason becomes ineligible for that exemption.

(e) The exemption granted by subsection (b) of this section shall not apply to or affect state ad valorem taxes, county ad valorem taxes for county purposes, or county or independent school district ad valorem taxes for educational purposes. The homestead exemption granted by subsection (b) of this section shall be in addition to and not in lieu of any other homestead exemption applicable to municipal ad valorem taxes for municipal purposes.

(f) The exemption granted by subsection (b) of this section shall apply to all taxable years beginning on or after January 1, 2018.

SECTION 5.10.

Homestead exemption; general.

(a) As used in this section, the term:

(1) "Ad valorem taxes for municipal purposes" means all ad valorem taxes for municipal purposes levied by, for, or on behalf of the City of Stonecrest, including, but not limited to, any ad valorem taxes to pay interest on and to retire municipal bonded indebtedness.

(2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of the O.C.G.A., as amended.

(b) Each resident of the City of Stonecrest is granted an exemption on that person's homestead from City of Stonecrest ad valorem taxes for municipal purposes in the amount of \$10,000.00 of

the assessed value of that homestead. The value of that property in excess of such exempted amount shall remain subject to taxation.

(c) A person shall not receive the homestead exemption granted by subsection (b) of this section unless the person or person's agent files an application with the governing authority of the City of Stonecrest, or the designee thereof, giving such information relative to receiving such exemption as will enable the governing authority of the City of Stonecrest, or the designee thereof, to make a determination regarding the initial and continuing eligibility of such owner for such exemption. The governing authority of the City of Stonecrest, or the designee thereof, shall provide application forms for this purpose.

(d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year so long as the owner occupies the residence as a homestead. After a person has filed the proper application, as provided in subsection (c) of this section, it shall not be necessary to make application thereafter for any year and the exemption shall continue to be allowed to such person. It shall be the duty of any person granted the homestead exemption under subsection (b) of this section to notify the governing authority of the City of Stonecrest, or the designee thereof, in the event that person for any reason becomes ineligible for that exemption.

(e) The exemption granted by subsection (b) of this section shall not apply to or affect state ad valorem taxes, county ad valorem taxes for county purposes, or county or independent- school district ad valorem taxes for educational purposes. The homestead exemption granted by subsection (b) of this section shall be in addition to and not in lieu of any other- homestead exemption applicable to municipal ad valorem taxes for municipal purposes.

(f) The exemption granted by subsection (b) of this section shall apply to all taxable years beginning on or after January 1, ~~2018~~2017.

SECTION 5.11.

Homestead exemption; surviving spouses.

(a) As used in this section, the term:

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(1) "Ad valorem taxes for municipal purposes" means all ad valorem taxes for municipal purposes levied by, for, or on behalf of the City of Stonecrest, including, but not limited to, ad valorem taxes to pay interest on and to retire municipal bonded indebtedness.

(2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of the O.C.G.A., as amended.

(3) "Unremarried surviving spouse" of a member of the armed forces includes the unmarried widow or widower of a member of the armed forces who is receiving spousal benefits from the United States Department of Veterans Affairs.

(b) Any person who is a resident of the City of Stonecrest and who is an unremarried surviving spouse of a member of the armed forces of the United States, which member has been killed in or has died as a result of any war or armed conflict in which the armed forces of the United States engaged, whether under United States command or otherwise, shall be granted a homestead exemption from all City of Stonecrest ad valorem taxation for municipal purposes in the amount of the greater of \$32,500.00 or the maximum amount which may be granted to a disabled veteran under Section 2102 of Title 38 of the United States Code, as amended. As of January 1, 2013, the maximum amount which may be granted to a disabled veteran under Section 2102 of Title 38 of the United States Code, as amended, is \$50,000.00. The exemption shall be on the homestead which the unremarried surviving spouse owns and actually occupies as a residence and homestead. In the event such surviving spouse remarries, such person shall cease to be qualified to continue the exemption under this Act effective December 31 of the taxable year in which such person remarries. The value of all property in excess of such exemption granted to such unremarried surviving spouse shall remain subject to taxation.

(c) In order to qualify for the exemption provided for in this Act, the unremarried surviving spouse shall furnish to the governing authority of the City of Stonecrest, or the designee thereof, documents from the Secretary of Defense evidencing that such unremarried surviving spouse receives spousal benefits as a result of the death of such person's spouse who as a member of the armed forces of the United States was killed or died as a result of a war or armed conflict while on active duty or while performing authorized travel to or from active duty during such war or armed conflict in which the armed forces of the United States engaged, whether under United States command or otherwise, pursuant to the Survivor Benefit Plan under Subchapter II of Chapter 73 of Title 10 of

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the United States Code or pursuant to any preceding or subsequent federal law which provides survivor benefits for spouses of members of the armed forces who were killed or who died as a result of any war or armed conflict.

(d) An unremarried surviving spouse filing for the exemption under this section shall be required to file with the governing authority of the City of Stonecrest, or the designee thereof, information relative to marital status and other such information which the governing authority of the City of Stonecrest, or the designee thereof, deems necessary to determine eligibility for the exemption. Each unremarried surviving spouse shall file for the exemption only once with the governing authority of the City of Stonecrest or the designee thereof. Once filed, the exemption shall automatically be renewed from year to year, except that the governing authority of the City of Stonecrest or the designee thereof may require annually that the holder of an exemption substantiate his or her continuing eligibility for the exemption. It shall be the duty of any person granted the homestead exemption under this section to notify the governing authority of the City of Stonecrest or the designee thereof in the event that person for any reason becomes ineligible for such exemption.

(e) The exemption granted by this section shall be in lieu of and not in addition to any other exemption from ad valorem taxation for municipal purposes which is equal to or lower in amount than such exemption granted by this section. If the amount of any other exemption from ad valorem taxation for municipal purposes applicable to any resident qualifying under this section is greater than or is increased to an amount greater than the amount of the applicable exemption granted by this section, such other exemption shall apply and shall be in lieu of and not in addition to the exemption granted by this section.

(f) The exemptions granted by this section shall apply to all tax years beginning on or after January 1, 2018.

SECTION 5.12.

Homestead exemption; one mill equivalent.

(a) As used in this section, the term:

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(1) "Ad valorem taxes for municipal purposes" means all ad valorem taxes for municipal purposes levied by, for, or on behalf of the City of Stonecrest, including, but not limited to, any ad valorem taxes to pay interest on and to retire municipal bonded indebtedness.

(2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of the O.C.G.A., as amended.

(b) Each resident of the City of Stonecrest is granted an exemption on that person's homestead from City of Stonecrest ad valorem taxes for municipal purposes in an amount that provides the dollar equivalent of a one mill reduction of the millage rate applicable to the homestead property with respect to ad valorem taxes for municipal purposes for the taxable year. The value of that property in excess of such exempted amount shall remain subject to taxation.

(c) A person shall not receive the homestead exemption granted by subsection (b) of this section unless the person or person's agent files an application with the governing authority of the City of Stonecrest or the designee thereof giving such information relative to receiving such exemption as will enable the governing authority of the City of Stonecrest or the designee thereof to make a determination regarding the initial and continuing eligibility of such owner for such exemption. The governing authority of the City of Stonecrest or the designee thereof shall provide application forms for this purpose.

(d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year so long as the owner occupies the residence as a homestead. After a person has filed the proper application, as provided in subsection (c) of this section, it shall not be necessary to make application thereafter for any year and the exemption shall continue to be allowed to such person. It shall be the duty of any person granted the homestead exemption under subsection (b) of this section to notify the governing authority of the City of Stonecrest or the designee thereof in the event that person for any reason becomes ineligible for that exemption.

(e) The exemption granted by subsection (b) of this section shall not apply to or affect state ad valorem taxes, county ad valorem taxes for county purposes, or county or independent school district ad valorem taxes for educational purposes. The homestead exemption granted by subsection (b) of this section shall be in addition to and not in lieu of any other homestead exemption applicable to municipal ad valorem taxes for municipal purposes.

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(f) The exemption granted by subsection (b) of this section shall apply to all taxable years beginning on or after January 1, 2018~~7~~.

ARTICLE VI
GENERAL PROVISIONS

SECTION 6.01.

DeKalb County special services tax district.

For the taxable years beginning on or after January 1, 2017, the adjusted ad valorem tax millage rate and amount for service charges or fees for and DeKalb County special services tax district within the boundaries of the City Stonecrest shall be zero percent. This section is enacted pursuant to the authority granted to the General Assembly under Section 1 of that local constitutional amendment providing that certain municipalities in DeKalb County shall constitute special services tax districts, Resolution Act. No. 168; House Resolution No. 715-1916; Ga. L. 1978, p. 2468, to control the subject matter of such local constitutional amendment. Municipal services provided by DeKalb County for the City of Stonecrest will be established through intergovernmental agreements or established as otherwise authorized by statute.

SECTION 6.02.

~~Referendum and initial election.~~

~~(a) The election superintendent of DeKalb County shall call a special election for the purpose of submitting this Act to the qualified voters of the proposed City of Stonecrest for approval or rejection. The superintendent shall set May 24, 2016, as the date of such election. The superintendent shall issue the call for such election at least 30 days prior to the date thereof. The superintendent shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date thereof in the official organ of DeKalb County. The ballot shall have written or printed thereon the words:~~

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~~"() YES Shall the Act incorporating the City of Stonecrest in DeKalb County according
() NO to the charter contained in the Act and the homestead exemptions described in
the Act be approved?"~~

~~All persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring to vote for rejection of the Act shall vote "No." If more than one half of the votes cast on such question are for approval of the Act, it shall become of full force and effect as provided in this charter, otherwise it shall be void and of no force and effect. The initial expense of such election shall be borne by DeKalb County. Within two years after the elections if the incorporation is approved, the City of Stonecrest shall reimburse DeKalb County for the actual cost of printing and personnel services for such election and for the initial election of the mayor and councilmembers pursuant to Section 2.02 of this charter. It shall be the duty of the superintendent to hold and conduct such election. It shall be his or her further duty to certify the result thereof to the Secretary of State.~~

~~(b) For the purposes of the referendum election provided for in subsection (a) of this section and for the purposes of the special election of the City of Stonecrest to be held in conjunction with and on the date of the 2016 general election, the qualified electors of the City of Stonecrest shall be those qualified electors of DeKalb County residing within the corporate limits of the City of Stonecrest as described by Appendix A of this charter. At subsequent municipal elections, the qualified electors of the City of Stonecrest shall be determined pursuant to the authority of Chapter 2 of Title 21 of the O.C.G.A. known as the "Georgia Election Code."~~

~~(c) Only for the purposes of holding and conducting the referendum election provided for by subsection (a) of this section and holding and conducting the special election of the City of Stonecrest to be held on the date of the 2016 general election, the election superintendent of DeKalb County is vested with the powers and duties of the election superintendent of the City of Stonecrest and the powers and duties of the governing authority of the City of Stonecrest.~~

SECTION 6.023.

Effective dates and transition.

~~(a) The initial mayor and councilmembers shall take the oath of office the next business day after certification of the election of such officers, and by action of any four members of the governing authority may, meet and take actions binding on the city.~~

(ab) A period of time will be needed for an orderly transition of various government functions from DeKalb County to the City of Stonecrest. Accordingly, there shall be a two-year transition period as allowed by law beginning at 12:01 A.M. on May 8, January 1, 2017.

(be) During such transition period, DeKalb County shall continue to provide within the territorial limits of the city all government services and functions which DeKalb County provided in 2016 and at the same actual direct cost and level of service, except to the extent otherwise provided in this section; provided, however, that upon at least 30 days' prior written notice to the governing authority of DeKalb County by the governing authority of the City of Stonecrest, responsibility for any such service or function shall be transferred to the City of Stonecrest. The governing authority of the City of Stonecrest shall determine the date of commencement of collection of taxes, fees, assessments, fines and forfeitures, and other moneys within the territorial limits of the city and the date upon which the City of Stonecrest is considered removed from the special services tax district.

(ce) During the transition period, the governing authority of the City of Stonecrest may generally exercise any power granted by this charter or general law, except to the extent that a power is specifically and integrally related to the provision of a governmental service, function, or responsibility not yet provided or carried out by the city.

(de) During the transition period, all ordinances of DeKalb County shall remain applicable within the territorial limits of the city unless otherwise amended, repealed, or replaced by the City of Stonecrest. Any transfer of jurisdiction to the City of Stonecrest during or at the end of the transition period shall not in and of itself abate any judicial proceeding pending in DeKalb County or the pending prosecution of any violation of any ordinance of DeKalb County.

(ef) During the transition period, the governing authority of the City of Stonecrest may at any time, without the necessity of any agreement by DeKalb County, commence to exercise its planning and zoning powers; provided, however, that the city shall give the county notice of the date on which the city will assume the exercise of such powers. Upon the governing authority of the City of Stonecrest commencing to exercise its planning and zoning powers, the Municipal Court of the

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City of Stonecrest shall immediately have jurisdiction to enforce the planning and zoning ordinances of the city. The provisions of this subsection shall control over any conflicting provisions of any other subsection of this section.

(~~fg~~) Effective upon the termination of the transition period, subsections (b) through (~~ef~~) of this section shall cease to apply except for the last sentence of subsection (~~de~~) which shall remain effective. Effective upon the termination of the transition period, the City of Stonecrest shall be a full functioning municipal corporation and subject to all general laws of this state.

SECTION 6.04.

~~Directory nature of dates.~~

~~It is the intention of the General Assembly that this Act be construed as directory rather than mandatory with respect to any date prescribed in this Act. If it is necessary to delay any action called for in this Act for providential cause or any other reason, it is the intention of the General Assembly that the action be delayed rather than abandoned. Any delay in performing any action under this Act, whether for cause or otherwise, shall not operate to frustrate the overall intent of this Act. Without limiting the generality of the foregoing, it is specifically provided that if it is not possible to hold the referendum election provided for in Section 6.02 of this Act on the date specified in that section, then such referendum shall be held as soon thereafter as is reasonably practicable but not later than 45 days after there is no further cause for delay. If the referendum election provided for in Section 6.02 of this Act is conducted before November 8, 2016, the special election for the initial members of the governing authority shall be conducted on the date specified in Section 2.02 of this Act. If the referendum election provided for under Section 6.02 of this Act is conducted after November 8, 2016, then the special election for the initial members of the governing authority shall be held as soon thereafter as is reasonably practicable, and the commencement of the initial terms of office shall be delayed accordingly. If the first election provided for in Section 2.02 of this Act occurs after the date of the 2016 general election, the city council shall be authorized to delay the dates otherwise specified in Section 6.03 of this Act.~~

SECTION 6.035.

Charter commission.

No later May 8, 2022~~than five years after the inception of the City of Stonecrest~~, the mayor and the city council shall call for a charter commission to review the city's experience and recommend to the General Assembly any changes to the charter. Members of the charter commission shall be appointed as follows: one by the mayor, one by each member of the city council, and one member appointed by a vote of the members of the Georgia House of Representatives and Georgia Senate whose districts lie wholly or partially within the corporate boundaries of the City of Stonecrest. All members of the charter commission shall reside in the City of Stonecrest. The commission shall complete the recommendations within the time frame required by the city council.

SECTION 6.06.

Severability.

In the event any section, subsection, sentence, clause, or phrase of this Act shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other sections, subsections, sentences, clauses, or phrases of this Act, which shall remain of full force and effect, as if the section, subsection, sentence, clause, or phrase so declared or adjudged invalid or unconstitutional were not originally a part hereof. The General Assembly hereby declares that it would have passed the remaining parts of this Act if it had known that such part or parts hereof would be declared or adjudged invalid or unconstitutional.

SECTION 6.07.

Effective date.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 6.08.

Repealer.

All laws and parts of laws in conflict with this Act are repealed.

APPENDIX A

LEGAL DESCRIPTION

CORPORATE LIMITS

CITY OF STONECREST, DEKALB COUNTY, GEORGIA

APPENDIX B - PART 1

LEGAL DESCRIPTION

COUNCIL DISTRICT 1 CITY LIMITS

CITY OF STONECREST, DEKALB COUNTY, GEORGIA

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APPENDIX B - PART 2

LEGAL DESCRIPTION

COUNCIL DISTRICT 2 CITY LIMITS

CITY OF STONECREST, DEKALB COUNTY, GEORGIA

APPENDIX B - PART 3

LEGAL DESCRIPTION

COUNCIL DISTRICT 3 CITY LIMITS

CITY OF STONECREST, DEKALB COUNTY, GEORGIA

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APPENDIX B - PART 4

LEGAL DESCRIPTION

COUNCIL DISTRICT 4 CITY LIMITS

CITY OF STONECREST, DEKALB COUNTY, GEORGIA

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APPENDIX B - PART 5

LEGAL DESCRIPTION

COUNCIL DISTRICT 5 CITY LIMITS

CITY OF STONECREST, DEKALB COUNTY, GEORGIA

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CITY COUNCIL AGENDA ITEM

SUBJECT: Amendment to the Purchasing Policy for the City Manager's Authorization

- ORDINANCE POLICY STATUS REPORT
 DISCUSSION ONLY RESOLUTION OTHER

Date Submitted: 01/02/2018

Special Called Meeting: 01/03/2018

SUBMITTED BY: Mayor

PURPOSE: This is to amend the Purchasing Policy to raise the City Manager's Authorization.

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Recommendation of Mayor and Council

City of Stonecrest, GA

Financial Management Policies
Purchasing Policy

Purchasing Policy

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Purchasing Policy

PURCHASING POLICY

I. Purpose

The purpose of this policy is to state the City's position regarding the responsibility and authority for the acquisition and contracting for Goods, Services, Professional Services, Real Estate, and Capital Assets. This document will clarify purchasing functions and outline purchasing policies, as well as describe departmental relationships, responsibilities and participation in the procurement cycle. This policy will provide control functions, assure proper record keeping and confirm purchases in writing to allow the City to meet the following goals:

- A. Maintain at all times and under all conditions a continuous supply of Goods and Services necessary for the operation of the City;
- B. Encourage and promote fair and equal opportunity for all persons doing, or seeking to do, business with the City;
- C. Safeguard the quality and integrity of the City's procurement process;
- D. Ensure compliance with laws and regulations pertaining to the procurement of Goods, Services, Professional Services, Real Estate, Construction Services and Capital Assets;
- E. Manage procurement and inventories of purchased Goods to meet the use requirements of City departments at the most advantageous cost to the City;
- F. Administer procurement contracts and contract amendments; and
- G. Properly dispose of all material and equipment declared to be surplus or obsolete.

In addition, this policy is to set a standard of environmentally preferable procurement and demonstrate the City's commitment to environmental, economic, and social stewardship. The City has a unique opportunity to further expand its leadership in the area of environmentally preferable purchasing, and through its actions, elicit changes in the marketplace. By further incorporating environmental considerations into public purchasing, the City will positively impact human health and the environment, remove unnecessary hazards from its operations, reduce costs and liabilities, and improve the environmental quality of the region. This policy will guide the City's efforts in procuring environmentally preferable Goods and Services.

The philosophy behind this policy is one of separating the need for Goods and Services from the function of negotiation and executing the necessary contractual purchase agreement.

The Purchasing Policy outlined herein shall be used in conjunction with the Purchasing Card Policy.

Purchasing Policy

II. Scope

The scope of this purchasing policy covers the procurement of most Goods and Services for non-construction purposes without regard to the past method by which the material or service has been or is customarily procured. The policy covers all contractual and purchase agreements between the City and another Person. The procurement function includes the initial agreement/purchase, changes and/or re-negotiations. This policy establishes the specific responsibility and authority of the procurement of materials and services.

As part of the audit process, the internal controls and accounting processes outsourced to municipal services Vendors will be evaluated and a measure of assurance given as a requirement of completion of the City's annual audit. The staff of outsourced municipal services Vendors assigned to work at City offices and perform purchasing activities on behalf of the City is not exempt from the City's adopted Purchasing Policy. Furthermore, unless due to the lack of competitive options, the City will not typically procure Goods and Services from outsourced municipal services Vendors not expressly stated in their contract to provide municipal services or which do not have a direct impact on the Vendor's ability to provide those contracted services.

The provisions of this policy do not apply to procurements for the following:

- A. Public works construction contracts to the extent governed by O.C.G.A. §36-91-1 et seq.;
- B. Services and construction whose procurement falls under a conflicting federal or Georgia statute;
- C. Land, artistic work, or other goods whose inherent nature is unique and cannot be competitively compared to other goods within its class, except as provided in Section VIII. Real Estate Acquisition;
- D. Employee Benefits and health related services procured through a quotation and negotiating process conducted by an expert in the field, or to maintain continuity of employee-health records;
- E. Travel, entertainment, conferences, training, speakers, instructors, facilitators, and meeting expenses, or other expenditures covered by another City policy;
- F. Insurance procured through a negotiating process;
- G. Items or services procured for resale or to generate a revenue;
- H. Advertising;
- I. Subscriptions and dues established during the budget process;
- J. Utilities;
- K. Seized Property included in a court order authorizing disposal; and
- L. Contracts involving federal funding whose procurement falls under a conflicting federal or Georgia statute or regulation, except as provided in Section XI.

Purchasing Policy

III. Definitions

When used in this policy, the following words, terms and phrases, and their derivations, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

- A. ADDENDUM means a change, clarification or correction in the Solicitation Documents, prior to the award of a Contract.
- B. AMENDMENT means an agreed upon change order, addition to, deletion from, correction or modification of a Contract including a Contract Extension or a Contract Renewal.
- C. APPEAL means a specific written objection by an interested Person to a Request for Qualifications, a Request for an IWQ, an Invitation for Bid, an Invitation to Negotiate, a Request for proposal, or an award or proposed award of a Contract, with the intention of receiving a remedial result.
- D. BID / PROPOSAL BOND means a form of bid security executed by the Bidder (or Proposer) as principal and by a Surety, to guarantee that the Bidder (or Proposer) will enter into a Contract within the time specified in the Invitation for Bid or Request for proposals, and will furnish the necessary bonds and insurance, and meet any other requirements of those documents.
- E. BIDDER means a person or entity submitting a bid or quote to the City for the supply of Goods or Services.
- F. BUYING COOPERATIVE OR ALLIANCE means a group of public entity purchasers organized for the purpose of creating contracts or pricing agreements in order to take advantage of group or quantity buying discounts or special pricing from which members of the group can benefit.
- G. CAPITAL ASSET is an item of personal property having a normal life expectancy of three years or more other than components.
- H. CITY means the City of Stonecrest and, as the context warrants, those persons or bodies authorized to act on its behalf, including but not limited to the City Council, committees, boards and staff.
- I. CITY ETHICS POLICY shall mean Article X, Ethics, of Chapter 2, Administration, of the Code of the City of Stonecrest, Georgia.
- J. CITY FINANCE DIRECTOR/FINANCE DIRECTOR means the City Accountant as described in the City Charter, his agent, or the department head of the City Finance Department, if such a department is in existence.
- K. COMPETITIVE AWARD means a procurement based upon the outcome of one of the competitive processes set forth in this Policy, where award is made based on the lowest quotation or Bid submitted by a responsible and responsive Bidder or to the most qualified or advantageous Proposer based on the qualitative and/or quantitative factors identified for the procurement. A Competitive Award can be made even if only a single bid or proposal has been received from a Bidder or Proposer who is determined to be responsible and responsive.

Purchasing Policy

- L. CONSTRUCTION means the process of building, altering, improving or demolishing any public structure or building, or other public improvements of any kind to any public real property including the provision of materials therefor. The term "Construction" does not include the routine operation, repair and/or maintenance of existing structures, buildings or real property.
- M. CONSTRUCTION SERVICES means services rendered by an independent and licensed contractor having expertise in Construction.
- N. CONTRACT means all types of City agreements for the purchase or disposal of Goods, Real Estate or Capital Assets, and the procurement of Services, Professional Services or Construction Services regardless of what they may be called, including contracts for a fixed price, cost plus a fixed fee, incentive contracts, and contracts providing for the issuance of job or task orders, leases, letter contracts and purchase orders. Contracts also include Amendments, modifications and supplemental agreements with respect to any of the foregoing. Every Contract must be duly authorized and approved prior to execution.
- O. CONTRACT EXTENSION means an Amendment to a Contract that includes an increase in the term of a Contract, for which no options to renew the Contract beyond the current expiration date exist.
- P. CONTRACT RENEWAL means an exercise of an approved, existing option to increase the term of a Contract. Options to renew a Contract are often done in annual increments.
- Q. EMPLOYEE means an individual drawing a salary or wage from the City whether on a full-time or part-time basis. The term shall encompass all members of the City Council without regard to whether or not such individuals are compensated. For purposes of this Purchasing Policy the term "employee" shall include, any Vendor or any employee of such Vendor who has entered into a Contract with the City to provide administrative and department services contemplated in Section 2.12 of the Charter of the City.
- R. EMERGENCY PROCUREMENT means any procurement of Goods, Capital Assets, Services or Professional Services in the context of an Emergency.
- S. EMERGENCY means a situation that occurs suddenly and unexpectedly and demands immediate action to prevent delays which may vitally affect the health, safety or welfare of the public or City Employees and affects the continuation of services to the citizens, and/or serious loss or injury to the City. Emergency shall also mean a condition, malfunction, or occurrence in which the immediate procurement of an item (i.e. Good, Services, or Professional Service) is essential to comply with regulatory requirements.
- T. ENVIRONMENTALLY PREFERABLE GOODS AND SERVICES means Goods and Services that have a lesser or reduced negative effect on human health and the environment when compared with competitive Goods and Services that serve the same purpose.
- U. GIFTS or FAVORS means anything of any service or value. Value shall as defined in any City of Stonecrest ethics policy.

Purchasing Policy

- V. GOODS or COMMODITIES means supplies, apparatus, materials, equipment and other forms of tangible personal property used by a City department in the accomplishment of its responsibilities other than Capital Assets.
- W. GOVERNING AUTHORITY means the Mayor and City Council of the City of Stonecrest or its designee(s).
- X. INFORMAL WRITTEN QUOTES (IWQ) means all documents utilized for soliciting quotations for Goods, Services, or Professional Services, in which award is made based on the lowest responsive and responsible quotation and in which the type or cost of the procurement does not require a more formal Bid or proposal process.
- Y. INVITATION FOR BID (IFB) means all documents utilized for soliciting bids, including those attached or incorporated by reference. These include a scope of work and all contractual terms and conditions applicable to the procurement. Bids are requested when requirements are clearly defined, price is the major determining factor for award, and a formal sealed submittal is required.
- Z. INVITATION TO NEGOTIATE (ITN) means documents used for soliciting competitive proposals in which negotiation of price and other factors is to commence after receipt of proposals and prior to recommendation of award. This process may be used when the scope of work is complex or difficult to define, if strict comparison of Services or Goods required may be difficult because components are likely to vary among Proposers or in any situation when it is in the City's best interest to negotiate prior to recommendation of award to obtain the Services or Goods that best meet the City's needs, price and other factors being considered.
- AA. LATE BID/PROPOSAL means a Bid or proposal received after the time or date such bid or proposal was due, as stated in the Solicitation Documents.
- BB. LIFE CYCLE COST ASSESSMENT means the comprehensive accounting of the total cost of ownership, including initial costs, energy and operational costs, longevity and efficacy of service and disposal costs.
- CC. MULTIPLE AWARD SCHEDULE CONTRACT means a Contract based upon one solicitation awarded to two or more Vendors to supply Goods or Services.
- DD. NEGOTIATED AWARD means a procurement made as the result of negotiations between the City and a Supplier, such as a Sole Source Procurement or Single Source Procurement or another instance, including competitive Invitation to Negotiate, where a Contract award based on direct negotiations with a Supplier of Goods or Services is appropriate.
- EE. OFFICIAL means any City elected or appointed person who holds office or any person appointed by the mayor and council of the City to serve on (1) the planning commission of the City, (2) any board or commission of the City having quasi-judicial authority; and, (3) any authority created by the City, either individually or jointly with other local governments pursuant to Georgia law.
- FF. ONLINE REVERSE AUCTION means a purchasing method wherein Bidders enter prices for items electronically, and their prices are displayed for other bidders to see with all Bidders given the opportunity to continually bid a lower price until the time period of the bid expires.

Purchasing Policy

- GG. ORDINANCE means related Administration Ordinance in Chapter 2 of the City's Municipal Code.
- HH. PAYMENT TERMS means the established due date for payments by the City to pay an invoice. Absent any agreement otherwise stated, the City's payment term will be Net 30.
- II. PERFORMANCE BOND means a bond provided by a contractor/supplier in which a surety guarantees to the City that the Goods or Capital Assets are delivered or the Services or Construction Services are performed in accordance with the Contract documents. A letter of credit issued by a financial institution that meets the City's requirements may, at the reasonable discretion of the City, be substituted for the performance bond.
- JJ. PERSON means any business, entity, company, firm, individual, union, committee, club or other organization or group of individuals.
- KK. PRACTICABLE means satisfactory and within reason when considering price, performance, availability, compatibility with specified operation, and public safety.
- LL. PRE-QUALIFICATION means the part of a competitive procurement process in which the City determines, based on standards developed for a specified product or service, which interested Vendors meet those standards and are eligible for further consideration in the purchasing process.
- MM. PROFESSIONAL SERVICES means services rendered by an independent contracting individual or firm having expertise in a particular industry or subject matter due to specialized education, training, licensure or skill, and consisting primarily of advice reports, conclusions, recommendations or other outputs resulting from the time and effort of the service provider, as opposed to the acquisition of specific commodities, or of services not requiring any specialized education, licensing, training or skill (e.g. janitorial services). Professional Services include but are not limited to evaluations, consultations, management systems, management consulting, compiling statistical data, support of planning and operating activities, appraisal services, and research and development studies or reports.
- NN. PROPOSER means a Person submitting a proposal or qualifications to the City for the supply of Goods, Capital Assets, Real Estate, Construction Services, Services, or Professional Services.
- OO. PURCHASE ORDER means a document approved and issued by the Purchasing Agent or designee and accepted by the Vendor to obtain Goods, Capital Assets, and Services.
- PP. PURCHASING is the process of securing real estate, capital assets, materials, services, repairs, leases and rentals necessary for the operation and support of the City. The renewal, renegotiations and changes to Contracts, leases and agreements are functions of purchasing.
- QQ. PURCHASING AGENT means the principal purchasing official of the City who is authorized and appointed to purchase a range of Goods, Capital Assets, Real Estate, Services, Construction Services, or Professional Services on a routine basis.
- RR. REAL ESTATE means land and any improvements and appurtenances thereto.
- SS. REAL ESTATE ACQUISITION means the acquisition of a fee interest, estate for years or usufruct in Real Estate by purchase or lease.

Purchasing Policy

- TT. REQUEST FOR PROPOSALS (RFP) means all documents utilized for soliciting proposals for Goods, Capital Assets or Services, including those attached or incorporated by reference. These include a scope of work and all contractual terms and conditions applicable to the procurement. This method is used when factors in addition to price are considered for award.
- UU. REQUEST FOR QUALIFICATIONS (RFQ) means all documents utilized for soliciting qualifications for Goods, Services, Capital Assets, Construction Services or Professional Services.
- VV. REQUISITION means an internal document, provided by a department to the Purchasing Agent that contains the fund source, approvals, descriptions, quantities and other information about the Goods, Capital Assets, Real Estate, Services, Construction Services or Professional Services in order to proceed with the procurement. The Requisition becomes valid when properly completed and approved.
- WW. RESPONSIBLE BIDDER OR PROPOSER means a Person, who, in the exclusive judgment of the City, (a) has the capability in all respects to fully perform the Contract requirements; and (b) the integrity, experience, qualification, and reliability which assures good faith performance.
- XX. RESPONSIVE BIDDER OR PROPOSER means a Person, who, in the exclusive judgment of the City, has submitted a bid or proposal that conforms in all material respects to the Solicitation Documents.
- YY. SERVICES mean any performance of effort or labor, for which the City has contracted other than Professional Services or Construction Services. Services include, but are not limited to, janitorial, landscaping, and street striping.
- ZZ. SHORTLISTING means the part of a competitive procurement process in which the City determines, based on criteria developed for a specified Good, Service, or Professional Service which of the interested Vendors are the best qualified to be eligible for further consideration in the purchasing process.
- AAA. SINGLE-SOURCE PROCUREMENT means identifying and using, without first completing a competitive process, one source for Goods, Capital Assets, Real Estate, Services, Professional Services or Construction Services among others in a competitive marketplace, which, for justifiable reasons, is found to be most advantageous for the purpose of fulfilling a given Purchasing need of the City.
- BBB. SOLE-SOURCE PROCUREMENT means identifying and using, without first completing a competitive process, one source for Goods, Capital Assets, Real Estate, Services, Professional Services or Construction Services when that source is the only one available that can fulfill a given Purchasing need of the City.
- CCC. SOLICITATION DOCUMENTS means an Invitation for Bids, Request for proposals, Request for Qualifications, Request for Quotations, or an Invitation to Negotiate including all of the associated forms and documents of each solicitation, or any other types of documents used by the City to procure Goods, Services, Capital Assets, Real Estate, Construction Services or Professional Services.

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DDD. SPECIFICATION OR SCOPE OF WORK means any description of the physical or functional characteristics, or of the nature of Goods, Services, Capital Assets, Real Estate, Construction Services or Professional Services. Specifications or Scope of Work may include any function and other criteria that will be required to perform the work and a description of any requirement for inspection, testing, or delivery.

EEE. SUPPLIER, MERCHANT OR VENDOR means a Person currently supplying or in the business of supplying Goods, Services, Capital Assets, Real Estate, Construction Services or Professional Services.

FFF. SURETY means an organization who, for a consideration, promises in writing to make good the debt or default of another organization. The Surety must be satisfactory to the City and licensed to do business in Georgia.

GGG. THE USING DEPARTMENT/DIVISION (User) is defined as the department which has the authority and responsibility for determining the need for an item or service, its related specifications, and need date. The User is responsible for funding the need and advising Purchasing of the approved funding and the specific budget account number. The User is responsible for authorizing the purchases of all materials, services, repairs, leases and rentals in which the negotiated price exceeds the approved funding.

IV. Ethics in Procurement

Each person involved in the procurement process must adhere to a high standard of ethics. Each will be bound by the City Code of Ethics and this Article IV. Whenever this Article IV conflicts with the City Code of Ethics, the City Code of Ethics shall control.

A. Employee Conflict of Interest

It shall be unethical for any City Employee or Official to transact any business or participate directly or indirectly in a procurement Contract when the Employee or Official knows that:

1. The Employee or Official or immediate family of such Employee or Official has a substantial interest pertaining to the procurement Contract, except that the purchase of Goods and Services from businesses which a member of the City Council or other City Employee has a substantial interest is authorized as per O.C.G.A. § 36-1-14, or the procurement Contract is awarded pursuant to O.C.G.A. § 45-10-22 and § 45-10-24, or the transaction is excepted from said restrictions by O.C.G.A. § 45-10-25, interpreting such statutes as if they were applicable to a municipality.
2. Any other person, business or organization with whom the Employee, Official or immediate family of such Employee or Official is negotiating or has an arrangement concerning prospective employment is involved in the procurement Contract.
3. An Employee, Official or any immediate family of such Employee or Official who holds a substantial interest in a disclosed blind trust shall not be deemed to have a conflict of interest with regard to matters pertaining to that substantial interest.

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4. All Employees and Officials will be asked to sign a disclosure document indicating his or her compliance with the City Ethics Policy.
5. The terms "immediate family" and "substantial interest" shall have the meaning given to such terms in the City Code of Ethics.

B. Gratuities, Rebates or Kickbacks

1. **Gratuities.** It shall be unethical for any person to offer, give, or agree to give any Employee or Official or for any Employee or Official to solicit, demand, accept, or agree to accept from another person, a gratuity, rebate, loan an offer of employment or other services or property of value in connection with any decision, approval, disapproval, recommendation or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a Contract or subcontract, or to any solicitation or proposal therefore in any manner inconsistent with the State of Georgia's Department of Administrative Services Gratuity Policy. Rebates normally or routinely offered to customers in the ordinary course of business of such Vendor for the purchase of their Goods and Services are acceptable and are the property of the City.

Nothing in this section shall preclude an Employee or Official of the City from attending seminars, courses, lectures, briefings, or similar functions at any Vendor's facility or at any other place if any such seminar, course, lecture, briefing, or similar function is for the purpose of furnishing the Official, Employee, or Agent with knowledge and information relative to the Vendor's products or services and is one which the City Manager determines would be of benefit to the City.

In connection with any such seminar, course, lecture, briefing, or similar function, nothing shall preclude the Employee or Official from receiving meals or educational materials and business related items of not more than nominal value from a Vendor.

Nothing contained in this section shall permit the Employee or Official to accept travel or lodging for less than the value thereof from any Vendor.

2. **Kickbacks and Rebates.** It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a Contract to the prime contractor or higher tier subcontractor, or any person associated therewith, as an inducement for the award of a subcontract or order.
3. **Contract Clause.** The prohibition against gratuities, rebates and kickbacks prescribed in this Section shall be conspicuously set forth in every Contract and Solicitation Documents therefore.
4. **Courtesies.** Employees may accept for themselves and members of their families common courtesies usually associated with customary business practices so long as a strict standard is enforced with respect to gifts, services, discounts, entertainment or consideration of any kind

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from suppliers of merchandise, services, supplies, etc. to the City. An example of a common courtesy is free pens or notepads with the Vendor's name on them.

5. Cash. It is never permissible for an Employee or Official to accept a gift in cash, cash equivalents, stocks or other forms of marketable securities of any amount.

C. Prohibition Against Contingent Fees

It shall be unethical for a person to be retained, or to retain a person, to solicit or secure a Contract upon any agreement or understanding for a commission, percentage, brokerage or contingent fee, except for agreements with manufacturer representatives, or agents, including but not limited to commercial services sales agents engaged in the business of soliciting contracts on behalf of Vendors.

D. Use of Confidential Information

It shall be unethical for any Employee or Official knowingly to disclose or use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.

E. Unauthorized Purchases

No purchases of Goods and Services shall be made in the name of the City or one of its departments, except such as is required for official use by the City or one of its departments. Purchases in the name of the City or a department for personal use by an individual or for other than official use are prohibited, and no City funds will be expended or advanced therefore.

F. Penalties and Sanctions

1. Legal or disciplinary action by City Council. The City Council may take appropriate legal and/or disciplinary actions pursuant to the City Code of Ethics against any Employee, Official or other Person in violation of these ethical standards.
2. Legal or disciplinary action by City Manager. The City Manager is authorized to take any appropriate legal and/or disciplinary actions, including dismissal, of any Employee violating this Ethics Policy.
3. Administrative penalties for Employees. The City Manager may impose any one or more of the following penalties or sanctions on an Employee for violations of the ethical standards in this Section as appropriate to the situation, subject to the Personnel Manual or other appropriate appeals procedures:
 - a) Oral or written warnings or reprimands.
 - b) Suspensions with or without pay for specified periods of time.
 - c) Termination of employment.

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4. Administrative penalties for outside contractors/Vendors. The City may impose any one or more of the following penalties or sanctions on a Vendor or other Person or organization for violations of these ethical standards:

- a) Written warnings or reprimands.
- b) Termination of Contracts.
- c) Debarment or suspension.

G. Disclaimer of Responsibility for Improper Purchasing

The City may disclaim responsibility and liability for any purchase, expenditure, or agreement for expenditure arising from any procurement made in its name, or in the name of any governmental body under its authority, by an unauthorized person or any person acting outside this Policy or the authorization or delegation as provided in this Policy. The expense of any such disclaimed transaction will become the personal liability of the individual who acted improperly.

H. Vendor Contact During Open Solicitations

Persons seeking an award of a City contract may not initiate or continue any verbal or written communications regarding a solicitation with any Official, Employee or other City representative other than the Purchasing Agent named in the solicitation between the date of the issuance of the solicitation and the date of the final contract award. The City Manager or designee will review violations. If determined that such communication has compromised the competitive process, the offer submitted by the individual, firm or business may be disqualified from consideration for award.

V. **Responsibility**

A. Purchasing Agent

The City Council appoints the City Manager, or such other Employee appointed by the City Manager, to serve as the Purchasing Agent for the City, or the City Council may contract with an independent third party to serve as the Purchasing Agent under the direction and control of the City Manager (City Code Chapter __, Article __, Section __).

DUTIES: The Purchasing Agent shall have the following duties and powers:

1. Arrange and negotiate the purchase or Contract for all equipment, supplies and contractual services for the City or any using agency; arrange and negotiate for the sale or otherwise dispose of all surplus equipment and supplies or real estate of the City or any using agency, subject to the approval of the City Manager and/or the City Council.
2. Maintain a perpetual or periodic inventory record of all materials, supplies, software, or equipment stored in city storerooms, warehouses, and elsewhere, including monthly reports to the Finance Director that include:

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- a) Titles of all formal solicitations and the method of source selections to be used.
 - b) Contracts authorized by the City Council, the method of source selection used and the total dollar amount.
 - c) Emergency Contracts awarded pursuant to Section 1.03 of the City's Charter.
 - d) Change orders or Contract modifications authorized by the City Council and the dollar amount and reason.
 - e) Amendments or change orders authorized by the Purchasing Agent and the dollar amount and reason.
 - f) Explanation of any changes, and the costs involved, in the scope of services made between the time a Contract is awarded and the time that the Contract is authorized by the City Council.
 - g) Documentation of the types, quantities, and dollar amounts of environmentally preferable Goods (including the percentage of post-consumer and total recovered material content) and Services purchased. The report shall also include dollar amounts of non-environmental or conventional Goods and Services, identify and discuss instances where this policy is waived or its requirements found impracticable, and highlight barriers to the procurement of environmentally preferable Goods and Services, if applicable.
3. Manage and supervise purchasing staff.
 4. Control and supervise all City storerooms and warehouses.
 5. Maintain and adhere to all City purchasing procedures and purchasing procedures manual which will be updated by City Manager periodically.
 6. Establish guidelines, within the purchasing procedures manual, governing the review and approval of specifications for procurement of Goods, Capital Assets and Services based on recyclability, energy and water conservation, life cycle cost, and other environmental considerations.
 7. Direct efforts to procure Goods, Capital Assets, Real Estate, Services, Construction Services and Professional Services in accordance with the requirements of this Purchasing Policy, the Code of the City of Stonecrest and Georgia law.
 8. Where in the best interest of the City, require Bid/Proposal Bonds, insurance and other forms of protection for the City on the process of procuring Goods, Capital Assets, Services and Construction Services for the City.
 9. Terminate solicitations for bids for any Goods, Capital Assets, Services, Construction Services and Professional Services when, in the opinion of the Purchasing Agent, it is in the City's best interest to do so.

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10. Reject any and all bids, when in the opinion of the Purchasing Agent it is in the City's best interest to do so.
11. Consult with the City Attorney if a contracting party breaches or is reasonably anticipated to breach its Contract with the City.
12. The City Council shall approve final Contracts and Amendments valued more than \$25,000.00 and execute and bind the City to such agreements. Contracts valued at less than \$25,000.00 may be approved, executed and delivered by the City Manager or designee of the City Manager with a copy of said contract to be delivered to the City Council by the City Clerk via email. No Contract shall be approved pursuant to this Subsection 12, unless the funds therefor have been appropriated in the budget of the City or otherwise by the City Council.
13. Advise the Finance Director and City Manager on the status of negotiations, as well as Contract provisions and their impacts on the City.
14. Make recommendations on Contract approval, rejection, Amendment, and cancellation.
15. Provide Contract administration and supervision of Contracts. Such tasks shall include, but not be limited to, monitoring Amendments, obtaining applicable insurance certificates and monitoring applicable progress.
16. Plan and implement processes for the ongoing protection of the City's interests.
17. Recommend and implement policies and procedures to provide for compliance with laws related to bidding, Contracting and Purchasing as set forth in the State of Georgia Code and Regulations, by examining the applicable laws and developing procedures for bidding, Contracting and procurement processes.
18. Ensure all Contracts are reviewed and approved by the City Attorney as required by Section 3.08 of the City Charter.
19. Whenever possible, utilize City-generated and City Attorney-approved standard goods/services purchasing agreements.
20. Ensure Council is notified as soon as reasonably possible of all upcoming and active competitive procurements.
21. Ensure all procurements over \$25,000.00 have Council approval.

B. Using Department/Division (User)

1. Determine Need: The User is responsible for determining the need for a material or service and providing appropriate documentation and justification therefor, including a purchase requisition.

Purchasing Policy

10. Reject any and all bids, when in the opinion of the Purchasing Agent it is in the City's best interest to do so.
11. Consult with the City Attorney if a contracting party breaches or is reasonably anticipated to breach its Contract with the City.
12. The City Council shall approve final Contracts and Amendments valued more than \$ _____ and execute and bind the City to such agreements. Contracts valued at less than \$ _____ may be approved, executed and delivered by the City Manager or designee of the City Manager with a copy of said contract to be delivered to the City Council by the City Clerk via email. No Contract shall be approved pursuant to this Subsection 12, unless the funds therefor have been appropriated in the budget of the City or otherwise by the City Council.
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15. Provide Contract administration and supervision of Contracts. Such tasks shall include, but not be limited to, monitoring Amendments, obtaining applicable insurance certificates and monitoring applicable progress.
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17. Recommend and implement policies and procedures to provide for compliance with laws related to bidding, Contracting and Purchasing as set forth in the State of Georgia Code and Regulations, by examining the applicable laws and developing procedures for bidding, Contracting and procurement processes.
18. Ensure all Contracts are reviewed and approved by the City Attorney as required by Section 3.08 of the City Charter.
19. Whenever possible, utilize City-generated and City Attorney-approved standard goods/services purchasing agreements.
20. Ensure Council is notified as soon as reasonably possible of all upcoming and active competitive procurements.
21. Ensure all procurements over \$25,000.00 have Council approval.

B. Using Department/Division (User)

1. Determine Need: The User is responsible for determining the need for a material or service and providing appropriate documentation and justification therefor, including a purchase requisition.
2. Determine Funding: The User is responsible for providing proper funding. Specific budget account numbers must be on the purchase requisition.

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3. Determine Specifications: The User is responsible for determining the quantity, quality, dimensions, duration and all other necessary specifications essential to the determination of what is to be procured. The specifications must, where applicable, conform to the approved City standards for identity and continuity.
4. Purchase Requisition: It is imperative that the User transmits its need to the Purchasing Agent. The Purchasing Agent can only purchase supplies and services on the basis of an approved and completed Requisition. A properly approved Requisition contains, as a minimum, the following information:
 - a) Complete description and specifications.
 - b) Quantity.
 - c) Need date (lead time of at least one week, must be allowed).
 - d) Estimated cost.
 - e) Freight.
 - f) Complete budget account number.
 - g) Previous purchase information or quotation (if known).
 - h) Known or suggested Vendor(s).
 - i) Authorized approval of department head and division head.
 - j) Authorized approval from the Budget/Finance Department.
5. Acceptance of Procured Item or Service: Within 24 hours, the User is responsible for advising the Purchasing Office in writing on a receiving report the receipt of the Goods procured and whether or not such Goods are found to be unsatisfactory.

VI. Environmentally Preferable Goods and Services

In determining which Goods, Capital Assets and Services to purchase, the City shall integrate environmental factors into the City's procurement decisions, when available and commercially practicable in the reasonable discretion of the User. At a minimum, the City shall strive to whenever possible and practicable:

1. Purchase copy, computer, and fax paper with at least 30 percent post-consumer recycled content;
2. Purchase non-emergency fleet vehicles that provide the best available net reduction in vehicle fleet emissions, including but not limited to the purchase of alternative fueled and hybrid vehicles;

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3. Consider purchasing lower emission emergency fleet vehicles with comparable specifications for performance, safety, and fuel availability during emergencies as conventionally-powered emergency fleet vehicles;
4. Purchase at least Energy Star rated equipment and appliances for use in local government facilities when practicable based upon considerations of Life Cycle Costs;
5. Purchase water-saving products, including WaterSense labeled, whenever practicable, including but not limited to, high performance fixtures such as toilets (1.28 gallons per flush or less), urinals (0.5 gallons per flush or less), low-flow faucets (1.5 gallons per minute or less), aerators, and upgraded high-efficiency irrigation systems;
6. Replace disposable with re-usable, recyclable, or compostable Goods;
7. Consider Life Cycle Cost Assessment; and
8. Evaluate, as appropriate, the environmental performance of Vendors in providing Goods and Services.

This analysis to determine environmentally preferable Goods Services may include raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, disposal of products, or service delivery.

Specifically, factors that should be considered by the User when determining that Goods have environmentally preferable attributes include, but are not limited to:

1. Minimization of virgin, unrecycled material used in Goods;
2. Maximization of recycled materials used in Goods;
3. Life cycle economics of Goods and Services;
4. Reuse of existing Goods or materials in Goods;
5. Recyclability, biodegradability and compostability of Goods;
6. Minimization of packaging;
7. Reduction of energy and fuel consumption;
8. Reduction of water consumption;
9. Toxicity reduction or elimination;
10. Durability and maintenance requirements; and
11. Ultimate disposal of the Goods.

VII. Preference for Products Manufactured in Georgia

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When contracting for or purchasing supplies, materials, equipment, or agricultural products, excluding beverages for immediate consumption, the City shall give preference, as far as may be reasonable, economical, and practicable, to such supplies, materials, equipment, and agricultural products as may be manufactured or produced in the State of Georgia. Such preference shall not sacrifice quality.

In determining whether such a preference is reasonable in any case where the value of a contract for or purchase of such supplies, materials, equipment, or agricultural products exceeds \$100,000.00, the City shall consider, among other factors, information submitted by the bidder which may include the bidder's estimate of the multiplier effect on gross state domestic product and the effect on public revenues of the state and the effect on public revenues of political subdivisions resulting from acceptance of a bid or offer to sell Georgia manufactured or produced goods as opposed to out-of-state manufactured or produced goods. Any such estimates shall be in writing. The City shall not divide a contract or purchase which exceeds \$100,000.00 for the sole purpose of avoiding these requirements.

VII. Competitive Procurements

A. Request for Informal Written Quotes (IWQ)

Requests for Informal Written Quotes (IWQ) are prepared and issued with the goal of obtaining competitive responses.

Public notice is posted on the Purchasing Agent's Internet Web Page for all Requests for an IWQ in which the value is expected to exceed \$50,000.00. Additional public notice may be provided for solicitations that, in the sole discretion of the City, are of the size, type, or dollar value that make additional public notice appropriate.

Quotations are opened by the Purchasing Agent at the location indicated and on or after the due date indicated in the Request for an IWQ. A split or partial quotation may be awarded, if a Request for an IWQ is for multiple Goods or Services, more than one Vendor provides a quotation that meets the specifications for the items, and a price comparison can be made between the items quoted. The award may be split between more than one Vendor by awarding to the lowest cost provider of each item or reasonable grouping of items if acquisition, delivery, and other requirements can be reasonably administered. A Split or Partial Quotation Award shall not be used under the following conditions:

- a) When the solicitation is for an integrated system and the split of the award between components or parts of that system would jeopardize performance; or
- b) If the item is part of a system and the performance of that system would be jeopardized if another brand was substituted.

Tie quotations are handled in the same way as tie bids.

B. Invitation for Bids

Invitation for Bids (IFB) are prepared and issued to prospective Bidders, with the goal of obtaining competitive responses in the procurement of Goods, Capital Assets, Services and Construction Services.

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Public notice (such as publication in a newspaper of general circulation or posting on the Purchasing Agent's Internet Web page) of the IFB must be given a minimum of fourteen (14) calendar days prior to the date set for bid opening, unless it can be demonstrated that an Emergency requirement for Goods Capital Assets, Services or Construction Services exists, in which instance, the requirement for public notice may be reduced by the Purchasing Agent.

Bids shall be opened publicly in the presence of the Purchasing Agent or the designee of the Purchasing Agent and at least one other witness at the time and place designated in the Invitation for Bids. All relevant information, including each Bid amount and Bidder's name, will be recorded on a summary sheet.

Split or partial bid awards may be awarded with the same guidelines and restrictions as those provided for split or partial quotation awards.

Tie Bids: In the event two or more identical bids are received, the following procedure will be used when the basis of award is low bid:

- a) To the extent permitted by law, a tie Bidder from a Person having an office within the limits of the City would be recommended to the appropriate approving authority for an award over one without an office in the City. A Person within the state of Georgia would be recommended to the appropriate approving authority for an award over one without an office in Georgia.
- b) If the procedures in (a) above does not result in an award, then, the tie Bidders will be contacted and advised of the tie and asked if they wish to reduce their bid in writing submitted in a sealed envelope to be opened at the time and place stated by the Purchasing Agent or the designee of the Purchasing Agent. If one or more of the tied Bidders agrees to participate, award will be made to the new low bid. If none of the tied Bidders agree to participate or if the new bids are tied, then City staff shall break the tie by following the procedures described below, as necessary.
- c) If the procedures in (a) and (b) above do not result in an award, then, to the extent permitted by law, a tie Bidder for Goods or Capital Assets deemed in the City's sole discretion to provide the most environmentally preferable Goods would be recommended to the appropriate approving authority for an award over one deemed environmentally inferior.
- d) If the procedures above do not result in an award, then, the Purchasing Agent or the designee of the Purchasing Agent in the presence of at least two witnesses will flip a coin one time. Award to the winner of the coin flip will be recommended to the appropriate approving authority.

Correction or withdrawal of inadvertently erroneous bids is permitted in accordance to the terms indicated within the IFB; however, minor irregularities may be waived by the City. No bid may be withdrawn for a period of ninety (90) days after the time scheduled for bid opening, or as otherwise stated in the IFB.

Late bids will be rejected and returned unopened.

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Bids will be evaluated based on the qualification factors set forth in the IFB, which may include criteria to determine acceptability of Goods or Capital Assets (for example, inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose). Criteria for the acceptability of Goods or Capital Assets shall be used to determine whether particular Goods are responsive to the IFB, and not to determine the relative desirability between acceptable Goods or Capital Assets. The City reserves the right to waive any informalities or irregularities of bids, to request clarification of information submitted in any bid, to further negotiate with the Responsive and Responsible Bidder selected for Contract award, or to reject any or all bids for any reason whatsoever.

Except as otherwise provided by law, if no Responsive and Responsible Bids are received or all bids are rejected, the City may procure such Goods and Services by direct negotiation as indicated below in Non-Competitive Procurement of Goods and Services.

The Bid will be awarded, if an award is made, to the Responsive and Responsible Bidder offering the lowest price whose bid meets the requirements and criteria set forth in the Invitation for Bid. The Bid may require a Contract.

C. Request for Proposals (RFP)

When the Purchasing Agent determines the use of an Invitation for Bids is not practical or not advantageous because of existing market conditions or the type of items required, the City may procure Goods, Capital Assets, Services, or Construction Services through receipt of competitive sealed proposals. Competitive sealed proposals are solicited through the use of an RFP, with the goal of obtaining competitive responses.

Public notice of the RFP shall be given in the same manner as the procurement described in section VII, sub-section A of this policy.

Proposals shall be opened publicly by the Purchasing Agent, in the presence of one or more witnesses at the time and place designated in the RFP. A register of proposals is prepared that lists each Proposer's name. Interested persons shall have access to information regarding procurement transactions of the City in accordance with City policy and the Georgia Open Records Act, O.C.G.A. §50-18-70 et seq.

All meetings of the City's Council are duly noticed public meetings and all documents submitted to the City as a part of or in connection with a Proposal may constitute public records under Georgia law regardless of any person's claim that proprietary or trade secret information is contained therein. Unless otherwise provided herein, by submission to the City, Proposers waive any claim to the proprietary nature of submitted information. The Proposer may designate in the smallest increments possible, that part of the qualifications which is deemed to be proprietary, which, subject to the City's reasonable determination, shall be redacted for purposes of the public agenda. Proposals and all related correspondence are governed by the Georgia Open Records Act and shall be provided to anyone properly requesting same, after contract award. The City cannot protect proprietary data submitted in vendor proposals unless provided for under the open records law and clearly marked as proprietary by the Proposer. In the event the Proposer deems certain information to be exempt from the disclosure requirements, the Proposal must specify what content is considered exempt and cite the applicable provision of the law to support that assessment. In the event such information is requested under the open records law, the

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Proposer's assessment will be examined by the City Attorney who will make a determination. The decision to withhold or release the information will be at the City Attorney's sole discretion.

Correction or withdrawal of proposals is permitted in accordance with instructions contained within the RFP. No proposal may be withdrawn for a period of ninety (90) days after the time scheduled for proposal opening, or as otherwise stated in the RFP.

Late proposals will be rejected and returned unopened.

The RFP will identify the criteria to be considered and evaluated as the basis of award.

Proposals submitted by Responsible and Responsive Proposers are evaluated by Purchasing Agent or the designee of the Purchasing Agent based upon the criteria applicable to the RFP. All proposals (or the most acceptable proposals in the discretion of any committee evaluating proposals) will be ranked in order of their acceptability to the City, giving consideration to the criteria. Unless otherwise provided by law, the City has no obligation to award the Contract to the Proposer who proposes the lowest price.

The City reserves the right to waive any informalities or irregularities of proposals, to request clarification of information submitted in any proposal, to further negotiate with a Responsive and Responsible Proposer who has been selected for Contract award, or to reject any or all proposals for any reason whatsoever.

The Contract award will be awarded, if award is made, by the City to the Responsive and Responsible Proposer whose proposal is determined, in the City's exclusive discretion, to be the most advantageous to the City, taking into consideration price, qualifications, and other factors as indicated in the RFP. The RFP will contain the basis on which the award is to be made.

If no Responsive and Responsible proposals are received or all proposals are rejected, the City may procure such Goods, Capital Assets, Services, and Construction Services by Direct Negotiation as indicated below in Non-Competitive Procurement of Goods and Services, except as otherwise provided by law.

D. Request for Qualifications

Requests for Qualifications (RFQ) may be used when it is determined to be in the City's best interest to evaluate the experience and qualifications of a Service, Construction Service or Professional Service provider, without regard to price or prior to considering price.

The procedure for soliciting, opening and evaluating statements of qualifications shall be the same as described herein for competitive sealed proposals. Such service providers whose qualifications meet the criteria established in the RFQ, at the sole discretion of the City, may be considered for Contract award by participation in the completion price negotiation. The City shall attempt to negotiate a fee with the highest ranked firm. If no agreement is reached, the City shall begin negotiations with the next highest ranked firm. Negotiations will proceed in this manner until an agreement is reached. Alternatively, the Purchasing Agent or designee may, by Direct Negotiation, finalize terms with service providers who are selected for award based on qualifications. The City reserves the right to reject any or all responses for any reason. Clarification of information may be requested by the City.

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E. Invitation to Negotiate

An Invitation to Negotiate (ITN) may be used when the City determines it is in its best interest to commence negotiation of price and other factors prior to recommendation of award, and it is approved by the City Manager. An ITN may be used for Goods, Capital Assets, Services, Construction Services or Professional Services when the scope of work is complex or difficult to define, if strict comparison of Goods, Capital Assets, Services, Construction Services or Professional Services required may be difficult because components are likely to vary among Proposers, or in any situation in which it is in the City's best interest to negotiate prior to recommendation of award to obtain the product that best meets the City's needs, price and other factors being considered.

The procedure for soliciting and opening initial responses to an ITN shall be the same as described herein for competitive, sealed proposals.

The ITN will identify the criteria to be considered during the evaluation of proposals.

All Responsive and Responsible proposals submitted are evaluated based upon the criteria applicable to the ITN. Clarification of information submitted in the proposal may be requested. The City reserves the right to waive any informalities or irregularities of proposals, to request additional information from any Proposer, or to reject any or all responses for any reason whatsoever.

The City may, at its sole discretion, shortlist firms that are deemed to best meet the City's requirements, taking into consideration all criteria listed in the ITN, including price. The City may, at its sole discretion, ask for formal presentations from all of the Responsive and Responsible Proposers, or only from those firms that are Short-listed, if Short-listing is determined to be in the best interest of the City. Negotiations will be conducted and may take place in person or via telephonic with all of the Proposers or, if Short-listing occurs, with all of the Short-listed Proposers. Proposers that participate in the negotiations may be given an opportunity to submit their best and final offers.

The Contract Award will be awarded, if an award is made, by the City to the Responsive and Responsible Proposer whose proposal is determined to be the most advantageous to the City, taking into consideration price and other factors as indicated in the ITN. The City has no obligation to award the Contract to the Proposer that submits the lowest price; though justification should be documented.

F. Multi-step Solicitation

The City may initiate one of the multi-step solicitation processes described below when: (a) in the City's discretion, it is impractical to prepare an adequate or complete description of the Goods, Capital Assets, Services or Construction Services desired (due to insufficient data, uncertain requirements, unfamiliar market options, etc.), (b) the City desires to identify a field of qualified Bidders, Proposers, Goods or Services, out of a broader field of Bidders, Proposers, Goods or Services, or (c) the City believes a multi-step process would best serve its purposes.

1. Consecutive Multi-Step Process:

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- a) The City may request unpriced proposals or statements of qualifications to be evaluated based on the criteria in the RFP or the RFQ for purposes of identifying one or more desirable or acceptable Goods, Capital Assets, Services, or Construction Services or for purposes of identifying a field of at least three (if possible and available) qualified or most qualified Bidders or Proposers. The City may request demonstrations, samples, or may conduct interviews with Proposers to aid in the identification of desirable or acceptable Goods, Services, or Professional Services or in the identification of qualified or most qualified Bidders or Proposers. In the event the City requests demonstrations or samples, the City is not required to seek or permit demonstrations or samples of Goods or Services deemed by the City to be less desirable or acceptable than other Goods or Services for which proposals or statements of qualifications were received. In the event the City conducts interviews with Proposers, the City is not required to interview any Proposer deemed by the City to be unqualified or less qualified than other Proposers.
- b) After identifying a field of most qualified Bidders or Proposers with the capability of providing the desirable or acceptable Goods, Services, or Professional Services, the City may either follow a Competitive Award solicitation process among the field of Vendors identified as having the capability to meet the City's requirements for the procurement or by direct negotiation as indicated below in Non-Competitive Procurement of Goods and Services.

2. Simultaneous Multi-Step Process:

- a) The City may request that priced proposals be submitted in two separate envelopes, with pricing information contained in one envelope and all other requested information contained in the other envelope. In such case, proposals will be evaluated in accordance with the requirements set forth in the RFP, initially without regard to price and without opening the envelope containing pricing information. Based on such evaluation, the City will establish a field of at least three (if possible and available) qualified or most qualified Proposers. The City may conduct interviews with Proposers to aid in the identification of qualified or most qualified Proposers. In the event the City conducts interviews with Proposers, the City is not required to interview any Proposers deemed by the City to be unqualified or less qualified than other Proposers.
- b) After establishing a field of qualified or most qualified Proposers, the City will open the pricing envelopes of only the qualified or most qualified Proposers, and evaluate such pricing information in the manner described in the RFP for purposes of recommending/making an award (e.g. most advantageous proposal, price and other factors considered or low price submitted by qualified Proposers). In the absence of specific instructions to the contrary in the RFP, pricing information will be evaluated together with all other information required by the RFP for purposes of selecting among the qualified field of Proposers the most advantageous proposal, price and other factors considered.

3. Multi-Step Process to Award Continuing Purchasing Contracts

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- a) When it is in the best interest of the City to have pre-qualified, Continuing Purchasing Contracts because of the need to Provide quick-response, repetitive Services or a range of Services or Professional Services within a specific field of expertise, the City may use either a Consecutive or a Simultaneous Multi-Step Procurement Process to identify one or more Continuing Contractors. The purpose is to identify one or more Pre-Qualified and Approved Contractors that demonstrate the ability to perform a particular type of Service during a specified Contract period.
- b) Contract award - The multi-step solicitation shall specify the general types of Services required, the selection process to be used, and the selection criteria for award of the Pre-Qualified and Approved Contract(s).
- c) Award of a specific scope of work to a Pre-Qualified and Approved Contractor - During the term of the Continuing Contract(s), specific scopes of work may be developed and awarded to Pre-Qualified and Approved Contractor(s), by Amendment to such Continuing Contract(s), which shall be subject to approval by City Manager or City Council as a new contract, provided that the specific scope of work is consistent with the general types of Services upon which award of the Continuing Contract(s) was made.
- d) When there is more than one Pre-Qualified and Approved Contractor available to perform the specific scope of work defined, the process for award of the work is set forth below:
 - i. Work may be rotated during the Contract period between the Pre-Qualified and Approved Contractor(s) that were selected to perform the general type of Services required in the reasonable discretion of the director of the User department; or,
 - ii. Award may be made to the Pre-Qualified and Approved Contractor that is deemed, based on its original proposal, to be most advantageous to the City for the specific scope of work required, price and other factors being considered and without regard to rotation among selected contractors; or,
 - iii. Quotations, Bids or proposals may be requested from the Pre-Qualified and Approved Contractor(s) that were selected to perform the general type of Services or Professional Services required. The City may select the Contractor whose quotation, bid, or proposal is deemed to be most advantageous to the City to perform the specific scope of work required.

G. Online Reverse Auction

The City reserves the right to utilize this procurement method when advantageous. The process will be specified in the Solicitation Documents.

H. Performance Guarantee

A Bid/ Proposal Bond or Performance Bond may be required for any solicitation.

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I. Approval of Awards and Recommendations

Prior to the consummation of the purchase by the City of Goods, Services, or Professional Services, such purchase shall be approved by a person having approval authority over such purchase.

J. Forms

The Purchasing Agent shall provide and update all forms to procure Goods, Services, and Professional Services, as needed.

VIII. Non-Competitive Procurements

The provisions of this policy section shall apply to the procurement of Goods, Capital Assets, Services, Construction Services or Professional Services, when competitive procurement is not practical, feasible, possible or desirable. Notwithstanding any other provision, any Contract or subcontract entered into by the City with any Person for the construction, reconstruction, or maintenance of all or part of a public road in the City, including but not limited to a Contract or subcontract for the purchase of materials, for the hiring of labor, for professional services, or for other things or services incident to such work, shall be entered into in accordance with O.C.G.A. § 32-4-114.

A. Sole Source Procurement

The City may acquire Goods, Capital Assets, Services, Construction Services or Professional Services pursuant to a Sole Source Procurement. Sole Source Procurement is available when Goods, Services, or Professional Services are limited to one source, or when they must be obtained from a specific manufacturers' dealer and valid competition among dealers does not exist. The User must provide the justification for the Sole Source Procurement to the Purchasing Agent after approved by the City Manager or Council.

B. Single Source Procurement

The City may acquire Goods, Capital Assets, Services, Construction and Professional Services pursuant to a Single Source Procurement. A Single Source Procurement is a procurement made from one Person among others in a competitive market place which, for justifiable reasons, is found to be most advantageous for the purpose of fulfilling the given purchasing need. The User must provide the justification for the Single Source Procurement to the Purchasing Agent after approval by the City Manager or City Council. The Purchasing Agent may elect to purchase particular brand name Goods or Services when the Goods or Services comprise a major brand system, program or service previously selected by the City and due to operational effectiveness, future enhancements or additions, or maintenance or storage of spare parts precludes the mixing of brands, manufacture, etc.

C. Direct Negotiation

Following the completion of a Competitive Award solicitation process above that fails to produce a responsible or responsive Bidder or Proposer, fails to produce a qualified respondent, or for which all submissions were rejected for any reason, the City may procure the Goods, Capital Assets, Services, Construction Services or Professional Services that were the subject of such failed solicitation by Direct Negotiation with any provider of such Goods or Services when

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issuing a revised solicitation is not recommended by the City Manager with concurrence from legal counsel.

Direct Negotiation will be completed by the Purchasing Agent, assisted as needed by the User and legal counsel.

D. Emergency Procurement

The City may acquire Goods, Capital Assets, Services, Construction Services or Professional Services by directly negotiating an award in the event of an Emergency. The City Manager shall make the determination when an Emergency exists. Such emergency procurements shall be made with as much competition as is practicable under the circumstances.

A written basis for declaring the Emergency and for the selection of the particular Person for the provision of Goods, Capital Assets, Services, Construction Services or Professional Services shall be included in the Contract file. As soon as practicable, a record of each Emergency procurement shall be made and shall set forth the contractor's name, the amount and type of the Contract, a listing of the item procured under the Contract, and the identification number of the Contract file.

If an Emergency situation should arise after office hours which requires immediate action on the part of the agency involved for the protection of the best interest of the City or if a like situation arises on a weekend or holiday and when it is not possible or convenient to reach the City Manager or Purchasing Agent, any purchase necessary shall be made by the official in charge of such department or agency, and such purchase reported to the Purchasing Agent within 24 hours.

E. Costs Under the Competitive Threshold

The Purchasing Agent with the consent of the City Manager, where applicable, may acquire Goods, Capital Assets, Construction Services and Professional Services appropriated by the City Council in the City budget or otherwise by Direct Negotiation or by some other non-competitive method, when the dollar value of the purchase does not exceed \$25,000.00 and a properly executed and authorized Requisition is received. Under this non-competitive method, the Purchasing Agent shall attempt to obtain the Goods, Capital Assets, Services, Construction or Professional Services most advantageous to the City, price and other factors considered. For Goods and Services under the competitive threshold but over \$5,000.00, the Purchasing Agent or User shall obtain, where possible, at least three quotes using the IWQ method as outlined in Section VII (A).

The User may acquire by Requisition Goods, Services, Construction Services and Professional Services appropriated by the City Council in the City budget or otherwise by Direct Negotiation or by some other non-competitive method, when the dollar value of the purchase does not exceed \$5,000.00. Under this non-competitive method, the User shall attempt to obtain the Goods, Capital Assets, Services, Construction or Professional Services most advantageous to the City, price and other factors considered.

F. Direct Negotiation and Other Public Entities and Co-ops

The City may acquire Goods, Capital Assets and Services by Direct Negotiation or other method involving limited or no competition from a Supplier having a requirements Contract/Annual Agreement with any public entity (e.g., federal, state, county, city, authority, school board,

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Buying Cooperative, etc.) for Goods, Capital Assets or Services described in such contract and at prices or discounts no less favorable than any set forth in such Contracts.

Use of State/Co-Op Contracts: The Purchasing Agent may, independent of the requirements of bid process of this article, procure supplies, services or construction items through the Contract established through competitive means by the purchasing division of the State of Georgia, national Co-Ops (i.e.-U.S. Communities), and collaborative purchasing agreements with other local governments when deemed to be in the best interest of the City.

G. Real Estate Acquisition

1. Compliance with Applicable Regulations

All real estate acquisition activities shall conform to applicable federal, state (e.g. O.C.G.A § 36-80-18 and O.C.G.A § 36-60-13) and local laws and regulations and shall be subject to the provisions of the City Code of Ethics.

2. Confidentiality

The City Council and City staff shall maintain the confidentiality of potential and on-going real estate acquisitions and related information subject to the provisions of the Open Meetings and Open Records Acts.

3. Formal Approval

All real estate transactions shall be formally approved by the City Council in a public meeting prior to the City entering a sales contract. This shall not prohibit or interfere with the City Council's ability to discuss same and negotiate terms in Executive Session subject to the requirements of the Open Meeting and Open Records Acts.

4. Appraisals

For any piece of real estate, for which a sales contract has been signed, the City will conduct at least one appraisal by an independent third-party who holds the Member of the Appraisal Institute (MAI) membership designation.

5. Land Acquisition Procurement Process

- a. City staff will investigate and identify properties for purchase that generally meet an approved plan or strategy. Furthermore, land purchased with a specific funding source will only be used for such purposes anticipated and/or authorized. If the City determines that the land cannot be used for its intended purpose, the City may dispose of the property in a manner consistent with Georgia law and funds raised through the sale of the property will be used for future land purchases consistent with the purposes authorized.
- b. City staff will work with a Real Estate broker to gather information and make site visits related to properties under consideration for acquisition.

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- c. City staff will regularly brief the City Council in Executive Session on properties the city is considering purchasing to receive direction on "terms and price" from the City Council.
- d. City staff will negotiate for "Letters of Intent" with land owners on properties the City Council has provided staff with direction on "terms and price".
- e. City staff will present the "Letter of Intent" at a public meeting, and at that time request a Resolution from the City Council authorizing the City Manager to execute a sales contract to purchase the real estate or to execute an agreement to lease the real estate using the Letter of Intent as the guidelines for a contract. (PUBLIC HEARING REQUIRED in the case of the purchase of real estate)
- f. City staff will make the "Letter of Intent" public on the city website and through a press release within 48 hours of the city receiving a fully executed copy of the "Letter of Intent."
- g. City staff will publish the executed sales contract or lease on the city website.
- h. City staff will conduct due diligence on the real estate to be purchased including at a minimum but not limited to:
 - i. Environmental testing (Phase I required, Phase II and specialized testing if warranted);
 - ii. Production of an ALTA survey of the property;
 - iii. Production of a MAI appraisal of the property;
 - iv. Complete title work on the property; and
 - v. Other reasonable due diligence activities as warranted.
- i. City staff will present the findings of the due diligence on the property to be purchased at a public meeting and request a Resolution from the City Council authorizing the City Manager to execute any and all closing documents to complete the purchase of the property. (PUBLIC HEARING REQUIRED)

IX. General Procedures and Approval Authorizations

- A. Periodically, the City may be given private/public grants and donations from sources such as the State and Federal Government and private corporations. These types of solicitations are more restrictive and may dictate the procurement process and methodology that the City is to follow for an award. Both federal and state procurement supersedes the purchasing requirements of the City when buying goods and services using federal or state grant monies. Departments should refer to the Federal Acquisition Regulations for guidance on specific federal procurement policies.
- B. All negotiations of agreements for Goods and Services shall be conducted by the Purchasing Agent. It is recognized that special situations may exist where there is a special need for the User to be involved in the negotiation process. This must be in conjunction with the

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- Purchasing Agent at all times. The Purchasing Agent will make final recommendation for agreements.
- C. It is the responsibility of the Purchasing Agent to secure all necessary approvals of the City Manager or its designee, and the City Council prior to execution of a Contract or purchase agreement.
 - D. Procurement by leasing, long-term financing, advance payments or deposits or any other special non-routine method must be approved in advance by the City Council.
 - E. In the case of Contracts (other than routine purchase orders), leases or service agreements (either new or renewals), the approval process is necessary. All such documents will be forwarded to the Purchasing Agent. The Purchasing Agent will acquire the necessary approvals prior to execution of any agreement, Contract or lease through the City Attorney's office. When said Contracts, leases or service agreements are up for renewal or expiration the Purchasing Agent will notify the User for approval to either maintain the Contract or bid a new Contract. The Purchasing Agent will be responsible for maintaining a file of all current Contracts, leases or service agreements.
 - F. The Purchasing Agent will review the Contract for form, completeness, insurance considerations, legal implications, and any other items dictated by each situation. The Contract will then be sent to the User and approved by the Department Director and returned to Purchasing. The Purchasing Agent will be responsible for having the Contract signed by the City Manager or their designee after it is signed by the Vendor.
 - G. Once the Contract is officially executed, the original of the Contract will be filed in the City Clerk's office.
 - H. Once a Contract is awarded by the City, the Contract may be amended, without the necessity of rebidding such Contract, provided the original Contract amount and the scope of the Contract is not substantially altered. The Purchasing Agent will review all change orders. Change orders will be processed to correct the account distribution, quantity, addition/deletion of line items, change in description and unit price. If a quoted price of the change order is less than \$5,000.00, and 5% of the contract amount, the requisition will be processed pursuant to the requirements of Section V(A)(12) of this Purchasing Policy. Any requisitions with a change order of \$5,000.00, or 5% of the contract amount, or more shall require City Council approval. The Purchasing Agent cannot use the change order process to circumvent the Purchasing Policy. Change orders cannot substantially change the scope of the Contract.
 - I. The Purchasing Agent and the User share the responsibility to ensure the quality, delivery and payment of required Goods and Services.
 - J. Final adjudication of any dispute between the Vendor and User shall be made by the Purchasing Agent with appropriate input from the User.
 - K. In most cases, contact with Vendors regarding the Contract will be by the Purchasing Agent and in conjunction with the User as necessary. All Vendors must coordinate with the Purchasing Agent before visiting any other City department regarding the Contract. All visits regarding the Contract must be made with the knowledge of the Purchasing Agent and the

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Purchasing Agent has the option of accompanying the visitor. It is recognized that this restriction on visitation will not necessarily apply to those Vendors with ongoing relationships such as computer and copy machine service technicians.

- L. All returns of Goods or Capital Assets must be initiated by the User through the Purchasing Agent. Additionally, all Amendments or cancellation to any agreements must be made by the Purchasing Agent.
- M. It shall be the responsibility of the User to ensure that purchased Goods and Capital Assets are received, inspected and verified as to condition. Since the department head signed the purchase requisition, that person cannot be the receiver of the Goods and must appoint an individual within the department to be the receiver of the Goods and Services.
- N. Protests
 - a) Right to protest. Any Person who is aggrieved in connection with the solicitation or award of a Contract may protest to the City. Protestors shall seek resolution of their complaints initially with the City Manager. All protests must be submitted in writing to the City Manager within three (3) business days of award of the contract. The complaint shall specify the alleged act or omission by the City that provides the basis for the complaint.
 - b) Upon the filing of a written complaint, the City Manager, within three (3) business days, shall request a response from the Purchasing Agent. The Purchasing Agent's response will be returned to the City Manager within seven (7) calendar days. Failure by the Purchasing Agent to file a response may be considered as evidence by the City Manager of admission of wrong doing on the part of the Purchasing Agent. If requested by either party, the City Manager, or designee shall have a hearing on the complaint within fourteen (14) calendar days of filing the complaint to decide the merits of the claim. The City Manager is empowered to decide to uphold, dismiss or amend the decision of the Purchasing Agent. The City Council shall approve or reject the City Manager's decision. If the party bringing the complaint disagrees with the conclusions of the City Manager and City Council, the decision may be appealed by filing a writ of certiorari to the Superior Court of DeKalb County within thirty (30) days of the decision of the City Council.
 - c) Protests concerning invitations. A protest with respect to an IFB, ITN, RFQ, or RFP shall be submitted in writing prior to the opening of bids or the closing date of proposals. If not done by that time, the complaint or protest is invalid.
 - d) Stay of procurement during protests. In the event of a timely protest under subsection (b) of this Section, the Purchasing Agent shall not proceed further with the solicitation or award of the Contract until all administrative remedies have been exhausted or until the City Manager or City Attorney makes a determination that the award of the Contract without delay is necessary to protect the interests of City.
- O. Credit Cards shall only be issued upon approval of both of the department head and the City Manager. The Credit limit for each card shall be established by the Director of Finance. All individuals assigned a Credit Card on behalf of the City shall be personally responsible for its

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use and any fraudulent use. The City Manager shall maintain a Procurement Card Procedure Manual. This manual shall be on file with the City Clerk and made available for all users.

X. Property Disposal

A. Excess, Surplus, and Obsolete Materials

It shall be the duty of the User to report all excess, surplus or obsolete materials to the Purchasing Agent. At this point, the Purchasing Agent will examine alternatives as to the most advantageous disposition of the items. Items could be refurbished or reconditioned, transferred, traded in on new equipment or sold by auction or sealed bid, or destroyed. For property over \$5,000 in aggregate or \$1,000 individually, the City Council shall approve the request to have the property declared surplus. For other property, the Purchasing Agent shall present a list to the City Manager for approval.

1. **Transfer or Re-use:** The most gainful method for handling an item no longer needed by a department is to transfer it to another department that has a use for the item.
2. **Trade-In:** In replacing obsolete equipment, it may be financially advantageous to trade-in the old equipment. The invitation for bids on the replacement item should call for bid prices with or without trade-in and provide that award may be made either way.
3. **Sale:** Excess, surplus and obsolete items not transferred or traded-in may be consolidated and offered for sale by auction or by sealed bid method. Auctions can be traditional or contemporary including online auctions such as www.Govdeals.com or similar websites. The consolidated list will be submitted to City Council for approval before an auction or sealed bid is organized. The property offered for sale will be on an "AS IS/WHERE IS" basis. The sale will be given public notice. Sealed bids will be opened at the time and place announced with the City, retaining the right to reject any and all.

B. Sale to Employees

To avoid any appearance of impropriety in the disposition program, it will be the City's policy to prohibit the direct sale of surplus property to any City Employee, Official or Agent. This policy does not prohibit any City Employee, Official or Agent from extending an offer at a public auction or in the form of a sealed bid.

C. Allocation of Proceeds

Proceeds from the sale of excess or surplus property will go into the City's Fund that held the asset.

XI. Projects Using Federal Aid Highway Program (FAHP) Funding

Except as provided in Sections F and G below, the City shall use the competitive negotiation method for the procurement of engineering and design related services when FAHP funds are involved in the contract (as specified in 23 U.S.C. 112(b)(2)(A) and 23 CFR 172.5(a)(1)). The solicitation,

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evaluation, ranking, selection, and negotiation shall comply with the qualifications-based selection procurement procedures for architectural and engineering services codified under 40 U.S.C. 1101–1104, commonly referred to as the Brooks Act.

In accordance with the requirements of the Brooks Act, the following procedures shall apply to the competitive negotiation procurement method:

A. Solicitation.

The solicitation process shall be by public announcement, public advertisement, or any other public forum or method that assures qualified in-State and out-of-State consultants are given a fair opportunity to be considered for award of the contract. Procurement procedures may involve a single step process with issuance of a request for proposal (RFP) to all interested consultants or a multiphase process with issuance of a request for statements or letters of interest or qualifications (RFQ) whereby responding consultants are ranked based on qualifications and request for proposals are then provided to three or more of the most highly qualified consultants. Minimum qualifications of consultants to perform services under general work categories or areas of expertise may also be assessed through a prequalification process whereby statements of qualifications are submitted on an annual basis. Regardless of any process utilized for prequalification of consultants or for an initial assessment of a consultant's qualifications under an RFQ, a RFP specific to the project, task, or service is required for evaluation of a consultant's specific technical approach and qualifications.

B. Request for Proposal (RFP).

The RFP shall provide all information and requirements necessary for interested consultants to provide a response to the RFP and compete for the solicited services. The RFP shall:

- a) Provide a clear, accurate, and detailed description of the scope of work, technical requirements, and qualifications of consultants necessary for the services to be rendered. The scope of work should detail the purpose and description of the project, services to be performed, deliverables to be provided, estimated schedule for performance of the work, and applicable standards, specifications, and policies;
- b) Identify the requirements for any discussions that may be conducted with three (3) or more of the most highly qualified consultants following submission and evaluation of proposals;
- c) Identify evaluation factors including their relative weight of importance in accordance with Sections C and D;
- d) Specify the contract type and method(s) of payment to be utilized;
- e) Identify any special provisions or contract requirements associated with the solicited services;

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- f) Require that submission of any requested cost proposals or elements of cost be in a concealed format and separate from technical/qualifications proposals as these shall not be considered in the evaluation, ranking, and selection phase; and
- g) Provide a schedule of key dates for the procurement process and establish a submittal deadline for responses to the RFP which provides sufficient time for interested consultants to receive notice, prepare, and submit a proposal, which except in unusual circumstances shall be not less than 14 days from the date of issuance of the RFP.

C. Evaluation Factors.

Criteria used for evaluation, ranking, and selection of consultants to perform engineering and design related services must assess the demonstrated competence and qualifications for the type of professional services solicited. These qualifications-based factors may include, but are not limited to, technical approach (e.g., project understanding, innovative concepts or alternatives, quality control procedures), work experience, specialized expertise, professional licensure, staff capabilities, workload capacity, and past performance.

Price shall not be used as a factor in the evaluation, ranking, and selection phase. All price or cost related items which include, but are not limited to, cost proposals, direct salaries/wage rates, indirect cost rates, and other direct costs are prohibited from being used as evaluation criteria.

In-State or local preference shall not be used as a factor in the evaluation, ranking, and selection phase. State licensing laws are not preempted by this provision and professional licensure within a jurisdiction may be established as a requirement which attests to the minimum qualifications and competence of a consultant to perform the solicited services.

The following non-qualifications based evaluation criteria are permitted under the specified conditions and provided the combined total of these criteria do not exceed a nominal value of ten percent of the total evaluation criteria to maintain the integrity of a qualifications-based selection:

(a) A local presence may be used as a nominal evaluation factor where appropriate. This criterion shall not be based on political or jurisdictional boundaries and may be applied on a project-by-project basis for contracts where a need has been established for a consultant to provide a local presence, a local presence will add value to the quality and efficiency of the project, and application of this criteria leaves an appropriate number of qualified consultants, given the nature and size of the project. If a consultant outside of the locality area indicates as part of a proposal that it will satisfy the criteria in some manner, such as establishing a local project office, that commitment shall be considered to have satisfied the local presence criteria.

(b) The participation of qualified and certified Disadvantaged Business Enterprise (DBE) sub-consultants may be used as a nominal evaluation criterion where appropriate in accordance with 49 CFR Part 26.

D. Evaluation, Ranking, and Selection.

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- a) Consultant proposals shall be evaluated by the City based on the criteria established and published within the public solicitation.
- b) While the contract will be with the prime consultant, proposal evaluations shall consider the qualifications of the prime consultant and any sub-consultants identified within the proposal with respect to the scope of work and established criteria.
- c) Following submission and evaluation of proposals, the City shall conduct interviews or other types of discussions determined three of the most highly qualified consultants to clarify the technical approach, qualifications, and capabilities provided in response to the RFP. Discussions may be written, by telephone, video conference, or by oral presentation/interview. Discussions following proposal submission are not required provided proposals contain sufficient information for evaluation of technical approach and qualifications to perform the specific project, task, or service with respect to established criteria.
- d) From the proposal evaluation and any subsequent discussions which have been conducted, the City shall rank, in order of preference, at least three consultants determined most highly qualified to perform the solicited services based on the established and published criteria.
- e) Notification must be provided to responding consultants of the final ranking of the three most highly qualified consultants.
- f) The City shall retain acceptable documentation of the solicitation, proposal, evaluation, and selection of the consultant accordance with the provisions of 49 CFR 18.42.

E. Negotiation.

- a) Independent estimate. Prior to receipt or review of the most highly qualified consultant's cost proposal, the City shall prepare a detailed independent estimate with an appropriate breakdown of the work or labor hours, types or classifications of labor required, other direct costs, and consultant's fixed fee for the defined scope of work. The independent estimate shall serve as the basis for negotiation and ensuring the consultant services are obtained at a fair and reasonable cost.
- b) If concealed cost proposals were submitted in conjunction with technical/qualifications proposals, only the cost proposal of the consultant with which negotiations are initiated may be considered. Concealed cost proposals of consultants with which negotiations are not initiated should be returned to the respective consultant due to the confidential nature of this data (as specified in 23 U.S.C. 112(b)(2)(E)).
- d) The City shall retain documentation of negotiation activities and resources used in the analysis of costs to establish elements of the contract in accordance with the provisions of 49 CFR 18.42.

F. Small Purchases.

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The small purchase method involves procurement of engineering and design related services where an adequate number of qualified sources are reviewed and the total contract costs do not exceed an established simplified acquisition threshold. The City may use the State's small purchase procedures which reflect applicable State laws and regulations for the procurement of engineering and design related services provided the total contract costs do not exceed the Federal simplified acquisition threshold (as specified in 48 CFR 2.101). When a lower threshold for use of small purchase procedures is established in State law, regulation, or policy, the lower threshold shall apply to the use of FAHP funds as allowed by Federal law. The following additional requirements shall apply to the small purchase procurement method:

- a) The scope of work, project phases, and contract requirements shall not be broken down into smaller components merely to permit the use of small purchase procedures.
- b) A minimum of three consultants are required to satisfy the adequate number of qualified sources reviewed.
- c) Contract costs may be negotiated in accordance with State small purchase procedures; however, the allow ability of costs shall be determined in accordance with the Federal cost principles.
- d) The full amount of any contract modification or amendment that would cause the total contract amount to exceed the established simplified acquisition threshold would be ineligible for Federal-aid funding. The FHWA may withdraw all Federal-aid from a contract if it is modified or amended above the applicable established simplified acquisition threshold.

G. Noncompetitive.

The noncompetitive method involves procurement of engineering and design related services when it is not feasible to award the contract using competitive negotiation or small purchase procurement methods. The following requirements shall apply to the noncompetitive procurement method:

- a) The City may use their own noncompetitive procedures which reflect applicable State and local laws and regulations and conform to applicable Federal requirements.
- b) The City shall establish a process to determine when noncompetitive procedures will be used and shall submit justification to, and receive approval from, the FHWA before using this form of contracting.
- c) Circumstances under which a contract may be awarded by noncompetitive procedures are limited to the following:
 - (1) The service is available only from a single source;
 - (2) There is an emergency which will not permit the time necessary to conduct competitive negotiations; or
 - (3) After solicitation of a number of sources, competition is determined to be inadequate.

Purchasing Policy

d) Contract costs may be negotiated in accordance with the City noncompetitive procedures; however, the allow ability of costs shall be determined in accordance with the Federal cost principles.

H. Additional Procurement Requirements.

(1) Common Grant Rule.

(I.) The City must comply with procurement requirements established in State and local laws, regulations, policies, and procedures which are not addressed by or in conflict with applicable Federal laws and regulations (as specified in 49 CFR 18.36).

(II.) When State and local procurement laws, regulations, policies, or procedures are in conflict with applicable Federal laws and regulations, the City must comply with Federal requirements to be eligible for Federal-aid reimbursement of the associated costs of the services incurred following FHWA authorization (as specified in 49 CFR 18.4).

(2) Disadvantaged Business Enterprise (DBE) program.

(I.) The City shall give consideration to DBE consultants in the procurement of engineering and design related service contracts subject to 23 U.S.C. 112(b)(2) in accordance with 49 CFR part 26. When DBE program participation goals cannot be met through race-neutral measures, additional DBE participation on engineering and design related services contracts may be achieved in accordance with the City's FHWA approved DBE program through either:

(A) Use of an evaluation criterion in the qualifications-based selection of consultants; or

(B) Establishment of a contract participation goal.

(II.) The use of quotas or exclusive set-asides for DBE consultants is prohibited (as specified in 49 CFR 26.43).

(3) Suspension and Debarment.

The City must verify suspension and debarment actions and eligibility status of consultants and sub-consultants prior to entering into an agreement or contract in accordance with 49 CFR 18.35 and 2 CFR part 180.

XII. Purchasing Card Policy

The Purchasing Agent shall administer the use of city purchasing cards in compliance with the Purchasing Card Policy which is attached as Exhibit “___” hereto and incorporated herein by

Purchasing Policy

reference. The use of all city issued purchasing cards shall be governed by the Purchasing Card Policy.

Purchasing Policy

EXHIBIT “ ”

PURCHASING CARD POLICY

[attached]

Purchasing Policy

Purchasing Card Policy

A. Authority

The Georgia General Assembly established guidelines and penalties into the Official Code of Georgia Annotated (“O.C.G.A.”) which provides that no municipal corporation shall issue government purchasing cards or government credit cards to elected officials on or after January 1, 2016, until the governing authority of the municipal corporation, by public vote, has authorized the issuance and has promulgated specific policies regarding the use of such government purchasing cards or government credit cards for elected officials of such municipal corporation.

B. Purpose

The purpose of this policy is to set requirements and standards for the City of Stonecrest, Georgia Purchasing Card Program. The policy is not intended to replace current State of Georgia statutes but is intended to comply with such state laws and establish more efficient guidelines for elected officials using such purchasing cards. At no time should a city issued purchasing card or credit card be used for personal purchases regardless of the circumstances. Utilizing the purchasing card or credit card for personal use or for any item or service not directly related to such official’s public duty may result in disciplinary action including, but not limited to, felony criminal prosecution. All purchases utilizing a government purchasing card or government credit card must be in accordance with these guidelines and with state law.

C. Scope

This purchasing card policy, as required by state law under O.C.G.A. § 36-80-24(c), applies to the use of government purchasing cards or government credit cards used by elected officials authorized to be issued such government purchasing cards or government credit cards. The below list of officials have been authorized by the governing authority of the City to use such government purchasing cards or government credit cards and must abide by all of the applicable state laws and this purchasing card policy.

1. Mayor
2. City Councilmembers
3. City Manager
4. City Chief Financial Officer

D. Public Inspection

In accordance with O.C.G.A. § 36-80-24(c) any documents related to purchases using government purchasing cards or government credit cards incurred by elected officials shall be available for public inspection.

E. Transaction Limits

Purchasing Policy

Transaction limits are hereby established to insure compliance with state purchasing laws, maintain proper budgetary controls, and to minimize excessive use of any individual credit line. Individual monthly card limits cannot exceed those established by the municipal governing authority. The established single transaction limit for each card must be less than \$1,000.00. The established monthly card limit is based upon the city's budgetary constraints and is not to exceed \$5,000.00 per month. Any exceptions to the standardized limits must have express written approval by the municipal governing authority and must be added to this policy by amendment or addendum.

F. Purchasing Restrictions

1. Elected Officials may not use a government purchasing card or government credit card for the following:
 - a. Any purchases of items for personal use.
 - b. Cash refunds or advances.
 - c. Any transaction amount greater than the transaction limits set for by this policy.
 - d. Items specifically restricted by this policy, unless a special exemption is granted by the municipal governing authority.
 - e. Alcohol or liquor of any kind. Such purchases should not be made with the purchasing card and may not be reimbursed by the city.
 - f. Purchases or transactions made with the intent to circumvent the city purchasing policy, transactional limits, or state law.

2. Elected Officials may use government purchasing cards or government credit cards to purchase goods and/or services not prohibited by this policy or state law. Such purchases include, but are not limited to:
 - a. Purchases of items for official city use which fall within the transactional restrictions of this policy.
 - b. Purchase of lodging, fuel, food, non-alcoholic beverages, or education and training materials while on city business.
 - c. Emergency purchases necessary to protect city property.

G. Administrator

The city designates the City Manager as the program administrator of government purchasing cards or government credit cards. Such administrator shall:

1. Serve as a liaison between the city's cardholders and the issuers of such cards.
2. Maintain the cardholder agreement for all cardholders.
3. Provide instruction, training, and assistance to cardholders
4. Maintain account information and secure all cardholder information.
5. Keep cardholders up-to-date on new or changing information

Purchasing Policy

6. Upon receipt of information indicating fraudulent use or lost/stolen cards immediately report it to appropriate parties, including the issuer.
7. Ensure all card accounts are being utilized properly as set forth by state law and this policy.
8. Define the city's policy and procedures for proper documentation and storage of receipts, logs, and approvals required under this policy.
9. Identify any changes to named persons authorized to use a government purchasing card or government credit card.
10. Any other duties assigned by the municipal governing authority.

H. Accounting and Auditing

The Administrator, in an effort to ensure compliance with city policy and state law, will conduct monthly and/or quarterly reviews and audits of all government purchasing card or government credit card transactions. The review is designed to ensure compliance, identify non-compliance issues and misuse, and through corrective measures assist the city with improving compliance. The monthly and/or quarterly review and audit should happen within ____ days of the start of a new month or quarter. After completing the monthly/quarterly audit the Administrator shall notify cardholders of any violations or questions the Administrator has that occurred within that previous month/quarter. Depending on the severity of the violation, the Administrator may suspend or revoke the use of the government purchasing card or government credit card after notification to the cardholder and to the municipal governing authority, but only after consultation with the city attorney. Any unresolved violations should be reported to the municipal governing authority and the city attorney in writing within ____ business days.

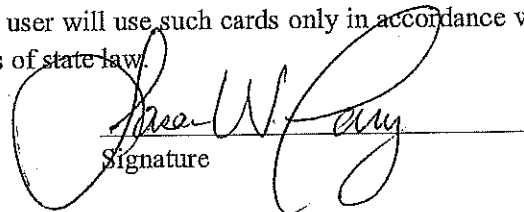
I. Violations

The use of a government purchasing card or government credit card may be suspended or revoked when the Administrator, after consultation with the city attorney, determines that the cardholder has violated the approved policies or state law regarding the use of the government purchasing card or government credit card. The government purchasing card or government credit card shall be revoked whenever a cardholder is removed from office with the city and shall be suspended if such elected official has been suspended from office.

J. Agreement

Before being issued a government purchasing card or government credit card under this policy and state law, all authorized users of government purchasing cards or government credit cards shall sign and accept below indicating that such user will use such cards only in accordance with the policies of the city and with the requirements of state law.

JASON W. LARY
Name Printed


Signature

Date: Sept. 18, 2017