

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 E.R. SNELL CONTRACTOR, INC. FOR THE 2022 STREET**  
10 **RESURFACING PROJECT IN AN AMOUNT NOT TO EXCEED FOUR HUNDRED**  
11 **THIRTY-TWO THOUSAND, FIVE HUNDRED NINETY-FOUR DOLLARS AND 00/100**  
12 **CENTS (\$432,594.00) IN PACKAGE THREE (3) AND FIVE HUNDRED EIGHTY-ONE**  
13 **THOUSAND AND EIGHTEEN DOLLARS AND 00/100 CENTS (\$581,018.00) IN**  
14 **PACKAGE TWO (2); 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 E.R. Snell Contractor, 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 was responsible for providing all labor, materials, and  
22 equipment necessary to patch, mill, resurface, and/or re-stripe 95 streets within the City  
23 ("Project"); and

24 **WHEREAS**, the total cost of the Project was FIVE MILLION SIX HUNDRED FOUR  
25 THOUSAND FOUR HUNDRED SEVENTEEN THOUSAND DOLLARS AND 00/100 CENTS.  
26 (\$5,604,417.00); and

27           **WHEREAS**, the Contractor was contracted perform and complete its duties under the  
28 Contract including the following: construction of the whole or a designated part of the Project;  
29 furnishing of any required surety bonds and insurance; and the provision or furnishing of labor,  
30 supervision, services, materials, supplies, equipment, fixtures, appliances, facilities, tools,  
31 transportation, storage, power, permits and licenses required of the Contractor, fuel, heat, light,  
32 cooling and all other utilities as required by the Agreement.; and

33           **WHEREAS**, the Contractor is expected to achieve Substantial Completion of the Work  
34 by July 17, 2023, unless another date is provided within the written Notice to Proceed.

35           **WHEREAS**, the Contractor discovered major portions of the City's streets were  
36 constructed at a substandard level without proper subbase or base examples of which are attached  
37 hereto as Exhibit A; and

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

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

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

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

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

49           **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 E.R. Snell Contractor, Inc. in an amount not to exceed FOUR HUNDRED THIRTY-TWO THOUSAND, FIVE HUNDRED NINETY-FOUR DOLLARS AND 00/100 CENTS (\$432,594.00) in package three (3) and FIVE HUNDRED EIGHTY-ONE THOUSAND AND EIGHTEEN DOLLARS AND 00/100 CENTS (\$581,018.00) 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 E.R. Snell Contractor, Inc. to fix the portions of the City's streets improperly built.

**BE IT FURTHER RESOLVED**, E.R. Snell Contractor, Inc. shall achieve Substantial Completion of the work by July 17, 2023.

**BE IT FURTHER RESOLVED**, that the cost of the work shall not exceed FOUR HUNDRED THIRTY-TWO THOUSAND, FIVE HUNDRED NINETY-FOUR DOLLARS AND 00/100 CENTS (\$432,594.00) in package three (3) and FIVE HUNDRED EIGHTY-ONE THOUSAND AND EIGHTEEN DOLLARS AND 00/100 CENTS (\$581,018.00) in package two (2).

**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]**

**CITY OF STONECREST, GEORGIA**

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**Jazzmin Cobble, Mayor**

**ATTEST:**

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**City Clerk**

**APPROVED AS TO FORM:**

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**City Attorney**

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## **EXHIBIT A**