

1 **STATE OF GEORGIA**
2 **COUNTY OF DEKALB**
3 **CITY OF STONECREST**

4
5 **RESOLUTION NO. _____**
6

7 **A RESOLUTION BY THE MAYOR AND CITY COUNCIL OF THE CITY OF**
8 **STONECREST, GEORGIA AUTHORIZING THE EXECUTION OF A CHANGE**
9 **ORDER WITH STEWART BROS. INC FOR THE 2022 STREET RESURFACING**
10 **CONTRACT IN AN AMOUNT NOT TO EXCEED FOUR HUNDRED EIGHTY-TWO**
11 **THOUSAND, SIX HUNDRED THIRTY-EIGHT DOLLARS AND 25/100 CENTS**
12 **(\$482,638.25) IN PACKAGE ONE (1) AND ONE HUNDRED EIGHTEEN THOUSAND**
13 **AND SIXTY-EIGHT DOLLARS AND 78/100 CENTS (\$118,068.78) IN PACKAGE FOUR**
14 **(4); AND FOR OTHER PURPOSES.**

15 **WHEREAS,** the City of Stonecrest, Georgia (the “City”) is a municipal corporation
16 duly organized and existing under the laws of the State of Georgia, and is charged with
17 providing public services to its residents; and

18 **WHEREAS,** the City entered into a contract with STEWART BROS. INC (the
19 "Contractor"), a corporation created and existing under the laws of the State of Georgia for the
20 resurfacing of certain municipal streets within the City of Stonecrest (“Contract”); and

21 **WHEREAS,** the Contractor is responsible for the resurfacing of 140 streets within the City
22 ("Project"); and

23 **WHEREAS,** the total cost of the Project was SIX MILLION NINE HUNDRED
24 SEVENTY-SIX THOUSAND SIX HUNDRED FIFTY DOLLARS AND 00/100 CENTS.
25 (\$6,976,650)); and

26 **WHEREAS,** the Contractor is expected to achieve Substantial Completion of the Work

by July 17, 2023, unless another date is provided within the written Notice to Proceed.

WHEREAS, the Contractor discovered that some of the road sections were not constructed up to DeKalb County standards and sections of subbase were missing or the depth of subbase was not adequate.; and

WHEREAS, it is necessary for the City's streets to be properly built prior to installing a new top layer of asphalt; and

WHEREAS, the City desires to fix the portions of the streets improperly built; and

WHEREAS, Section 10.1 of the Contract permits changes in the work within the general scope of the Contract that can be ordered without invalidating the Contract; and

WHEREAS, Section 10.2 defines a change order as a written order to the Contractor executed by the City and Engineer, issued after execution of the Contract, authorizing, and directing a change in the work or an adjustment in the contract price or the contract time, or any combination thereof; and

WHEREAS, the contract price and the contract time may be changed only by Change Order; and

WHEREAS, the execution of a change order by the Contractor shall constitute conclusive evidence of the Contractor's agreement to the ordered changes in the work, the contract as thus amended, the contract price and the contract time; and

WHEREAS, the city wishes to enter into a change order with STEWART BROS. INC. in an amount not to exceed FOUR HUNDRED EIGHTY-TWO THOUSAND, SIX HUNDRED THIRTY-EIGHT DOLLARS AND 25/100 CENTS (\$482,638.25) IN PACKAGE ONE (1) AND ONE HUNDRED EIGHTEEN THOUSAND AND SIXTY-EIGHT DOLLARS AND 78/100 CENTS (\$118,068.78) IN PACKAGE FOUR (4) to fix improperly built portions of the

City's streets; and

WHEREAS, any contract for work on all or part of the municipal road system shall be in writing and be approved by resolution which shall be entered on the minutes of such municipality pursuant to O.C.G.A. § 32-4-111.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF STONECREST, GEORGIA, HEREBY RESOLVES, that the Mayor, on behalf of the City, is hereby authorized to execute a change order with STEWART BROS. INC. to fix the portions of the City's streets improperly built.

BE IT FURTHER RESOLVED, That the change order and supporting documentation is attached hereto and incorporated by reference in Exhibit A.

BE IT FURTHER RESOLVED, that the cost of the work shall not exceed FOUR HUNDRED EIGHTY-TWO THOUSAND, SIX HUNDRED THIRTY-EIGHT DOLLARS AND 25/100 CENTS (\$482,638.25) IN PACKAGE ONE (1) AND ONE HUNDRED EIGHTEEN THOUSAND AND SIXTY-EIGHT DOLLARS AND 78/100 CENTS (\$118,068.78) IN PACKAGE FOUR (4).

BE IT FURTHER RESOLVED, that the City Attorney or his designee is directed to negotiate, prepare, and/or review a change order, to affect the intent of this resolution provided that such change order is in compliance with the conditions set forth herein.

BE IT FURTHER RESOLVED, that the change order will not become binding upon the City and the City will incur no obligation or liability under it until it has been executed by the Mayor, attested to by the City Clerk and approved by the City Attorney as to form.

BE IT FURTHER RESOLVED, to the extent any portion of this Resolution is declared to be invalid, unenforceable, or nonbinding, that shall not affect the remaining portions of this

Resolution.

BE IT FURTHER RESOLVED, all City resolutions are hereby repealed to the extent they are inconsistent with this Resolution.

BE IT FINALLY RESOLVED, this Resolution shall take effect immediately.

RESOLVED this _____ day of _____, 2023.

[SIGNATURES ON THE FOLLOWING PAGE]

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CITY OF STONECREST, GEORGIA

Jazzmin Cobble, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

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EXHIBIT A