

STATE OF GEORGIA
COUNTY OF DEKALB
CITY OF STONECREST

RESOLUTION NO. _____

1 A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF STONECREST,
2 GEORGIA CERTIFYING THE ABANDONMENT AND REMOVAL FROM THE
3 MUNICIPAL ROAD SYSTEM A PORTION OF LYONS ROAD CONSISTING OF
4 APPROXIMATELY 1.01 ACRES; AUTHORIZING D.R. HORTON INC., TO PURCHASE
5 SAID ABANDONED ROAD FROM THE CITY AT FAIR MARKET VALUE; TO
6 PROVIDE FOR SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE; AND TO
7 PROVIDE FOR OTHER LAWFUL PURPOSES.

8 WHEREAS, the City of Stonecrest, Georgia (the "City") is a municipal corporation created
9 under the laws of the State of Georgia; and

10
11 WHEREAS, the duly elected governing authority of the City is the Mayor and Council thereof;
12 and

13
14 WHEREAS, the City has received a formal request from D.R. Horton, Inc. ("Applicant"), the
15 owner of abutting property, to abandon a portion of Lyons Road, beginning north
16 of said road's intersection with Evans Mill Road and ending approximately 400 feet
17 south of said road's intersection with Browns Mill Road (GA Hwy 212), consisting
18 of approximately 1.01 acres and more specifically described on Exhibit A and B
19 attached hereto and incorporated herein; and

20
21 WHEREAS, Applicant has paid a fee of \$2,500 for the costs of advertisement of the
22 abandonment and conducting an appraisal of the abandoned road; and

23
24 WHEREAS, in accordance with the legal requirements of O.C.G.A. § 32-7-2 and city
25 procedures, the City Council has given proper notices and held a public hearing on
26 said matter; and

27
28 WHEREAS, the City Council has determined that the portion of the aforesaid City Road has
29 ceased to be used by the public to the extent that no substantial public purpose is
30 served by it or that its removal from the municipal road system is otherwise in the
31 best public interest.

32
33 THEREFORE, be it and it is hereby resolved by the Mayor and City Council of the City of
34 Stonecrest, Georgia that:

35
36 **Section 1.** The City Council hereby certifies that the portion of the aforesaid City-road
37 described on Exhibit A and B is hereby abandoned and shall no longer be a part of
38 the municipal road system of the City of Stonecrest, Georgia.

39
40 **Section 2.** D.R. Horton, Inc., the abutting property owner, has agreed to pay the fair market
41 value of the portion of Lyons Road to be abandoned as determined by an appraisal
42 for the said portion of the road as described in the attached exhibits.

43

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44 **Section 3.** Upon purchase at fair market value, the abandoned portion of Lyons Road will
45 become a part of the D.R. Horton's private property, and it will be such owner's
46 responsibility to maintain, operate, and provide all services and utilities; and
47

48 **Section 4.** Any and all reservations for existing public or private utility easements shall remain
49 in effect for the purpose of entering the property to operate, maintain, or replace
50 said utility facilities until such easements are abandoned, removed, or relocated.
51

52 **Section 5.** The Acting City Manager is hereby directed to order an appraisal to determine the
53 fair market value of the right-of-way to be abandoned.
54

55 **Section 6.** Upon approval of this resolution and upon receipt of payment from the abutting
56 property owner in the amount of the appraised fair market value of the property,
57 the City Attorney is hereby directed to prepare a Quitclaim Deed and other
58 appropriate documents to effectuate the abandonment authorized by this resolution.
59

60 **Section 7.** The Acting City Manager, or her designee, is hereby authorized to execute the
61 Quitclaim Deed and any other documents prepared by the City Attorney to
62 effectuate the abandonment authorized by this resolution.
63

64 **Section 8.** The preamble of this resolution shall be considered to be and is hereby incorporated
65 by reference as if fully set out herein.
66

67 **Section 9.** (a) It is hereby declared to be the intention of the Mayor and Council that all
68 sections, paragraphs, sentences, clauses and phrases of this resolution are or were,
69 upon their enactment, believed by the Mayor and Council to be fully valid,
70 enforceable and constitutional.
71

72 (b) It is hereby declared to be the intention of the Mayor and Council that, to the
73 greatest extent allowed by law, each and every section, paragraph, sentence, clause
74 or phrase of this resolution is severable from every other section, paragraph,
75 sentence, clause or phrase of this resolution. It is hereby further declared to be the
76 intention of the Mayor and Council that, to the greatest extent allowed by law, no
77 section, paragraph, sentence, clause or phrase of this Resolution is mutually
78 dependent upon any other section, paragraph, sentence, clause or phrase of this
79 Resolution.
80

81 (c) In the event that any phrase, clause, sentence, paragraph or section of this
82 Resolution shall, for any reason whatsoever, be declared invalid, unconstitutional
83 or otherwise unenforceable by the valid judgment or decree of any court of
84 competent jurisdiction, it is the express intent of the Mayor and Council that such
85 invalidity, unconstitutionality or unenforceability shall, to the greatest extent
86 allowed by law, not render invalid, unconstitutional or otherwise unenforceable any
87 of the remaining phrases, clauses, sentences, paragraphs or sections of this
88 Resolution and that, to the greatest extent allowed by law, all remaining phrases,

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89 clauses, sentences, paragraphs and sections of this Resolution shall remain valid,
90 constitutional, enforceable, and of full force and effect.

91
92 **Section 10.** All resolutions and parts of resolutions in conflict herewith are hereby expressly
93 repealed to the extent of the conflict only.

94
95 **Section 11.** The effective date of this Resolution shall be the date of its adoption unless
96 otherwise stated herein.

97
98 **Section 12.** The Resolution shall be codified in a manner consistent with the laws of the State
99 of Georgia and the City of Stonecrest.

100
101

SO ORDAINED this ___ day of _____, 2021.

CITY OF STONECREST, GEORGIA

GEORGE TURNER, Mayor Pro Tem

ATTEST:

SONYA ISOM, Deputy City Clerk

APPROVED AS TO FORM:

City Attorney