



WORK SESSION AGENDA ITEM

SUBJECT: Stantec Data Analysis and Recommendation

☐ ORDINANCE ☐ POLICY ☐ STATUS REPORT
☐ DISCUSSION ONLY ☐ RESOLUTION ☒ OTHER

Work Session Meeting: 04/22/2019

SUBMITTED BY: Plez A. Joyner, Deputy City Manager

PURPOSE:

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION:

City of Stonecrest 2019 Pavement Evaluation



Pavement Condition Index (PCI)

- **Based on scores from 0 to 100**
- **Pavement distresses measured:**

Patching Distortion

Rippling Bleeding

Raveling Alligator Cracking

Bleeding Block Cracking

Potholes Longitudinal Cracking

Rutting



What Is the Condition of Our Network?

PCI Range	Condition Category
86 - 100	Good
71 - 85	
56 - 70	Fair
41 - 55	Poor
26 - 40	Very Poor
11 - 25	Serious
0 - 10	Failed

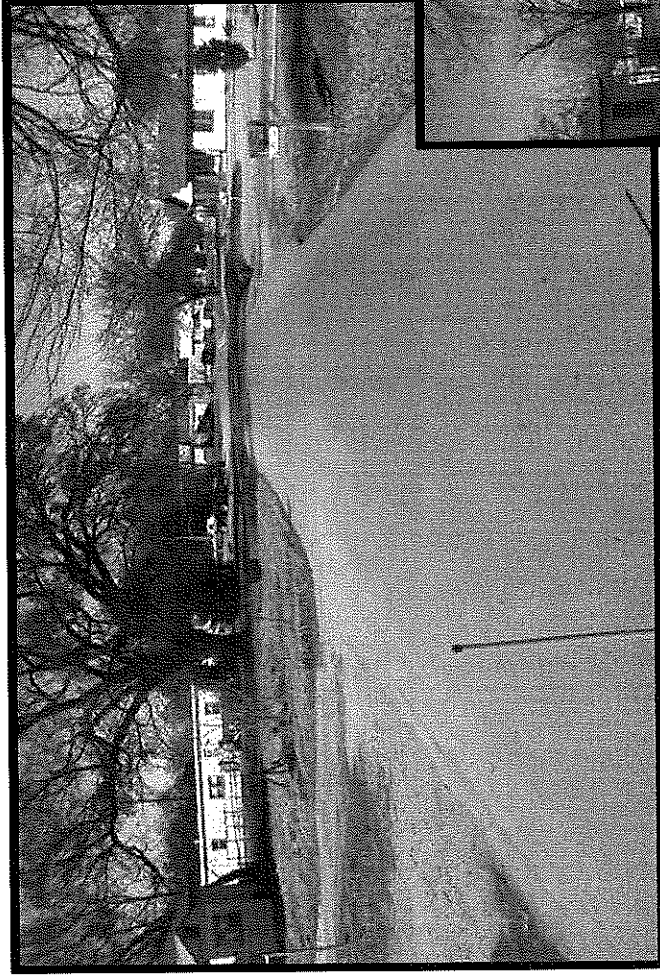
PCI Range	Level of Service Category
71 - 100	Adequate
56 - 70	
0 - 55	Unsatisfactory

Long range goal to have an overall PCI score of at least 70

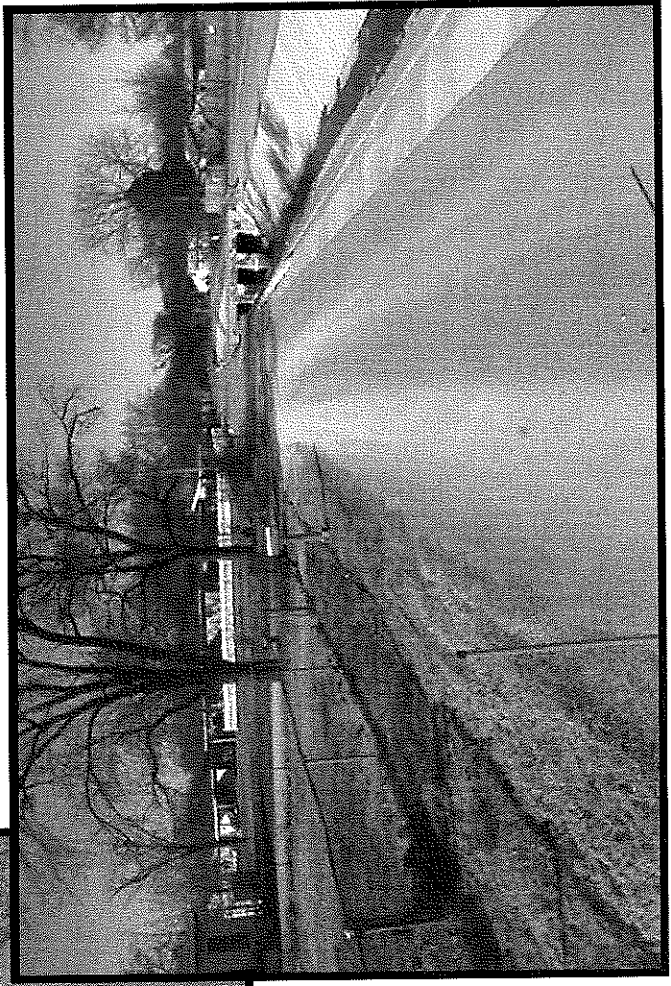
What the Numbers Mean.....



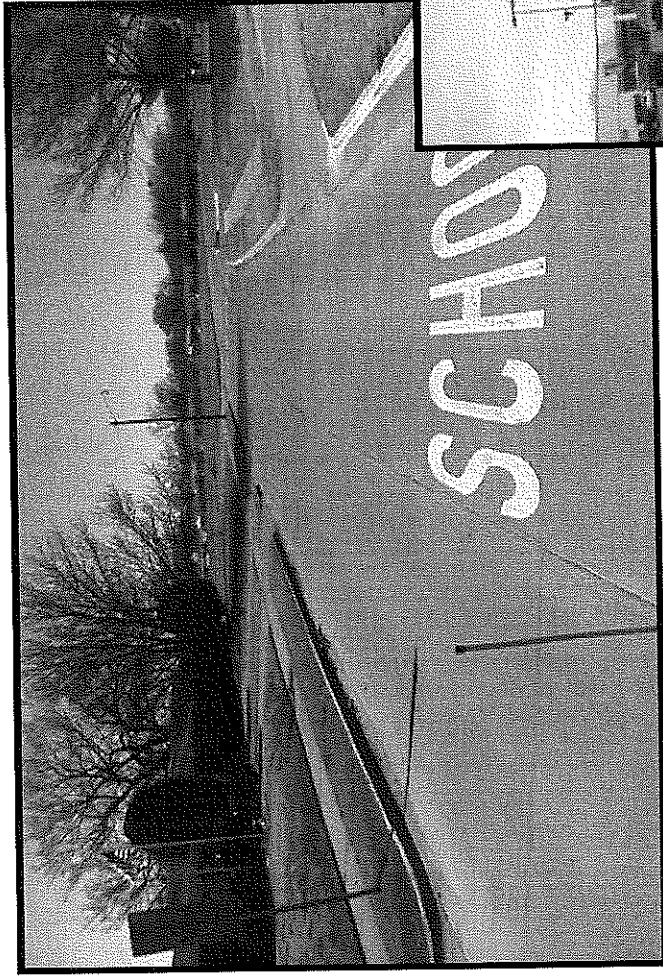
Very Good Rating
Like New Condition
85 to 100 PCI score



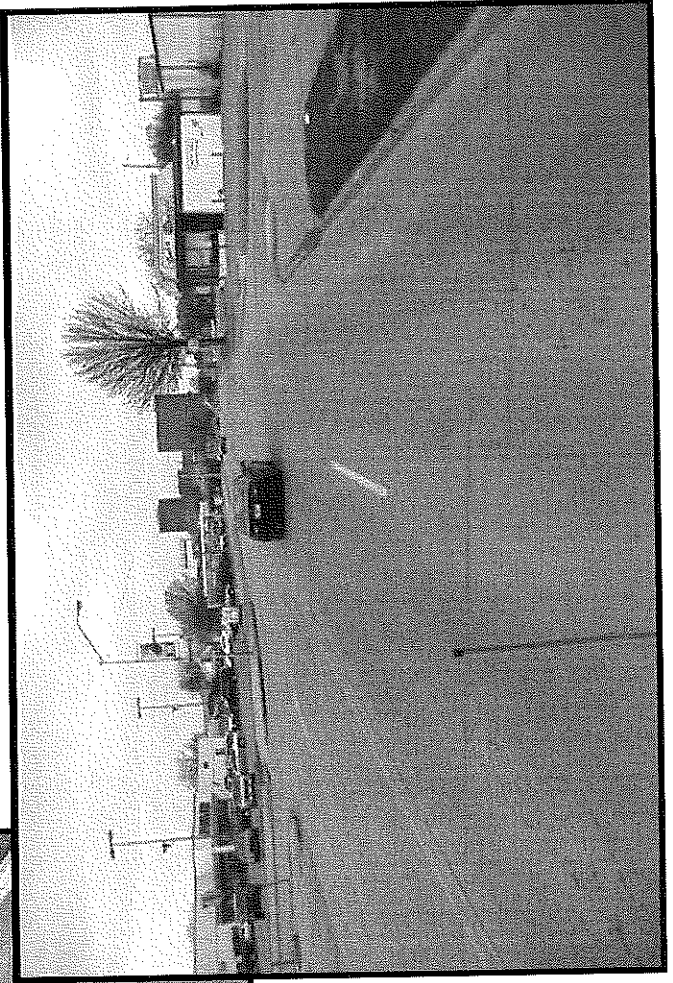
routine maintenance
10 - 15 year service life



What the Numbers Mean....

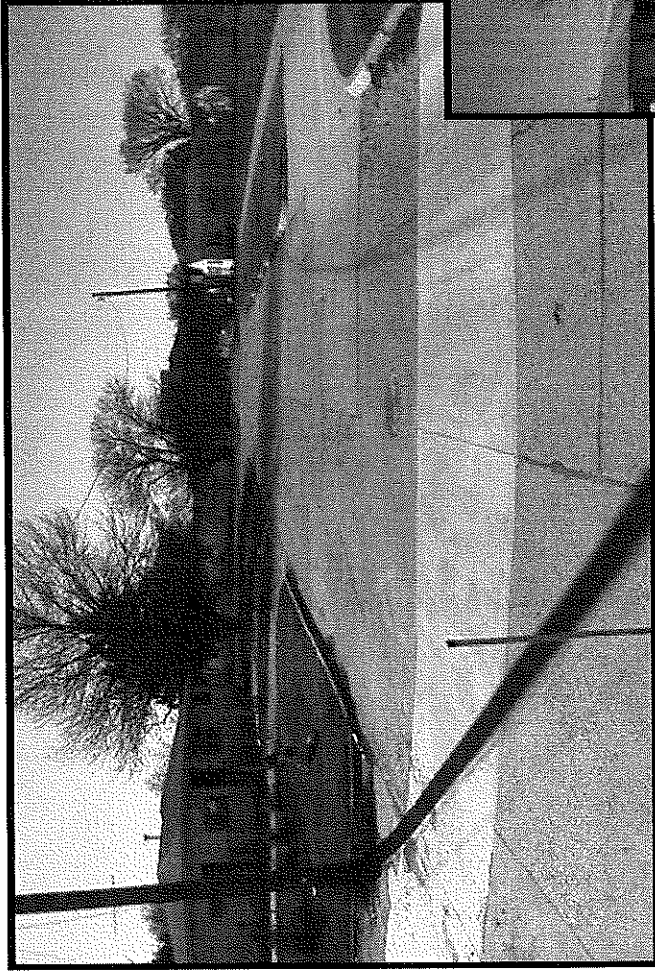


Good Rating
Comfortable ride, localized distress
70 to 85 PCI score

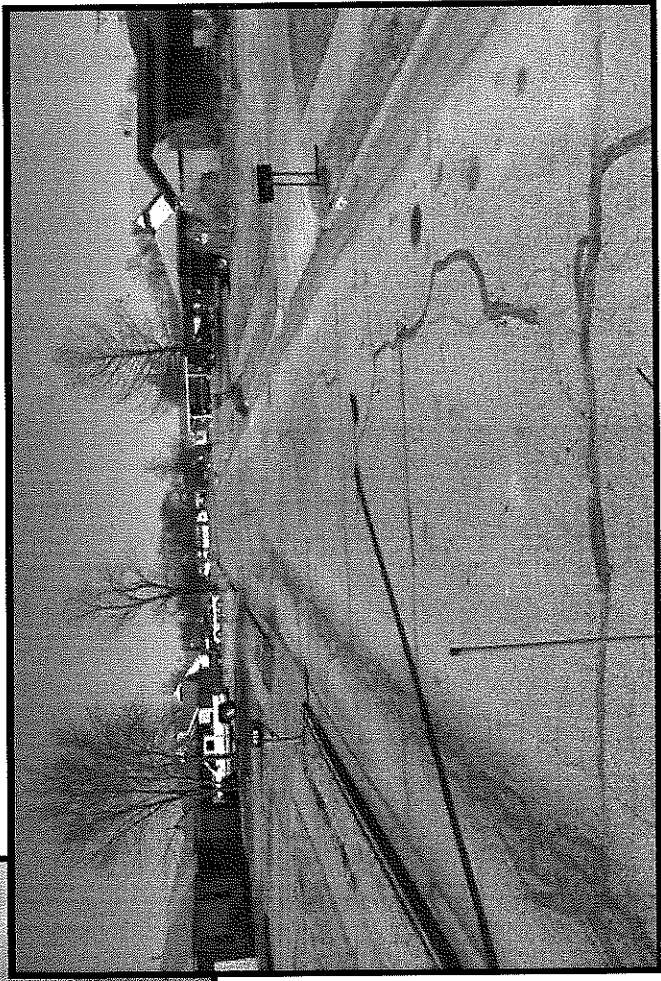


preventative maintenance
10 year service life

What the Numbers Mean....



Poor to Fair Rating
Plenty of visible distresses
40 to 70 PCI score

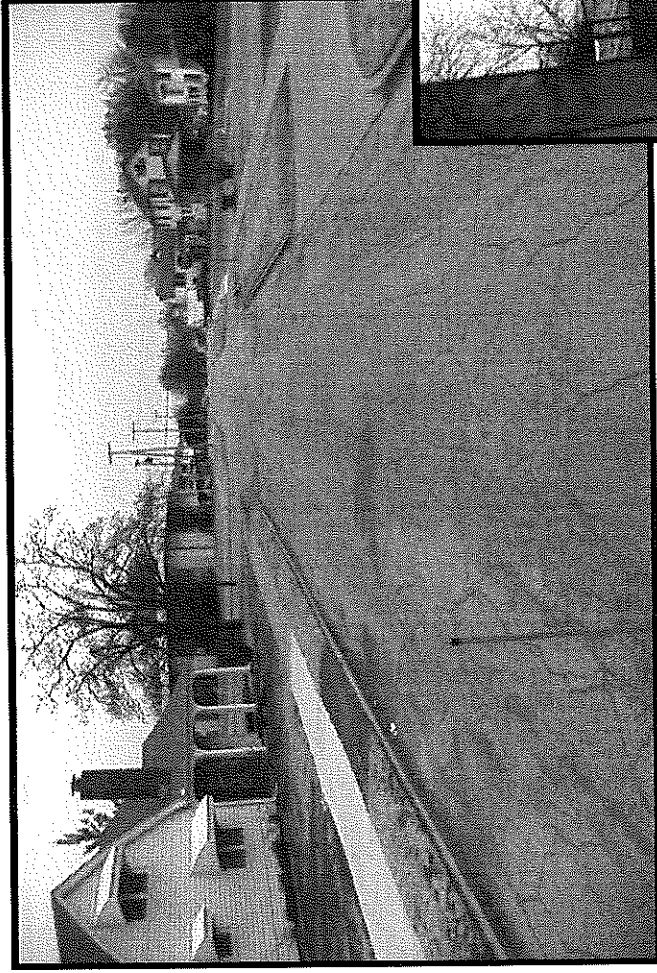


Resurfacing needed

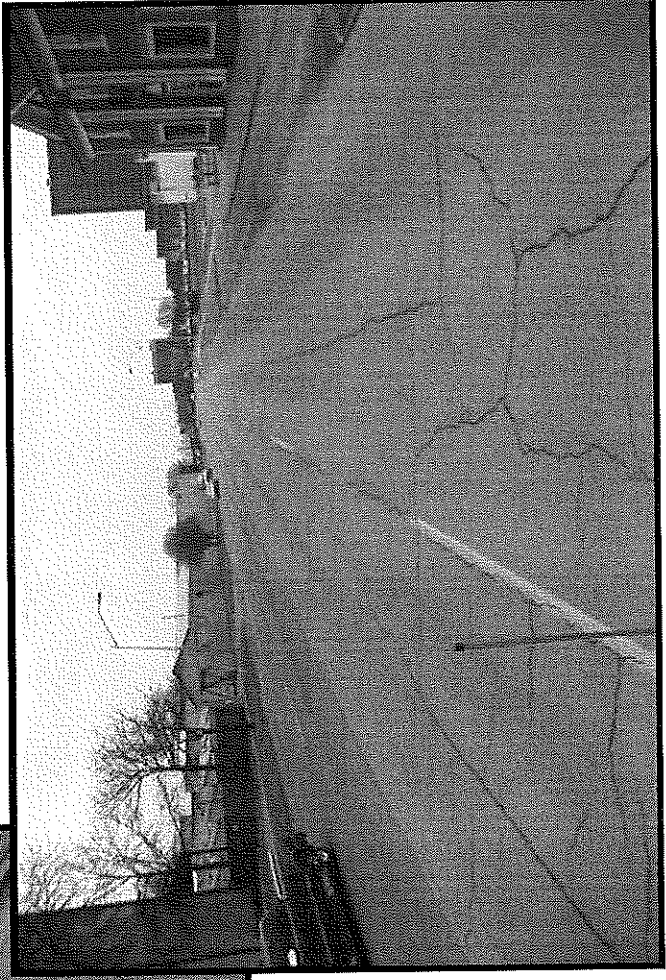
What the Numbers Mean....



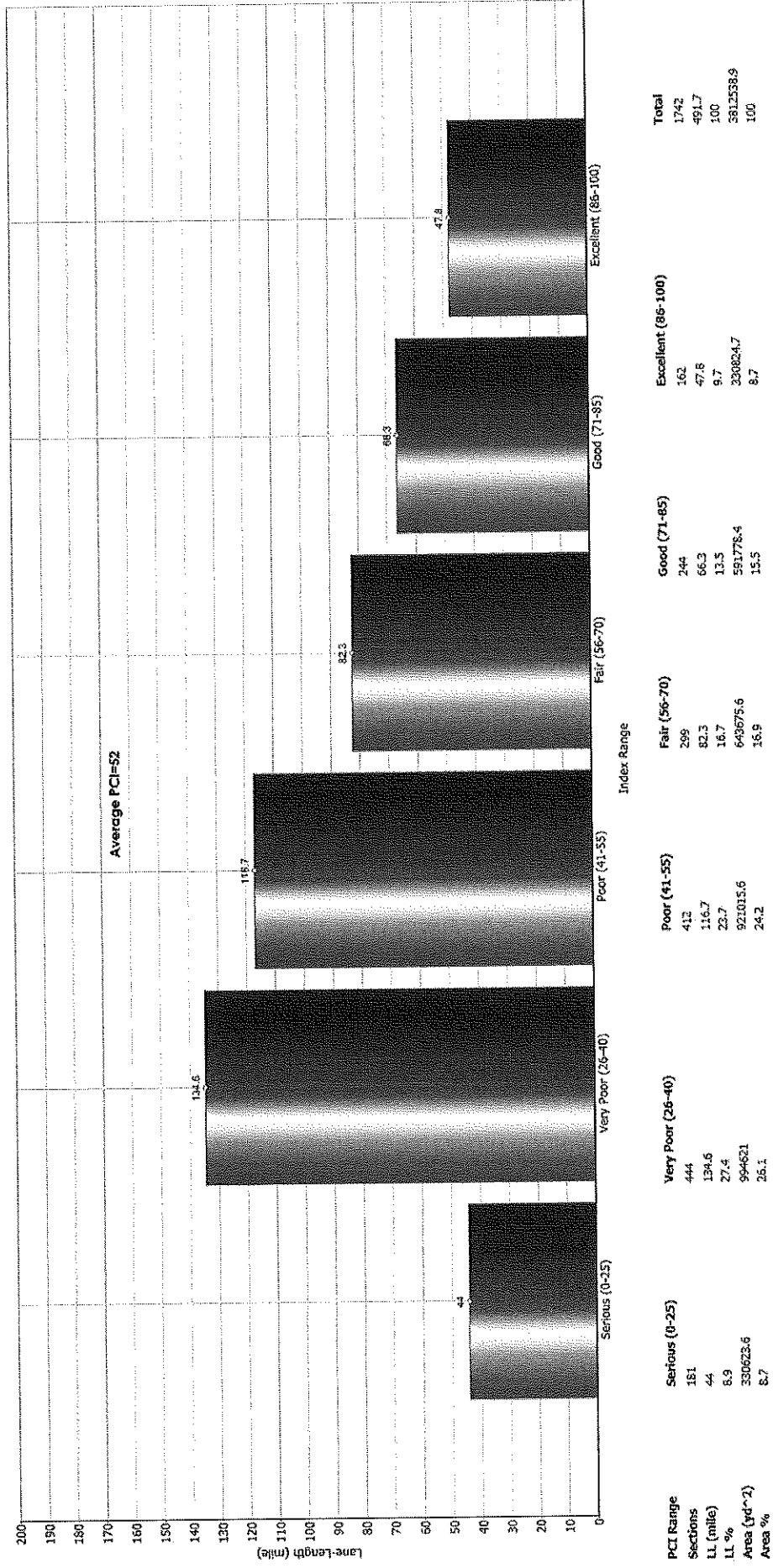
Very Poor to Failed
Surface and base failures
0 to 40 PCI score



Reconstruction methods
such as milling, base
replacement, and/or
heavy patching required

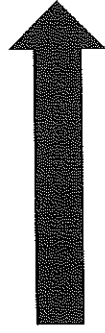


Network Present Status Distribution - 2019 Segments



What Is the Condition of Our Network?

PCI Range	Condition Category
86 - 100	Good Satisfactory Fair Poor Very Poor Serious Failed
71 - 85	
56 - 70	
41 - 55	
26 - 40	
11 - 25	
0 - 10	



**Tucker's
Overall
Score is 52**

PCI Range	Level of Service Category
71 - 100	Adequate Degraded Unsatisfactory
56 - 70	
0 - 55	

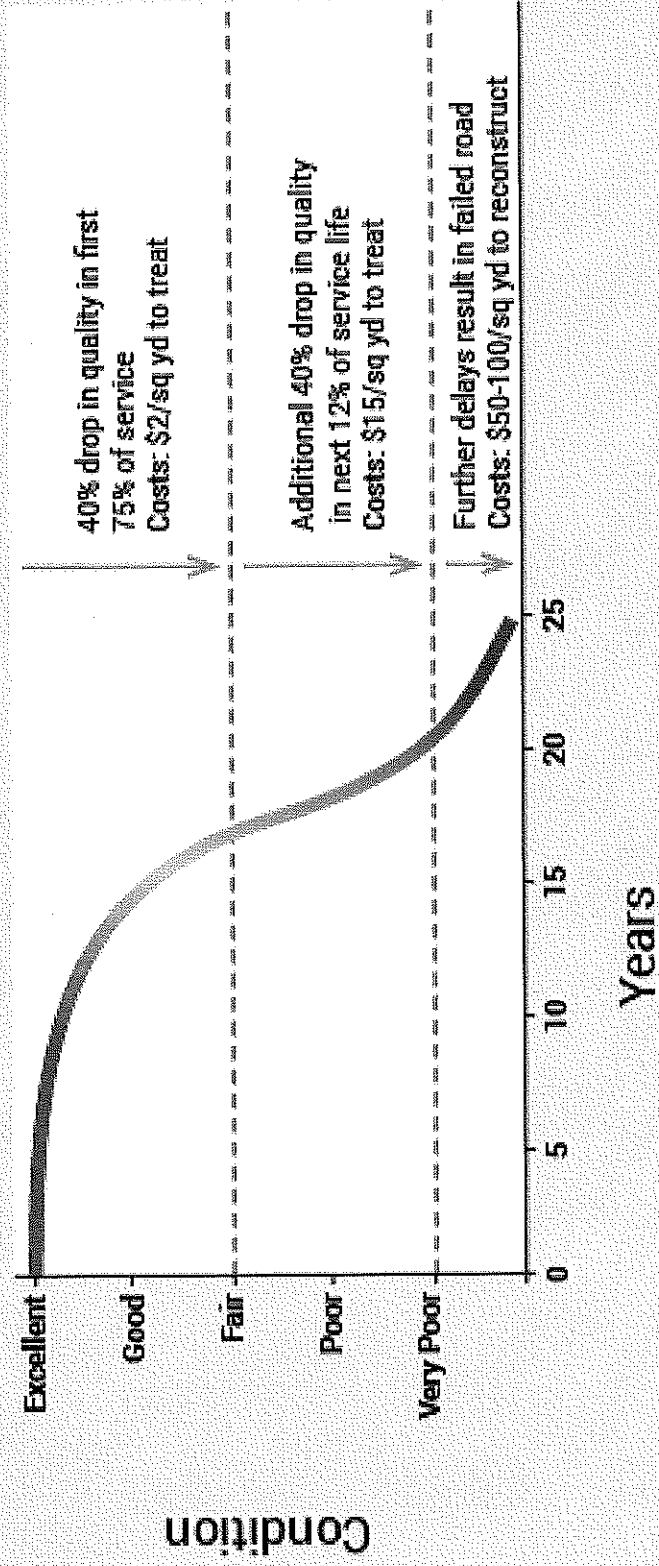
Resurfacing Strategies:

- 1. Cost Efficient**
- 2. Individual streets - worst to first**
- 3. Supersections**
- 4. Major Streets, then supersections**

1. Cost Efficient

- **Biggest bang for the buck**
- **Worst streets will have to wait**
- **Major Streets, then supersections**

PAVEMENT DETERIORATION CHART



2. Individual Streets

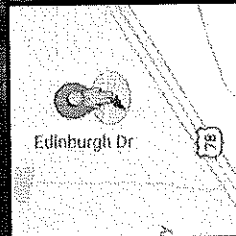
- **DeKalb County approach**
- **Not as efficient**
- **Complaints from adjacent residents**
- **Damage adjacent streets**

3640 Bonnie Glenn Ln

Tucker, Georgia



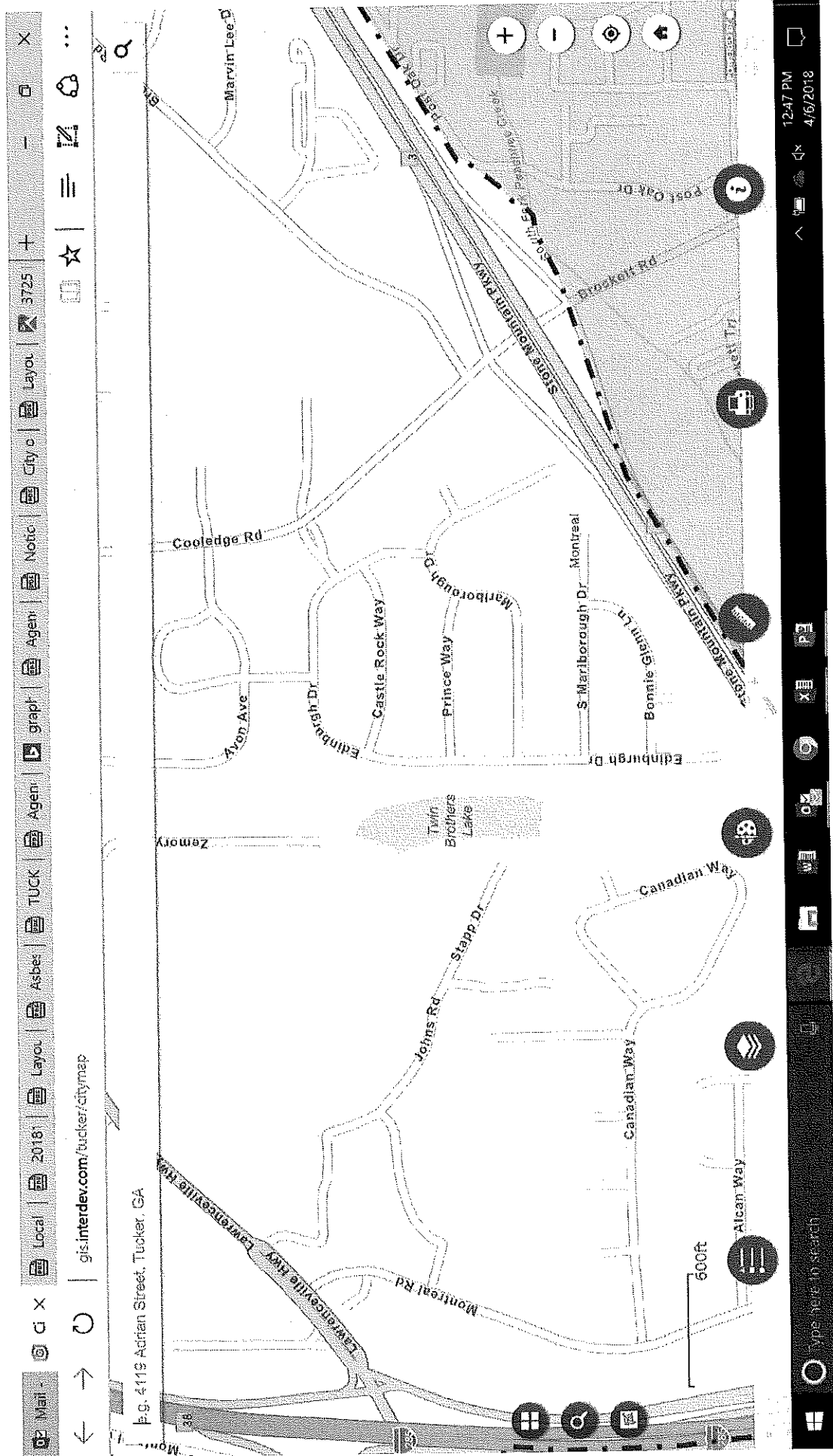
Street View Feb 2015



Google

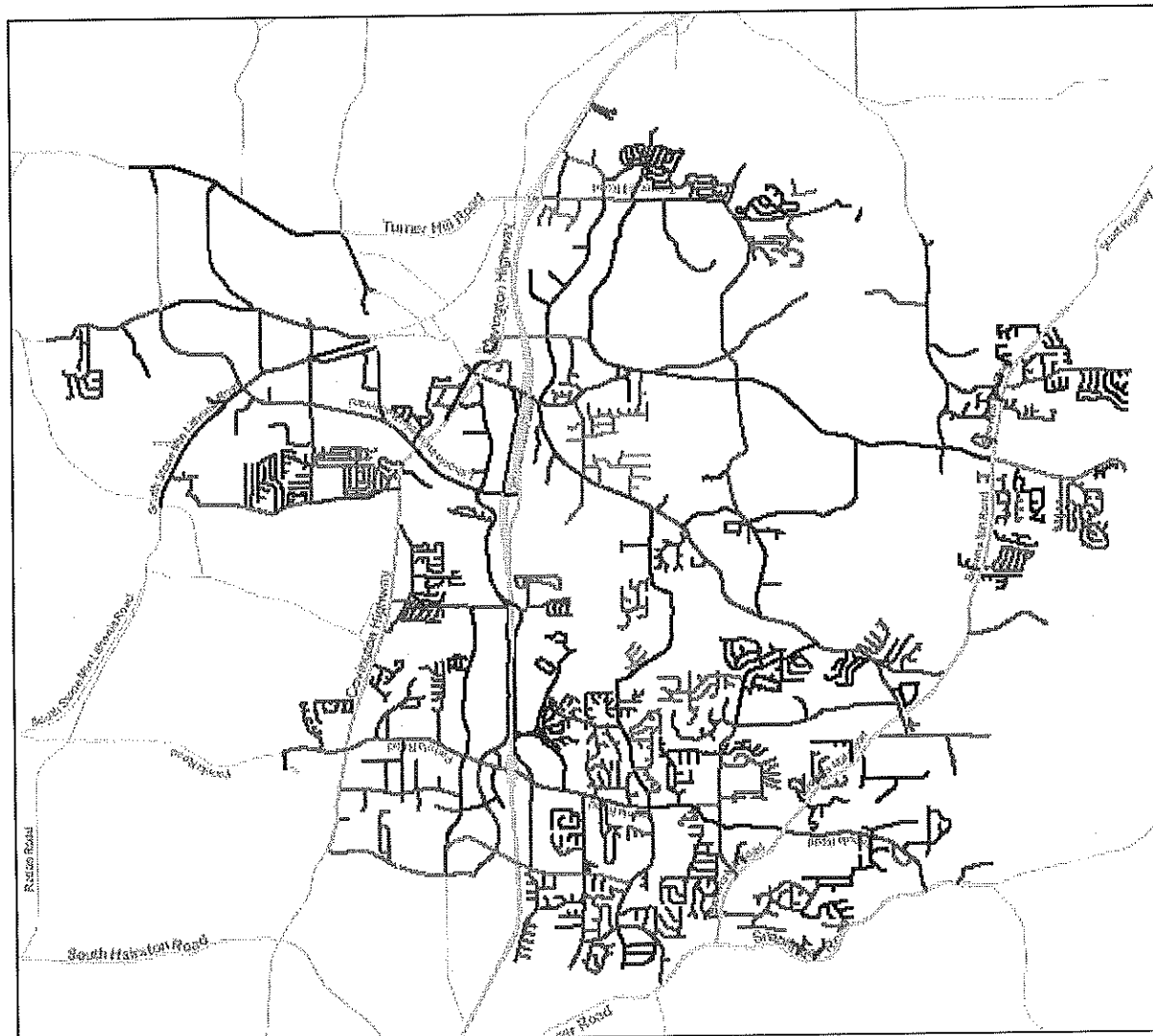
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12:52 PM 4/6/2018



3. Supersections

- **Efficient**
- **Groups streets in a logical approach**
- **Less complaints about equity**



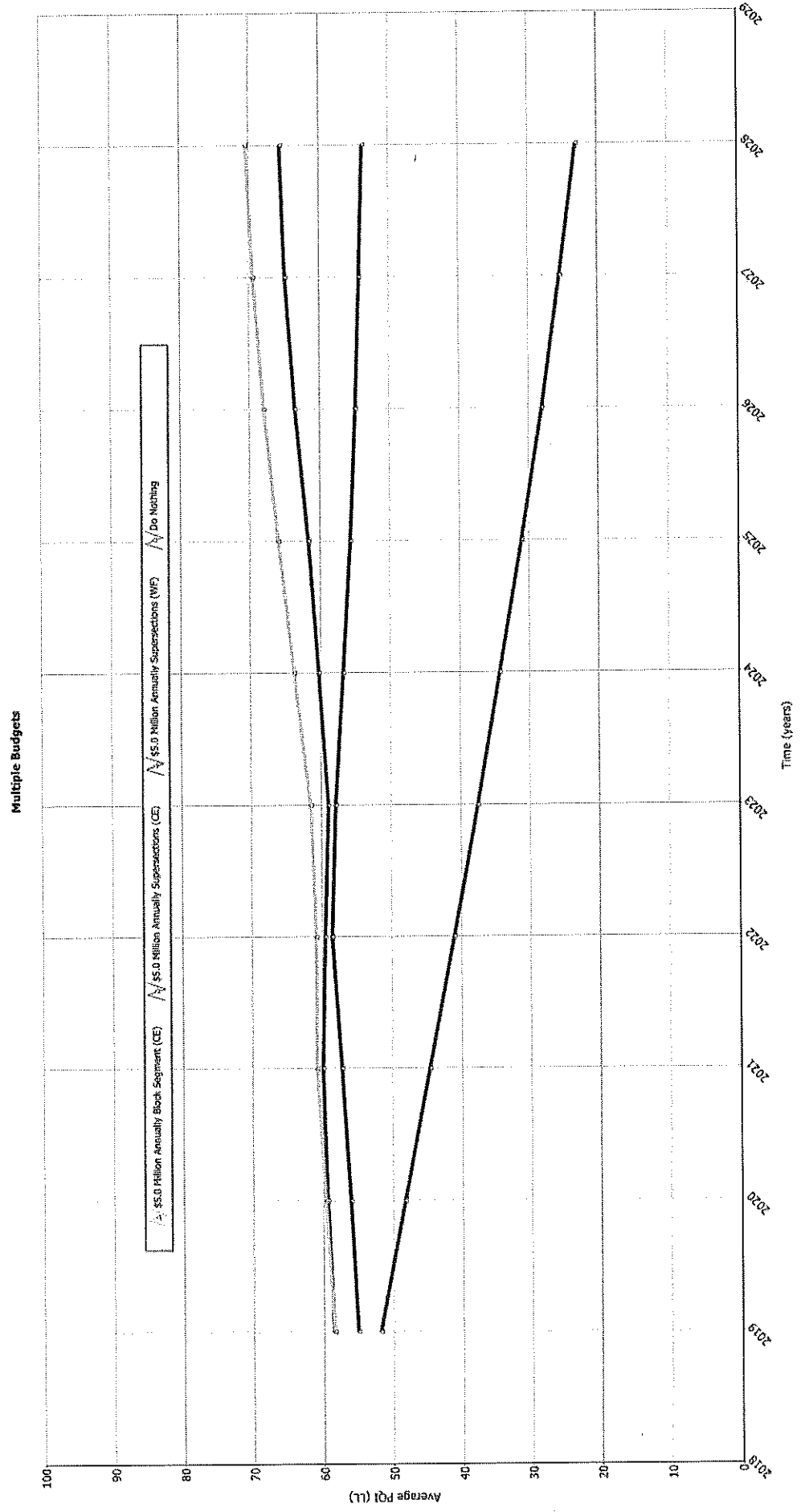
STREET SUPERSECTIONS

Current street divided into a network for road system analysis

4. Major Streets First

- **Addresses streets with highest traffic volumes**
- **Everyone uses them**

Budget Network Performance (PQI) Block Segment CE vs Supersections CE or WF



Resurfacing Strategies:

- 1. Cost Efficient**
- 2. Individual streets - worst to first**
- 3. Supersections**
- 4. Major Streets, then supersections**



WORK SESSION AGENDA ITEM

SUBJECT: Approve & Award CEI Services Contract for 2019 LMIG Resurfacing Project to Southeastern Engineering

- | | | |
|--|-------------------------------------|---|
| ☐ ORDINANCE | ☐ POLICY | ☐ STATUS REPORT |
| ☐ DISCUSSION ONLY | ☐ RESOLUTION | ☒ OTHER |

Work Session Meeting: 04/22/2019

SUBMITTED BY: Plez A. Joyner, Deputy City Manager

PURPOSE:

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION:

PROFESSIONAL ENGINEERING AND DESIGN
SERVICES AGREEMENT

This Professional Engineering and Design Services Agreement (the "Agreement") is made and entered by and between the **CITY OF STONECREST, GEORGIA** (the "City"), a municipal corporation duly organized by and existing under the laws of the State of Georgia, and **SOUTHEASTERN ENGINEERING, INCORPORATED** ("SEI"), a corporation existing under the laws of the State of Georgia. The City and SEI may be referred to herein individually as a "Party" or collectively as "Parties."

WITNESSETH:

WHEREAS, the City intends to resurface public streets within its municipal limits (the "Project") and desires to engage a qualified and experienced professional to provide certain engineering and design services concerning the Project;

WHEREAS, SEI has represented to the City that it is qualified and experienced to perform the professional engineering and design services described herein and has available the personnel and facilities necessary to accomplish said services within the time period(s) stated herein; and

WHEREAS, the City, in reliance upon said representations, desires to employ SEI to perform said engineering and design services on the terms and conditions set forth herein and, in turn, SEI desires to obtain such employment.

NOW, THEREFORE, in consideration of the mutual covenant, promises and obligations set forth below and for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged and intending to be legally bound hereby, the Parties agree as follows:

1. Description of Services:

- (a) Scope of Services. SEI shall provide to the City the professional engineering and design services for the Project as described in the document entitled "Construction Engineering & Inspections 2019 LMIG Resurfacing Scope of Work" which is attached hereto as **Exhibit A**.
- (b) Change of Scope of Services. The Parties recognize that, during the course of the performance of the services identified in Paragraph 1(a), the scope of the Project may need to be reduced, expanded or otherwise modified. In such event, the City may, at any time during the term of the Agreement, make changes to the scope of the services identified in Paragraph 1(a). If any such change causes an increase or decrease in SEI's cost of performing any part of its obligations under the Agreement, upon SEI's request and the City's written authorization, an equitable adjustment shall be made to the contract price and a written amendment to the Agreement shall be made reflecting such change and equitable adjustment. Any claim by SEI for an equitable adjustment shall be made in writing and delivered to the City prior to SEI's performance with the additional or revised services. SEI shall not perform any such additional or revised services until it

receives from the City written authorization to the equitable adjustment. Nothing in this subparagraph shall excuse SEI from proceeding with the performance of its obligations under the Agreement in accordance with the original terms and conditions stated herein.

2. Term, Commencement and Termination:

(a) Term of Agreement. The Agreement shall commence on the Effective Date and terminate automatically upon the latter of the following events: (1) the completion by SEI of all services identified in Paragraph 1; or (2) the issuance by the City of the final payment owed to SEI for all services identified in Paragraph 1. Notwithstanding this language or any other provision to the contrary in the Agreement, the term of the Agreement shall not exceed one (1) year from the Effective Date.

(b) Commencement. SEI shall commence the performance of the services provided in Paragraph 1 within ten (10) calendar days after the Effective Date.

(c) Termination for Default.

(1) The City may, subject to the provisions of subparagraph (3) below, by written notice of default to SEI, terminate the whole or any part of this Agreement in any one of the following circumstances: (i) if SEI fails to perform this Agreement within the time specified herein or any extension thereof; or (ii) if SEI fails to perform any of the other provisions of this Agreement, or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and does not cure such failure within a period of ten (10) days after receipt of notice from the City specifying such failure.

(2) In the event the City terminates this Agreement in whole or in part as provided in subparagraph (a) above, the City may procure, upon such terms and in such manner as the City may deem appropriate, services similar to those so terminated, and SEI shall be liable to the City for any excess costs for the same; provided, that SEI shall continue the performance of this Agreement to the extent not terminated hereunder.

(3) Except with respect to defaults of subcontractors, SEI shall not be liable for any excess costs if the failure to perform this Agreement arises out of causes beyond the control and without the fault or negligence of SEI. Such causes may include, but are not limited to, acts of God, or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, flood, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather, but in every case the failure to perform must be beyond the control and without the fault or negligence of SEI. If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both SEI and the subcontractor, and without the fault or negligence of either of them, SEI shall not be liable for any excess costs for failure to perform, unless the services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit SEI to meet the required delivery schedule. For purposes of this subparagraph, the term "subcontractor" shall mean a subcontractor at any tier.

(4) If, after notice of termination of this Agreement under the provisions of this paragraph, it is determined for any reason that SEI was not in default under the provisions above, or that the default was excusable under the provisions of this paragraph, the rights and obligations of the parties shall be the same as if the notice of

termination had been issued pursuant to the "Termination for Convenience" paragraph of this Agreement.

- (5) The rights and remedies of the City provided in subparagraph (c) ("Termination for Default") shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.
- (d) Termination for Convenience. Notwithstanding Paragraph 2(a) or any other provision to the contrary herein, the City shall have the unilateral right to terminate the Agreement at any point during any term of the Agreement, solely at its discretion and without cause, by providing thirty (30) days written notice to SEI of its desire to terminate. If the Agreement is terminated (in whole or in part) by the City pursuant to this subparagraph, SEI shall be paid an amount, to be mutually agreed upon, which shall be adequate to cover the actual reasonable cost paid by SEI for the actual labor reasonably used by SEI to perform the work under this Agreement to the effective date of termination, plus a reasonable profit thereon; provided that no amount shall be paid to SEI for: (i) any anticipatory profits related to work under this Agreement not yet performed, or (ii) costs incurred due to SEI's failure to terminate work as ordered on the effective date of termination. In no event shall the total amount paid under this subparagraph exceed the rates and/or prices otherwise set forth in this Agreement.
3. **Compensation:** The City shall compensate SEI for all services provided under Paragraph 1 at the rates and/or prices set forth in Exhibit A. Invoices to the City shall not be submitted until the schedule of completion and completion of narrative reports are updated and submitted to the City. The City shall remit to SEI payment for the amount identified in an invoice on or before thirty (30) days after the date of the invoice.
4. **Assignment and Subcontracting:** Notwithstanding any other provision to the contrary herein, SEI shall not assign the Agreement (or any portion thereof) nor shall SEI subcontract for completed or substantially completed services provided under Paragraph 1 without the prior express written consent of the City. No assignment or subcontract by SEI, including any assignment or subcontract to which the City consents, shall in any way relieve SEI from complete and punctual performance of its obligations under the Agreement.
5. **The City's Assistance and Cooperation:** During SEI's performance of the services provided under Paragraph 1, the City may (but has no obligation to) provide assistance to, or cooperate with, SEI in any activity or activities that facilitate the proper performance and completion by SEI of the services provided under Paragraph 1. Such assistance and cooperation by the City may include without limitation: (i) providing engineering or other analysis or advice on correcting problems; (ii) refraining from strict enforcement of time schedule requirements under the Agreement; and (iii) permitting use of test materials or documentation not performed or produced under the Agreement. Such assistance or cooperation by the City shall not be construed, and SEI agrees that it will not claim that any such assistance or cooperation operates, to relieve SEI from complete, proper and punctual performance of all of SEI's obligations to the City arising under the Agreement.
6. **Responsibility of SEI:** SEI acknowledges that the City is employing it to professionally render the services provided under Paragraph 1 only and that any payment(s) made to it by

the City under the Agreement are compensation solely for such services. SEI agrees to follow the applicable standard of professional care in performing the services provided under Paragraph 1. SEI agrees to perform the services provided under Paragraph 1 in accordance with generally accepted standards and practices customarily utilized by competent engineering firms in effect at the time such services are rendered. No review of SEI's professional work product provided pursuant to the Agreement, including (but not limited to) any plans and specifications, by any employee or agent of the City shall relieve SEI of any responsibility with respect to such professional work product.

7. **Work on the City's Designated Premises:** In the event that SEI, any employee or agent of SEI, or any subcontractor of SEI enters the City's designated premises for any reason in connection with this Agreement, SEI and such other parties shall observe all applicable security requirements and all applicable plant safety, plant protection, and traffic regulations. SEI shall defend, indemnify, and hold the City harmless from all claims, actions, demands, loss, and causes of action, arising from injury, including death, to any person, or damage to any property, when such injury or damage results in whole or in part from the acts or omissions of SEI, any employee or agent of SEI, or any subcontractor of SEI, save and except damage caused by the sole negligence of the City. SEI and any subcontractor retained or used by SEI in connection with this Agreement, shall carry Workers' Compensation and Employees' Liability Insurance to cover SEI's and such subcontractor's legal liability on account of accidents to their employees. SEI and any such subcontractor shall carry adequate Comprehensive General Liability and adequate Comprehensive Automobile Liability Insurance covering accidents to their employees. SEI and any such subcontractor shall carry adequate Comprehensive General Liability and adequate Comprehensive Automobile Liability Insurance covering legal liability of SEI and any subcontractor on account of accidents arising out of the operations of SEI or any subcontractor and resulting in bodily injury, including death, being sustained by any person or persons, or in any damage to property. At the City's request, SEI shall furnish to the City certificates from SEI's insurers showing such coverage in effect and agreeing to give the City ten (10) days' prior written notice of cancellation of the coverage.
8. **Risk Management Requirements:** SEI shall abide by the City's applicable Risk Management Requirements, which are attached hereto as **Exhibit B**.
9. **Indemnification:**
 - (a) To the fullest extent permitted by law, SEI shall indemnify and hold harmless the City (including its elected officials, officers, directors, employees and agents) from and against all claims, costs, losses and damages (including, but not limited to, all fees and charges of engineers, consultants, attorneys and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to SEI's performance of the services provided under Paragraph 1, provided that any such claim, cost, loss or damage is attributable to bodily injury, sickness, disease, or death, or injury to or destruction of tangible property (other than the work itself) but only to the extent caused by any negligent or intentional act or omission of SEI, any employee or agent of SEI, or any subcontractor of SEI.

- (b) In any and all claims against the City (including any and all claims against its elected officials, officers, directors, employees and agents) by any employee (or the survivor or personal representative of such employee) of SEI, any subcontractor of SEI or any individual or entity directly or indirectly employed by SEI or such subcontractor to perform any of the services provided under Paragraph 1, or anyone for whose acts any of them may be liable, the indemnification obligation under subparagraph (a) of Paragraph 9 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for SEI, any subcontractor of SEI or any individual or entity directly or indirectly employed by SEI or such subcontractor under workers' compensation acts, disability benefits acts or other employee benefits acts.
- (c) Regardless of any other term of this Agreement, in no event shall either Party be responsible to the other Party for any incidental, consequential or other indirect damages.

10. **Relationship of the Parties:**

- (a) **Independent Contractor.** Nothing contained in the Agreement shall be deemed to create any relationship other than that of independent contractor between the City and SEI. This Agreement shall not constitute, create, or otherwise imply an employment, joint venture, partnership, agency or similar arrangement between the City and SEI. It is expressly agreed that SEI is acting as an independent contractor of the City and not as an employee in performing the services provided under Paragraph 1 of the Agreement.
- (b) **Employee Benefits.** SEI shall not be eligible for any benefit available to employees of the City including, but not limited to, workers' compensation insurance, state disability insurance, unemployment insurance, group health and life insurance, vacation pay, sick pay, severance pay, bonus plans, pension plans, or savings plans.
- (c) **Payroll Taxes.** No income, social security, state disability or other federal or state payroll tax will be deducted from payments made by the City to SEI under this Agreement. SEI shall be responsible for all FICA, federal and state withholding taxes and workers' compensation coverage for any individuals assigned to perform the services provided under Paragraph 1.

11. **Conflicts of Interest:** SEI warrants and represents that:

- (a) Its performance of the services to be provided under Paragraph 1 will not create an actual or apparent conflict of interest with any other work it is currently performing; and
- (b) It is not presently subject to any agreement with a competitor or with any other party that will prevent it from performing in full accord with this Agreement; and
- (c) It is not subject to any statute, regulation, ordinance or rule that will limit its ability to perform its obligations under this Agreement. The Parties agree that SEI shall be free to accept other work during the term hereof; provided, however, that such other work shall not interfere with its performance of the services to be provided under Paragraph 1.

12. **Waiver of Breach:** The waiver by either Party of a breach or violation of any provision of the Agreement shall not operate or be construed to constitute a waiver of any subsequent breach or violation of the same or other provision thereof.

13. **User and Ownership of Documents:** Original documents (whether paper or electronic media), such as reports, plans, drawings, specifications, designs and survey notes developed

or prepared by SEI in connection with its performance of the services provided in Paragraph 1 belong to, and remain, the property of the City. SEI may retain copies of such documents for its records and for its professional endeavors.

14. **Attorney's Fees:** To the extent not otherwise addressed in Paragraph 9 or any other provision in the Agreement, SEI agrees to pay reasonable attorney's fees to the City should the City be required to incur attorney's fees in enforcing any provision of the Agreement.
15. **Disputes:** Pending resolution of any dispute hereunder, SEI shall proceed diligently with the performance of work in accordance with the City's direction.
16. **Notices:** All notices required or permitted to be given hereunder shall be deemed to be properly given if delivered in writing personally or sent by United States certified or registered mail addressed to SEI or the City, as the case may be, with postage thereon fully prepaid. The effective time of notice shall be at the time of mailing.

If to the City:

City Manager
Stonecrest City Hall
3120 Stonecrest Blvd.
Stonecrest, Georgia 30038

With copies to:

Winston A. Denmark
Fincher Denmark LLC
8024 Fair Oaks Court
Jonesboro, Georgia 30326

If to SEI:

Southeastern Engineering, Inc.
2470 Sandy Plains Road
Marietta, Georgia 30066

17. **Integration:** The Agreement (including any and all exhibits hereto) represents the entire understanding and agreement between the City and SEI as to those matters contained herein. No prior oral or written understanding between the Parties shall be of any force or effect with respect to those matters contained herein. The Agreement may not be modified or altered except in a writing signed by both Parties.
18. **Captions:** All captions, headings, paragraph numbers and subparagraph numbers are solely for the purpose of facilitating references to the Agreement and shall not supplement, limit or otherwise vary the text of the Agreement in any respect.
19. **References:** All references in the Agreement to Paragraphs shall be deemed to refer to the appropriate Paragraph of the Agreement. Use of pronouns or adjectives of one gender shall include the other gender, use of the singular shall include the plural and use of the plural shall

include the singular, all as the context of the Agreement requires. Unless otherwise specified in the Agreement, the terms "herein," "hereof," "hereunder" and other terms of similar import, shall be deemed to refer to the Agreement as a whole, and not to any particular Paragraph hereof.

20. **Severability:** If any provision of the Agreement is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of the Agreement, which shall remain in full force and effect, and enforceable in accordance with its terms.
21. **Interpretation:** The Parties acknowledge that each of them (including legal counsel, to the extent each may have employed such counsel in the preparation of the Agreement) have participated fully in the review and the revision of the Agreement prior to its execution. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting any word, phrase, sentence, paragraph, subparagraph, or article in the Agreement. The language in the Agreement shall be interpreted as to its fair meaning and not strictly for or against any party hereto.
22. **Exhibits:** The exhibits referred to in and attached to the Agreement are incorporated herein in full by reference.
23. **No Third-Party Beneficiaries:** Nothing contained herein shall create a contractual relationship with, or any rights in favor of, any third party.
24. **Participation in Federal Work Authorization Program:** SEI shall participate in the federal work authorization program throughout all applicable time periods of the Agreement, as provided in O.C.G.A. § 13-10-91. Before or at the time of its execution of the Agreement, SEI shall complete and sign (including the signature of a notary public) the form (attached hereto as **Exhibit C**) attesting that it has registered with, is authorized to use, and uses the federal work authorization program; it will continue to use the federal work authorization program throughout all applicable time periods of the Agreement; and it will contract for the physical performance of services in satisfaction of the Agreement only with subcontractors who present an affidavit containing the above information. Further, to the extent that a subcontractor is utilized, the subcontractor's federal work authorization program user identification number and the date of authorization shall be included in the affidavit.
25. **Governing Law and Consent to Jurisdiction:** The Agreement is made and entered into in the State of Georgia and the Agreement and the rights and obligations of the Parties shall be governed by and construed according to the laws of the State of Georgia without giving effect to the principles of conflicts of laws. The jurisdiction for resolution of any dispute arising from this Agreement shall be in the Superior Court of DeKalb County, Georgia.
26. **Execution in Counterparts:** The Agreement may be executed in multiple counterpart copies. Each such counterpart copy shall be deemed an original for all purposes, and all of such counterpart copies shall together constitute one and the same agreement. This Agreement, however, shall not be binding until and unless each of the Parties has executed a

counterpart and delivered a copy of it to the other. The delivery of the executed copy of the Agreement by e-mail or other means of electronic communication will be deemed to be as effective as delivery of an original signature page.

27. **Effective Date:** The Effective Date of the Agreement shall be the date upon which the last Party signs the Agreement as such date is indicated in the signature of the representative of each Party signing the Agreement.

[SIGNATURES CONTAINED ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement on the
date(s) and year written below.

**SOUTHEASTERN ENGINEERING,
INCORPORATED**

By: _____

Name: _____

Title: _____

Date: _____

CITY OF STONECREST, GEORGIA

By: _____

Name: Jason Lary, Mayor

Date: _____

Attest:

Leah Rodriguez, Interim City Clerk

Date: _____

EXHIBIT A

EXHIBIT B

RISK MANAGEMENT REQUIREMENTS

Southeastern Engineering, Incorporated (the "Contractor") will provide minimum insurance coverage and limits as per the following: The Contractor will file with the City Certificates of Insurance, certifying the required insurance coverage and stating that each policy has been endorsed to provide thirty (30) day notice to the City in the event that coverage is cancelled, non-renewed, or the types of coverage or limits of liability are reduced below those required. All bonds and insurance coverage must be placed with an insurance company approved by the City's Management, admitted to do business in the State of Georgia, and rated Secure ("B+" or better) by A.M. Best Company in the latest edition of Property and Casualty Ratings, or rated by Standard & Poors Insurance Ratings, latest edition as Secure ("BBB" or better). Worker's Compensation self-insurance for individual Contractors must be approved by the Worker's Compensation Board, State of Georgia and/or Self-Insurance pools approved by the Insurance Commissioner, State of Georgia.

CONTRACTS FOR UP TO \$50,000

Worker's Compensation – Worker's Compensation coverage on a statutory basis for the State of Georgia with an Employer's Liability limit of \$100,000 each Accident, Disease \$100,000 each employee, \$500,000 Disease policy limit.

Automobile Liability – Automobile liability coverage for owned, hired and non-owned vehicles in the amount of \$500,000 combined single limit.

Commercial General Liability – Coverage to be provided on "occurrence" not "claims made" basis. The coverage is to include Contractual liability, Per Project Limit of Liability, losses caused by Explosion, Collapse and Underground ("xcu") perils, the "City of Stonecrest, Georgia" is to be added as an Additional Insured and Products and Completed Operations coverage is to be maintained for three (3) years following completion of work.

CONTRACTS FOR MORE THAN \$50,000

Worker's Compensation – Worker's Compensation coverage on a statutory basis for the State of Georgia with an Employer's Liability limit of \$1,000,000. The increased Employer's Liability limit may be provided by an Umbrella or Excess Liability policy.

Automobile Liability - Automobile liability coverage for owned, hired and non-owned vehicles in the amount of \$1,000,000 combined single limit.

Commercial General Liability – Coverage to be provided on "occurrence" not "claims made" basis. The coverage is to include Contractual liability, Per Project Limit of Liability, losses caused by Explosion, Collapse and Underground ("xcu") perils, the "City of Stonecrest, Georgia" is to be added as an Additional Insured and Products and Completed Operations coverage is to be maintained for three (3) years following completion of work.

RISK MANAGEMENT REQUIREMENTS (Cont'd)

CONTRACTS FOR UP TO \$50,000

CONTRACTS FOR MORE THAN \$50,000

LIMITS OF LIABILITY:

\$1,000,000	Per Occurrence
\$1,000,000	Personal and Advertising
\$50,000	Fire Damage*
\$5,000	Medical Payments*
\$1,000,000	General Aggregate
\$1,000,000	Products/Completed Operations per Occurrence and Aggregate

**These are automatic minimums*

Owner's Protective Liability – The City's Management may, in its discretion, require Owner's Protective Liability in some situations.

Umbrella and/or Excess Liability – The umbrella or Excess Liability Policy may be used to combine with underlying policies to obtain the limits required. The Management of the City may elect to require higher limits.

Owner's Protective Liability – The City's Management may, in its discretion, require Owner's Protective Liability in some situations.

END OF SECTION

EXHIBIT C

CONTRACTOR AFFIDAVIT AND AGREEMENT

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. 13-10-91, stating affirmatively that the individual, firm, or corporation which is contracting with the City of Stonecrest, Georgia has registered with and is participating in a federal work authorization program - EEV/Basic Pilot Program operated by the U. S. Citizenship and Immigration Services Bureau of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration (SSA), in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91.

The undersigned further agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to this contract with the City of Stonecrest, contractor will secure from such subcontractor(s) similar verification of compliance with O.C.G.A. 13-10-91 on the Subcontractor Affidavit provided in Rule 300-10-01-.08 or a substantially similar form. Contractor further agrees to maintain records of such compliance and provide a copy of each such verification to the City of Stonecrest at the time the subcontractor(s) is retained to perform such service.

EEV/Basic Pilot Program* User Identification Number

Southeastern Engineering, Incorporated

By: _____
Printed Name of Authorized Officer or Agent

Date

Its: _____
Title of Authorized Officer or Agent of Contractor

SUBSCRIBED AND SWORN
BEFORE ME ON THIS THE

____ DAY OF _____, 20__

Notary Public
My Commission Expires:

City of Stonecrest 2019 LMIG Street Resurfacing: ITB # 2019-005

Southeastern Engineering, Inc. (SEI) is pleased to submit the enclosed bid in response to the City of Stonecrest's Invitation to Bid ITB #2019-005 2019 LMIG Street Resurfacing. We have carefully compiled a comprehensive response and are fully committed to providing the professional services presented herein.

About SEI: Basic Company Information

All company officers, directors, and associates are located at the company's corporate address at 2470 Sandy Plains Road, Marietta, GA 30066. The company's main phone line is 770.321.3936. Scott Jordan, SEI's Transportation Director, will be the Project Manager for this effort and will be the main point of contact for the City of Stonecrest. Mike Lehner, Construction Project Manager, will provide daily project oversight and coordination with city staff, utility and contractor representatives, address citizen concerns, and report progress directly to the City Public Works Director.

SEI is a privately-held engineering company providing an extensive range of services including traffic transportation, construction inspection and management, environmental and civil engineering, land surveying, drone aerial photography, landscape architecture, and 3D scanning to both private and public sector clients, including numerous municipal and county governments and state agencies. Our transportation and public infrastructure group within the firm consists of highly-trained, experienced, and responsive professionals. Additionally, SEI is a 100-employee, Woman-owned Business Enterprise (WBE) and certified Disadvantaged Business Enterprise (DBE) by the Georgia Department of Transportation (GDOT) Equal Opportunity Division and a Female Business Enterprise (FBE) by the City of Atlanta.

SEI maintains a knowledgeable and dedicated CE&I staff with extensive experience working for local governments and recent ongoing experience with many other districts and agencies. We understand the concerns local jurisdictions face; we excel at providing safe and timely solutions, which balance cost effectiveness with the needs of the community. Our team has a vast knowledge of GDOT's plan development process (PDP), plan presentation guidelines (PPG) and is familiar with GDOT construction requirements.



Past Experience

CITY OF UNION CITY PEDESTRIAN SYSTEM IMPROVEMENTS – PHASES II AND III

Union City, Fulton County, Georgia (PI Nos. 0009060 and 0010729)

SEI is currently providing construction engineering and inspection services for Phases II and III. Services include construction and contract administration including preparation of bid documents, schedules, and final plans for submission to the GDOT TE Program for approval. SEI is also responsible for the coordination of materials testing, construction documentation, bi-monthly project status meetings with the contractor and Public Works Director, bi-weekly site visits, review of submittals, assistance with any construction issues that may arise, and handling of the final punchlist and project closeout for the City of Union City, GDOT, and the TE Program. GDOT's plan presentation guide and local administration project guidelines were followed heavily as there is federal funding involved in this project as well as this being part of the TE Program.

I-285 at 400 CONSTRUCTION ENGINEERING & INSPECTION

Atlanta, Fulton County, Georgia

SEI is a subconsultant to Jacobs Engineering on this 3-year contract providing Construction Engineering and Inspection (CEI) services which include ensuring conformance to design plans and compliance accepted construction standards. Our Senior Inspector processes pay applications to verify quantities, maintain records, coordinate utility relocations and provide direction to the contractor. for quality control and review processes for all documentation and pay applications on numerous projects.

PROFESSIONAL ENGINEERING SERVICES ON-CALL FOR CONSTRUCTION ENGINEERING & INSPECTION

City of Johns Creek, Fulton County, Georgia

SEI is to perform as an extension of the City of Johns Creek staff in managing road construction projects to ensure conformance to design plans and compliance accepted construction standards. Process pay applications to verify quantities, maintain records, coordinate utility relocations and provide direction to the contractor. Current Project at this time include:

- ♦ Brumbelow Road Trail
- ♦ Parsons Road Sidewalks
- ♦ Rogers Circle Sidewalks

CONSTRUCTION ENGINEERING & INSPECTION SERVICES FOR DISTRICT 7

Various Counties, Georgia

SEI is a subconsultant to Jacobs Engineering on this 5-year contract handling Construction Engineering and Inspection Services on both State and Federal projects to ensure conformance to design plans and compliance accepted construction standards. Our Senior Inspectors and Bridge Inspector process pay applications to verify quantities, maintain records, coordinate utility relocations and provide direction to the contractor. for quality control and review processes for all documentation and pay applications on numerous projects.



**GDOT FISCAL YEAR 2016 DESIGN BUILD BRIDGES CONSTRUCTION
ENGINEERING & INSPECTION SERVICES**

Crawford County, Georgia

Subconsultant to Arcadis, SEI was responsible for the inspection of the demolition and reconstruction of an existing bridge located on Avera Road in Crawford County, Georgia. Work included driving steel case piles and recording data on minimum tip and freeze point information, recording, and logging information as well as preparing specimens ready for testing, oversight of all structural concrete pours and rebar installation, bridge beams installation, bridge deck pours, and all roadway work including milling of the existing road, subgrade preparation, GAB installation, laying asphalt, and signage as well as coordinating the appropriate testing of final product.



City of Stonecrest 2019 LMIG Street Resurfacing: ITB # 2019-005

SEI is extremely proud of our professional experience. We have a well-documented history of providing exceptional professional services on time and within budget. SEI has project experience with many local jurisdictions and agencies across the Metro area. We believe the best people to evaluate SEI's work are our clients. Please find below a list of three client references:

North Marietta Parkway Intersection Improvements PI No. 012607 (Owner: City of Marietta/GDOT) The addition of additional left turning lanes and a new right turning lane on North Marietta Parkway including pedestrian facilities within the project limits and the relocation of the bus stop as well as full time CE&I services and contract administration. (08/2018 – Present)	Joe Vitale Transportation Project Engineer 770.794.5709 268 Lawrence Street Marietta, GA 30060
Professional Engineering Services On-Call – CE&I Services (Owner: City of Johns Creek) SEI is to perform as an extension of the City of Johns Creek staff in managing road construction projects to ensure conformance to design plans and compliance accepted construction standards. Process pay applications to verify quantities, maintain records, coordinate utility relocations and provide direction to the contractor. (06/2017 – 09/2018)	Alton Matthews Construction Operations Manager 678.512.3200 12000 Findley Road, Suite 400 Johns Creek, GA 30097
Construction Engineering & Inspection (CEI) Services for District 7 (Owner: GDOT) Subconsultant of Jacobs Engineering, SEI is handling Construction Engineering and Inspection Services ensuring conformance to design plans and compliance accepted construction standards. Process pay applications to verify quantities, maintain records, coordinate utility relocations and provide direction to the contractor. for quality control and review processes for all documentation and pay applications. (08/2017 – Present)	Lee Upkins CEI Program Manager Jacobs 404.978.7552 10 Tenth Street Atlanta, GA 30309



Professional Background

Mike has over 35 years of experience in the project management and operations field. Prior to joining SEI, he worked as a Senior Project Manager at the Cobb County Department of Transportation where he provided construction oversight on resurfacing projects. As Senior Project Manager, Mike managed more than \$250 M of projects over the course of five SPLOST programs and oversaw a team of six construction inspectors. His tasks included oversight of major contracts and budgets, auditing and reporting functions, leading the competitive bid process, awarding projects, negotiating terms and conditions, enforcing contract compliance, development of project budgets, administering multiple budgets in conjunction with concurrent contract projects, dealing with executive-level leadership, and maintaining effective working relationships with employees, division and department heads, public/private sector contacts, and County administration.

Professional Experience

(May 2016 – Present) Southeastern Engineering, Inc., Atlanta, GA. CE&I Project Manager

- *Construction Project Manager.* (May 2016 – June 2018)
City of Atlanta - Renew Atlanta Bond and TSPLOST programs

(1983 – 2015) Cobb County Department of Transportation Construction Division, Marietta, GA. Senior Project Manager

- *Senior Project Manager – Various SPLOST programs*

Project Role:

Construction Project Manager

Certifications:

Supervisory Development Courses

Various Cobb County and GDOT workshops and continued training courses (1983-2015)

GDOT Plan Development Process (PDP)

GDOT Local Administered Project (LAP)

GDOT WECS Certified #643756

GSWCC Level 1B Inspector Certified #38327

OSHA 10-Hour Course Certified #17-000117794

City of Atlanta Project Management Training

Years with SEI:

3

Total Years of Experience:

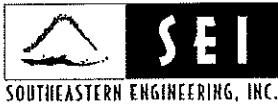
36

Project Experience

Downtown East Point Streetscape Project – Phase II (PI# 0006576), East Point, Fulton County, GA. *CE&I Project Manager.* Mike has been responsible for the constructability review of all plans and revisions, working closely with Construction 57, the Contractor on the project, GDOT and Geneasa Elias from City of East Point. He is assisting with responding to comments and mark-ups per of plans, handling all documentation, verifying all payment applications, performing interviews per CUF rules and regulations and ensuring the contractor is complying with all codes and local ordinances set forth per GDOT and the City of East Point.

Union City Pedestrian System Phase II and Phase III (PI# 0009060/0010729), Union City, Fulton County, GA. *CE&I Project Manager.* Providing construction oversight for quality control of all aspects of construction and inspection of the project. Working with both the City of Union City and the City of Fairburn on the constructability and review of plans. Responsible for the assessment of sidewalk, curb and gutter along with all other construction to ensure conformance with the ordinances, contract documents as well as GDOT standards. Performed interviews per CUF rules and regulations. Handling documentation, coordinating material testing, inspection of the wall construction, including geotechnical and structural foundation. Working diligently with City Staff, Contractors and GDOT personnel.

SR 3/US 41 and SR 120 ALT Road Improvements, (PI# 0012607), City of Marietta, Cobb County, GA. *CE&I Project Manager.* Mike will be responsible for the constructability review of all plans and revisions,



Michael (Mike) T. Lehner

Construction Project Manager

working with contractors, GDOT and the City of Marietta. Responding to comments and mark-ups per the Project Manager and the Client, handling all documentation, coordinating material testing, verifying all payment applications, performing interviews per CUF rules and regulations and ensuring the contractor is complying with all codes and local ordinances set forth per GDOT and the City of Marietta.

Parsons Road Sidewalk, City of Johns Creek, Johns Creek, Fulton County, GA. *CE&I Project Manager*. The City of Johns Creek contracted SEI to handle all the CE&I and contract administration. The project included concrete pours for sidewalk, driveway, curb, and gutter. It also included midblock crossing with R, storm line installation, erosion control checks, ensuring adequate traffic control, payment application review and verification, and the installation of Rectangular Rapid-Flashing Beacons (RRFB). Mike was responsible to ensure the sidewalk was up to standards and specifications by the contract document and plans.

Rogers Circle Sidewalk, City of Johns Creek, Johns Creek, Fulton County, GA. *CE&I Project Manager*. The City of Johns Creek contracted SEI to handle all the CE&I and contract administration. The Construction engineering and inspection included concrete pours for sidewalk, driveway & curb and gutter, storm line installation, spillway construction, erosion control checks, ensure adequate traffic control. Mike participated in the inspection and supervision on each of these tasks and the payment application review and verification.

Renew Atlanta Bond and TSPLOST programs. *Construction Manager*. Assists with development of the Resurfacing Program Component Budget. Confer with department management to support the development of long-range plans, monitor progress of construction by on-site inspections of project programs and coordinate the use of other City and Contract personnel. Provide recommendation in controlling costs, managing risks, and resolving claims, selecting contractors, negotiating terms and conditions, determining scope of services, budget management and control. Assist and review the preparation with contract language documents for use in bids and contracting for construction or maintenance work, and prepare oral and written presentations to City Administration as directed.

2016 SPLOST, Cobb County DOT. *Senior Project Manager*. Developed the resurfacing budget for the SPLOST.

2011 SPLOST, Cobb County DOT. *Senior Project Manager*. Managed the \$100,000,000 resurfacing budget and supervised the inspection team. Acted as lead contact to provide information to elected officials, county manager, department head, citizen inquiries, and sometimes the media. Coordinated paving schedules with any or all of the six municipalities in Cobb County. Created list of needs to apply for GDOT LMIG funding.

2005 SPLOST, Cobb County DOT. *Senior Project Manager*. Managed the \$80,000,000 resurfacing budget and supervised the inspection team. Acted as lead contact to provide information to elected officials, county manager, department head, citizen inquiries, and sometimes the media. Coordinated paving schedules with any or all of the six municipalities in Cobb County. Created list of needs to apply for GDOT LMIG funding.

1994, 1990, 1985 SPLOST, Cobb County DOT. *Project Manager*. Assisted with paving budgets and project oversight.



Andrew Reich
Construction Inspector

Professional Background

Andrew has two years of experience in Roadway Engineering at SEI. He has been a great asset to the company. Many of his tasks include preparation and review of utility and marking and signing plans. He responds to the comments and mark-ups per the Project Managers within the organization. He has recently performed field engineering and construction inspections on roadway projects. He is assisting with pay applications, monitoring quantities and maintaining a diary of daily activities.

Professional Experience

(May 2017 – Present) Southeastern Engineering, Inc., Marietta, GA.
Roadway Engineer I / Construction Engineer I

(Feb 2016 – May 2017) Southeastern Engineering, Inc. Marietta, GA.
Transportation (Intern)

Project Role:

Construction Inspector

Certifications:

GDOT WECS Certified #643773

GSWCC Level 1A Inspector Certified
#80373

OSHA 10-Hour Course Certified #36-
006146247

ACI Concrete Field Testing
Technician Certified #01374030

Years with SEI:

2

Total Years of Experience:

2

Project Experience

PI No. 0009060, Union City Pedestrian System Phase II and PI No. 0010729, Union City Pedestrian System Phase III – Union City, Fulton County, GA. *CE&I Construction Inspector*. Union City contracted Southeastern Engineering, Inc., to handle all the CE&I and contract administration for the two phases of the Union City Pedestrian System. The project includes installation of new sidewalk, roadway and safety operational improvements, signing and pavement markings, new gateway signage into the City of Union City and the City of Fairburn, pedestrian improvements, new traffic signalization, and installation of new landscaping. Andrew will be assisting with erosion control compliance and oversight of the projects.

Eastmore Construction Phase I, Eastmore Development Company, Conyers, Rockdale County, GA. *CE&I Construction Inspector*. SEI was contracted for Construction Engineering & Inspection services. Andrew's responsibilities included overseeing the adherence to contract infrastructure standards and plans, overseeing the storm line installation, sanitary sewer installation, water line installation, concrete pours for sidewalk, driveway, and curb and gutter. In addition, He was responsible for payment application review and verification, along with supervising the pavement process.

On-Call Services (TO#05), Rogers Circle Sidewalk, City of Johns Creek, Fulton County, GA. *CE&I Construction Inspector*. SEI was contracted to handle all the CE&I and contract administration. The Construction engineering and inspection included concrete pours for sidewalk, driveway & curb and gutter, storm line installation, spillway construction, erosion control checks, ensure adequate traffic control. Andrew participated in the inspection and supervision on each of these tasks and the payment application review and verification.

On-Call Services (TO#03), Brumbelow Road Pedestrian Trail, City of Johns Creek, Fulton County, GA. *CE&I Inspector*. Handled the CE&I for this project. It included pedestrian bridge installation, pile driving, ensuring adequate traffic control, concrete pours for sidewalk, driveway, and curb & gutter. Andrew was also responsible for the inspection of the storm line installation, erosion control checks, payment application review & verification, and the installation of Rectangular Rapid-Flashing Beacons (RRFB).



WORK SESSION AGENDA ITEM

SUBJECT: RFP Salem Road at Evans Mill Road Intersection Control Evaluation

☐ ORDINANCE ☐ POLICY ☐ STATUS REPORT
☐ DISCUSSION ONLY ☐ RESOLUTION ☒ OTHER

Work Session Meeting: 04/22/2019

SUBMITTED BY: Plez A. Joyner, Deputy City Manager

PURPOSE:

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION:



**PROFESSIONAL ENGINEERING SERVICES
REQUEST FOR PROPOSALS
RFP #2019-010
SALEM ROAD AT EVANS MILL ROAD
INTERSECTION CONTROL EVALUATION**

City of Stonecrest Request for Proposals

Proposals Due: Thursday, April 25, 2019 @ 2:00PM EST

INVITATION

The City of Stonecrest is seeking competitive proposals from selected qualified engineering firms to provide an Intersection Control Evaluation for the City of Stonecrest. Proposals will be received **until 2:00PM (EST) on Thursday, April 25, 2019** at the Stonecrest City Hall located at 3120 Stonecrest Boulevard, Stonecrest, Georgia 30038. Proposals should include the following:

- qualifications of your firm,
- name and qualifications of your proposed project manager,
- your firm's past experience on similar projects,
- three references for similar projects,
- a lump sum price to perform this Intersection Control Evaluation (ICE)

Proposed Schedule	
Release of RFP	April 4, 2019
Pre-Proposal Conference	N/A
Deadline for Questions	April 22, 2019 @ 10:00 a.m.
Responses Posted	April 23, 2019
Deadline for Proposals	April 25, 2019 @ 2:00 p.m.
Award	May 13, 2019
Notice to Proceed (NTP)	June 3, 2019

All questions must be submitted in writing to procurement@stonecrestga.gov, reference **RFP #2019-010**.

Your response to the RFP must be received by the date and time specified. Late receipt of bids will not be considered regardless of postmark/carrier. Proposals received after the due opening time will be filed unopened. The City of Stonecrest reserves the right to reject any and all proposals or any part and to waive any formalities or informalities to make an award in the best interest of the City. No proposals will be received orally or via phone or fax responses.

PROPOSED CONTRACT

This CONTRACT between the parties is entered pursuant to the RFP #2019-010, and shall serve as authorization by the City of Stonecrest to _____ ("CONTRACTOR") to perform the services described herein pursuant to the terms and conditions, mutual covenants and promises provided herein. Now therefore, the parties agree as follows:

Location of Project:

The intersection of Salem Road and Evans Mill Road in the City of Stonecrest:

Description of Services: The services to be performed by the CONTRACTOR pursuant to this WORK shall include, but are not limited, to the following:

Provide an analysis of the above intersection in conformance with the Georgia Department of Transportation Intersection Control Evaluation (ICE) Policy.

Stage 1 – Evaluation of alternatives:

- Provide AM and PM peak hour traffic counts.
- Provide accident data and analysis for a five (5) year history.
- Provide up to three (3) concept alternative designs for consideration. These designs may include safety considerations such a signage, horizontal or vertical realignment, the construction of a traffic signal, the construction of a roundabout.
- Provide a construction cost evaluation of each alternative.
- No property line survey of utility locations are required for this WORK.
- Consider that the City of Stonecrest is considering acquiring the parcel at the northwest corner of this intersection (shown in red on the attached map).
- Consider the park property and state stream buffer to the east of the existing intersection.

Stage 2 – Alternative recommendations

Final Documentation

CONTRACTOR Deliverables to CITY

- Final ICE Traffic Engineering Analysis

Items to be Provided by the Client:

- Peak hour traffic counts
- Internal traffic signal warrant analyses

Design Specifications and Guidelines: The engineering and design services will be performed in a lump sum approach as follows:

Lump Sum ICE Analysis

\$ _____

General Scope of Service: The WORK is to be commenced upon receipt of "Notice to Proceed" (NTP). The WORK will be completed within 45 calendar days after Notice to Proceed.

The CONTRACTOR shall prepare a schedule showing milestone completion dates based on completing the WORK within 45 calendar days (hereinafter referred to as the "Schedule for Completion"), excluding City review time. The Schedule for Completion will be revised to reflect the actual NTP date and will be updated as required throughout the project duration.

Every 30 days commencing with the execution of the TASK ORDER, the CONTRACTOR shall submit a report which shall include, but not be limited to, a narrative describing actual work accomplished during the reporting period, a description of problem areas, current and anticipated delaying factors and their impact, explanations of corrective actions taken or planned, and any newly planned activities or changes in sequence (hereinafter referred to as "Narrative Report"). No invoice for payment shall be submitted and no payment whatsoever will be made to the CONTRACTOR until the Schedule for Completion, and the completion of Narrative Reports are updated and submitted to the City. In no event shall payment be made more often than once every 30 days.

The CONTRACTOR shall coordinate and attend periodic meetings with the CITY regarding the status of the WORK. The CONTRACTOR shall submit transmittals of all correspondence, telephone conversations, and minutes of project meetings.

The CONTRACTOR shall accomplish all of the pre-construction activities for the WORK as defined in the RFP. The pre-construction activities shall be accomplished in accordance with all local codes and ordinances (where applicable), the applicable guidelines of the American Association of State Highway and Transportation Officials, current edition, hereinafter referred to as "AASHTO", the GDOT's Standard Specifications Construction of Roads and Bridges, current edition, the Manual On Uniform Traffic Control Devices, current edition, and applicable guidelines of the Georgia Department of Transportation.

The CONTRACTOR agrees that all reports, plans, drawings studies, specifications, estimates, maps, computations, computer diskettes and printouts and any other data prepared under the terms of this WORK shall become the property of the City. This data shall be organized, indexed, bound and delivered to the City no later than the advertisement of the PROJECT for letting. The City shall have the right to use this material without restriction or limitation and without compensation to the CONTRACTOR.

The CONTRACTOR shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by or on behalf of the City pursuant to this WORK. The CONTRACTOR shall correct or revise, or cause to be corrected or revised, any errors or deficiencies in the designs, drawings, specifications, and other services furnished for this WORK. All revisions shall be coordinated with the GDOT and CITY prior to issuance. The CONTRACTOR shall also be responsible for any claim, damage, loss or expense that is attributable to errors, omissions, or negligent acts related to the designs, drawings, and specifications pursuant to this WORK.

For each "Phase" enumerated in "Design Specifications and Guidelines," the fees shall be paid for such phase as provided however, CONTRACTOR agrees that fees are earned pursuant to the WORK performed, which in no event shall exceed the amount set forth in the attached Fee Schedule and which hourly rate shall in no event exceed that provided in the Contract Agreement. Accordingly, invoices shall be submitted pursuant to completion of the WORK performed based upon percentage completion of the relevant Phase.

Payment will be issued based on the following milestones:

- Up to 100% After ICE traffic engineering report accepted by the City

CONTRACTOR:

By: _____

Title: _____

Name: _____

Date: _____



CONTRACT AGREEMENT
ITB #2019-005
2019 LMIG RESURFACING

STATE OF GEORGIA
DEKALB COUNTY

This Agreement ("Agreement") is made by and between the **CITY OF STONECREST, GEORGIA** (hereinafter, the "City"), a municipal corporation of the State of Georgia and **Blount Construction Company, Inc.** (hereinafter "Contractor"), a corporation created and existing under the laws of the State of Georgia, located at 1730 Sands Place, Marietta, GA 30067.

WHEREAS, the City is charged with the responsibility for the establishment of contracts for the acquisition of goods, materials, supplies and equipment, and services by the various departments of the City of Stonecrest; and

WHEREAS, the City has caused **Invitation to Bid (ITB) Number 2019-005** to be issued soliciting proposals from qualified Contractors to furnish all items, labor services, materials and appurtenances called for by them in accordance with this proposal. Selected ("Contractor") is required to provide the services as called for in the specifications; and

WHEREAS, the Contractor submitted a response to the **ITB #2019-005**; and

WHEREAS, the Contractor's submittal was deemed by the City to be the lowest qualified bidder per the scope of services.

NOW THEREFORE, in consideration of the mutual promises and covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Contractor hereby agree as follows:

1.0 Scope of Work

The Contractor does agree with the City to furnish all equipment, tools, materials, skill, labor of every description, and all things necessary to carry out as delineated in "**Exhibit A**" (**Scope of Work**) and complete in a good, firm, substantial and workmanlike manner, the Work in strict conformity with the specifications which shall form an essential part of this agreement. In addition to the foregoing, and notwithstanding anything to the contrary stated herein, the following terms and conditions, amendments, and other documents are incorporated by reference and made a part of the terms and conditions of this Agreement as is fully set out herein:

EXHIBIT A – SCOPE OF WORK
EXHIBIT B – COST PROPOSAL
EXHIBIT C – W-9
EXHIBIT D – CERTIFICATE OF INSURANCE
EXHIBIT E – IMMIGRATION & SECURITY FORM
EXHIBIT F – PERFORMANCE BOND

2.0 Term of Agreement

The Contractor understands and expressly acknowledges that time is of the essence in connection with the Contractor's performance under this Agreement. The Parties acknowledge and agree that all work required to be performed under this Agreement shall be completed no later than April 31, 2019, after the Effective Date of this Agreement (hereinafter, the "Completion Date"). (For purposes of calculating said calendar period, any Saturday or Sunday falling within said period shall be included in such calculation. Any public and legal holiday recognized by the State of Georgia pursuant to O.C.G.A. § 1-4-7 that occurs within said period shall be excluded in such calculation.

3.0 Compensation

3.1. Pricing. In consideration of the services to be performed by the Contractor under the Agreement in connection with the Project, the Parties agree that the total amount due to the Contractor from the City as compensation for the full, satisfactory performance of said services shall not exceed TWO MILLION, FIFTY THOUSAND, SEVEN HUNDRED NINETEEN DOLLARS (\$2,050,719.10). The prices quoted and listed on the attached Cost Proposal, a copy of which is attached hereto as **Exhibit "B" (Cost Proposal)** and incorporated herein, shall be firm throughout the term of this Contract. Any amounts paid to the Contractor under this Agreement shall be due thirty (30) days after the date that the Contractor submits a written invoice for such payment. Invoices are to be emailed to khildebrandt@Stonecrestga.gov. A W-9 Request for Taxpayer Identification Number and Certification Form must be submitted "**Exhibit C" (W-9)**.

4.0 Liquidated Damages

4.1 In the event the Contractor fails to fully perform all work required under this Agreement by 11:59 p.m. on the Completion Date, the Contractor shall pay to the City liquidated damages in the amount of five hundred dollars (\$500.00) per day for each calendar day of delay in fully performing all said work beyond the Completion Date. For purposes of this provision, the Parties (a) agree that any injury to the City arising from the Contractor's failure to perform all said work by the Completion Date is difficult to accurately estimate; (b) intend for the monetary provision herein to function as "liquidated damages" and/or "compensation" to the City for such injury and not as a penalty to the Contractor; and (c) acknowledge that, despite the difficulty in estimating the City's actual damage from such delay, the amount state herein constitutes a reasonable pre-estimate of any such damage.

5.0 Contract Extension

5.1. Contract Extension. In the event that this Standard Contract shall terminate or be likely to terminate prior to the making of an award for a new contract for the identified goods and ancillary

services, the City may, with the written consent of Contractor, extend this Contract for such period as may be necessary to afford the City a continuous supply of the identified goods and ancillary services.

If not set forth in the ITB and/or Contractor's submittal, the City will determine the basic period of performance for the completion of any of Contractor's actions contemplated within the scope of this Agreement and notify Contractor of the same via written notice. If no specific period for the completion of Contractor's required actions pursuant to this Agreement is set out in writing, such time period shall be a reasonable period of time based upon the nature of the activity. If the completion of this Contract is delayed by actions of the City, then and in such event the time of completion of this Contract shall be extended for such additional time within which to complete the performance of the Contract as is required by such delay.

This Contract may be extended by mutual consent of both the City and the Contractor for reasons of additional time, additional services and/or additional areas of work.

6.0 Independent Contractor

6.1 The Contractor shall be an independent Contractor. The Contractor is not an employee, agent or representative of the City. The Contractor shall obtain and maintain, at the Contractor's expense, all permits, licenses or approvals that may be necessary for the performance of the services. The Contractor shall furnish copies of all such permits, licenses or approvals to the City Representative within ten (10) days after issuance.

6.2 Inasmuch as the City and the Contractor are independent of one another neither has the authority to bind the other to any third person or otherwise to act in any way as the representative of the other, unless otherwise expressly agreed to in writing signed by both parties hereto. The Contractor agrees not to represent itself as the City's agent for any purpose to any party or to allow any employee of the Contractor to do so, unless specifically authorized, in advance and in writing, to do so, and then only for the limited purpose stated in such authorization. The Contractor shall assume full liability for any contracts or agreements the Contractor enters into on behalf of the City without the express knowledge and prior written consent of the City.

7.0 Indemnification

7.1 To the extent permitted by law, the Contractor shall indemnify, hold harmless and defend the City, its public officials, officers, employees, and agents from and against any and all liabilities, suits, actions, legal proceedings, claims, demands, damages, costs and expenses (including reasonable attorney's fees) to the extent arising out of any act or omission of the Contractor, its agents, subcontractors or employees in the performance of this Contract except for such claims that arise from the City's sole negligence or willful misconduct.

8.0 Warranty

8.1 The standard of care applicable to Contractor's services will be the degree of skill and diligence normally employed by businesses performing the same or similar services at the time said services are performed. For a twelve (12) month calendar period after the date of completion of the work required under the Agreement, Contractor guarantees that the work shall be free from defects. Materials are warranted as specified by individual manufacturers and not by the Contractor. Contractor warrants that

any services it conducts will be adequate and sufficient to accomplish the purposes for which they were performed, and no review or approval thereof by the City shall be deemed to diminish this warranty in any way. All work will be performed in compliance with all applicable codes, regulations, and laws.

9.0 Performance

Performance will be evaluated on a monthly basis. If requirements are not met, City Procurement will notify the Contractor in writing stating deficiencies, substitutions, delivery schedule, and/or poor workmanship.

A written response from the Contractor detailing how correction(s) will be made is required to be delivered to the City. Contractor will have thirty (30) days to remedy the situation. If requirements are not remedied the City has the right to terminate this Agreement with no additional obligation to Contractor.

9.1 Final Completion, Acceptance, and Payment

- A. Final Completion shall be achieved when the work is fully and finally complete in accordance with the Contract Documents. The City shall notify Contractor once the date of final completion has been achieved in writing.
- B. Final Acceptance is the formal action of City acknowledging Final Completion. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the City's right under any warranty or guarantee. Prior to Final Acceptance, Contractor shall, in addition to all other requirements in the Contract Documents submit to City a Notice of any outstanding disputes or claims between Contractor and any of its Subcontractors, including the amounts and other details thereof. Neither Final Acceptance, final payment shall release Contractor or its sureties from any obligations of these Contract Documents or the bond, or constitute a waiver of any claims by City arising Contractor's failure to perform the work in accordance with the Contract Documents.
- C. Acceptance of final payment by Contractor, or any Subcontractor, shall constitute a waiver and release to City of all claims by Contractor, or any such Subcontractor, for an increase in the Contract Sum or the Contract Time, and for every act or omission of City relating to or arising out of the work, except for those Claims made in accordance with the procedures, including the time limits, set forth in section 8.

10.0 Changes

City, within the general scope of the Agreement, may, by written notice to Contractor, issue additional instructions, require additional services or direct the omission of services covered by this Agreement. In such event, there will be made an equitable adjustment in price, but any claim for such an adjustment must be made within thirty (30) days of the receipt of said written notice.

11.0 Change Order Defined

Change order shall mean a written order to the Contractor executed by the City issued after the execution of this Agreement, authorizing and directing a change in services. The Price and Time may be changed only by a Change Order.

12.0 Insurance

12.1 The Contractor shall, at its own cost and expense, obtain and maintain worker's compensation and commercial general liability insurance coverage covering the period of this Agreement, such insurance to be obtained from a responsible insurance company legally licensed and authorized to transact business in the State of Georgia. The minimum limit for Worker's Compensation Insurance shall be the statutory limit for such insurance. The minimum limits for commercial general liability insurance, which must include personal liability coverage will be \$2,000,000 per person and \$2,000,000 per occurrence for bodily injury and \$500,000 per occurrence for property damage.

12.2 Contractor shall provide certificates of insurance evidencing the coverage requested herein before the execution of this agreement, and at any time during the term of this Agreement, upon the request of the City, Contractor shall provide proof sufficient to the satisfaction of the City that such insurance continues in force and effect. **"Exhibit D" (Certificate of Insurance).**

13.0 Termination

13.1.Immediate Termination. This Agreement will terminate immediately and absolutely if the City determines that adequate funds are not appropriated or granted or funds are de-appropriated such that the City cannot fulfill its obligations under the Contract, which determination is at the City's sole discretion and shall be conclusive. Further, the City may terminate the Contract for any one or more of the following reasons effective immediately without advance notice:

- (i) In the event the Contractor is required to be certified or licensed as a condition precedent to providing goods and services, the revocation or loss of such license or certification may result in immediate termination of the Contract effective as of the date on which the license or certification is no longer in effect;
- (ii) The City determines that the actions, or failure to act, of the Contractor, its agents, employees or subcontractors have caused, or reasonably could cause, life, health or safety to be jeopardized;
- (iii) The Contractor fails to comply with confidentiality laws or provisions; and/or
- (iv) The Contractor furnished any statement, representation or certification in connection with the Contract or the bidding process which is materially false, deceptive, incorrect or incomplete.

13.2.Termination for Cause. The occurrence of any one or more of the following events shall constitute cause or the City to declare the Contractor in default of its obligations under the Contract:

- (i) The Contractor fails to deliver or has delivered nonconforming goods or services or fails to perform to the City's satisfaction, any material requirement of the Contract or is in violation of a material provision of the Contract, including, but without limitation, the express warranties made by the Contractor;

(ii) The City determines that satisfactory performance of the Contract is substantially endangered or that a default is likely to occur;

(iii) The Contractor fails to make substantial and timely progress toward performance of the contract;

(iv) The Contractor becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or state law including bankruptcy laws; the Contractor terminates or suspends its business; or the City reasonably believes that the Contractor has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law;

(v) The Contractor has failed to comply with applicable federal, state and local laws, rules, ordinances, regulations and orders when performing within the scope of the Contract;

(vi) The Contractor has engaged in conduct that has or may expose the City to liability, as determined in the City's sole discretion; or

(vii) The Contractor has infringed any patent, trademark, copyright, trade dress or any other intellectual property rights of the State, the City, or a third party.

13.3. Notice of Default. If there is a default event caused by the Contractor, the City shall provide written notice to the Contractor requesting that the breach or noncompliance be remedied within the period of time specified in the City's written notice to the Contractor. If the breach or noncompliance is not remedied by the date of the written notice, the City may:

(i) Immediately terminate the Contract without additional written notice; and/or

(ii) Procure substitute goods or services from another source and charge the difference between the Contract and the substitute contract to the defaulting Contractor; and/or,

(iii) Enforce the terms and conditions of the Contract and seek any legal or equitable remedies.

13.4. Termination for Convenience. The City may terminate this Agreement for convenience at any time upon thirty (30) day written notice to the Contractor. In the event of a termination for convenience, Contractor shall take immediate steps to terminate work as quickly and effectively as possible and shall terminate all commitments to third-parties unless otherwise instructed by the City. Provided that no damages are due to the City for Contractor's failure to perform in accordance with this Agreement, the City shall pay Contractor for work performed to date in accordance with Section 1.0 herein. The City shall have no further liability to Contractor for such termination.

13.5. Payment Limitation in the event of Termination. In the event of termination of the Contract for any reason by the City, the City shall pay only those amounts, if any, due and owing to the Contractor goods and services actually rendered up to and including the date of termination of the Contract and for which the City is obligated to pay pursuant to the Contract or Purchase Instrument. Payment will be made only upon submission of invoices and proper proof of the Contractor's claim. This provision in no way limits the remedies available to the City under the Contract in the event of termination. The City shall not be liable for any costs incurred by the Contractor in its performance of the Contract,

including, but not limited to, startup costs, overhead or other costs associated with the performance of the Contract.

13.6. The Contractor's Termination Duties. Upon receipt of notice of termination or upon request of the City, the Contractor shall:

- (i) Cease work under the Contract and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within thirty (30) days of the date of notice of termination, describing the status of all work under the Contract, including, without limitation, results accomplished, conclusions resulting therefrom, and any other matters the City may require;
- (ii) Immediately cease using and return to the City, any personal property or materials, whether tangible or intangible, provided by the City to the Contractor;
- (iii) Comply with the City's instructions for the timely transfer of any active files and work product produced by the Contractor under the Contract;
- (iv) Cooperate in good faith with the City, its employees, agents and Contractors during the transition period between the notification of termination and the substitution of any replacement Contractor; and
- (v) Immediately return to the City any payments made by the City for goods and services that were not delivered or rendered by the Contractor.

14.0 Claims and Dispute Resolution

14.1 Claims Procedure

A. If the parties fail to reach an agreement regarding any dispute arising from the Contract Documents, including a failure to reach agreement on the terms of any Change Order for City-directed work as provided in section 10.0, or on the resolution of any request for an equitable adjustment in the Contract Sum or the Contract Time, Contractor's only remedy shall be to file a Claim with City as provided in this section.

B. Contractor shall file its Claim within the earlier of: 120 Days from City's final acceptance in accordance with section 10.0; or the date of Final Acceptance,

C. The Claim shall be deemed to cover all changes in cost and time (including direct, indirect impact, and consequential) to which Contractor may be entitled. It shall be fully substantiated and documented. The Claim shall contain a detailed factual statement of the Claim for additional compensation and time, if any, providing all necessary dates, locations, and items of work affected by the Claim.

D. If an adjustment in the Contract Time is sought: the specific Days and dates for which it is sought; the specific reasons Contractor believes an extension in the Contract Time should be granted; and Contractor's analysis of its Progress Schedule to demonstrate the reason for the extension in Contract Time.

E. If any adjustment in the Contract Sum is sought: the exact amount sought and a breakdown of that amount into the categories; and a statement certifying, under penalty of perjury, that the Claim is made in good faith, that the supporting cost and pricing data are true and accurate to the best of Contractor's knowledge and belief, that the Claim is fully supported by the accompanying data, and that the amount requested accurately reflects the adjustment in the Contract Sum or Contract Time for which Contractor believes City is liable.

F. After Contractor has submitted a fully-documented Claim that with all applicable provisions of section 10.0, City shall respond, in writing, to Contractor with a decision within sixty (60) Days from the date the Claim is received, or with notice to Contractor of the date by which it will render its decision.

14.2 Dispute Resolution

Pending resolution of any dispute hereunder, the Contractor shall proceed diligently with the performance of work in accordance with the City's direction.

15.0 Confidential Information

15.1. Access to Confidential Data. The Contractor's employees, agents and subcontractors may have access to confidential data maintained by the City to the extent necessary to carry out the Contractor's responsibilities under the Contract. The Contractor shall presume that all information received pursuant to the Contract is confidential unless otherwise designated by the City. If it is reasonably likely the Contractor will have access to the City's confidential information, then:

- (i) The Contractor shall provide to the City a written description of the Contractor's policies and procedures to safeguard confidential information;
- (ii) Policies of confidentiality shall address, as appropriate, information conveyed in verbal, written, and electronic formats;
- (iii) The Contractor must designate one individual who shall remain the responsible authority in charge of all data collected, used, or disseminated by the Contractor in connection with the performance of the Contract; and
- (iv) The Contractor shall provide adequate supervision and training to its agents, employees and subcontractors to ensure compliance with the terms of the Contract. The private or confidential data shall remain the property of the City at all times. Some services performed for the City may require the Contractor to sign a nondisclosure agreement. Contractor understands and agrees that refusal or failure to sign such a nondisclosure agreement, if required, may result in termination of the Contract.

15.2. No Dissemination of Confidential Data. No confidential data collected, maintained, or used in the course of performance of the Contract shall be disseminated except as authorized by law and with the written consent of the City, either during the period of the Contract or thereafter. Any data supplied to or created by the Contractor shall be considered the property of the City. The Contractor must return any and all data collected, maintained, created or used in the course of the performance of the Contract, in whatever form it is maintained, promptly at the request of the City.

15.3. Subpoena. In the event that a subpoena or other legal process is served upon the Contractor for records containing confidential information, the Contractor shall promptly notify the City and cooperate with the City in any lawful effort to protect the confidential information.

15.4. Reporting of Unauthorized Disclosure. The Contractor shall immediately report to the City any unauthorized disclosure of confidential information.

15.5. Survives Termination. The Contractor's confidentiality obligation under the Contract shall survive termination of the Contract.

16.0 Inclusion of Documents

Contractor's response submitted in response thereto, including any best and final offer, are incorporated in this Agreement by reference and form an integral part of this agreement. In the event of a conflict in language between this Agreement and the foregoing documents incorporated herein, the provisions and requirements set forth in this Agreement shall govern. In the event of a conflict between the language of the ITB, as amended, and the Contractor's submittal, the language in the former shall govern.

16.1 Counterparts: This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument.

17.0 Assignment

The Parties bind themselves, their successors, assigns and legal representatives to the other party hereto and to successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in this Agreement. The contractor shall not assign this Agreement without written consent of the Owner.

18.0 Amendments in Writing

No amendments to this Agreement shall be effective unless it is in writing and signed by duly authorized representatives of the parties.

19.0 Surety Bonds

The Contractor shall furnish separate performance and payment bonds to the City. Each bond shall set forth a penal sum in an amount not less than the total compensation. Each bond furnished by the Contractor shall incorporate by reference the terms of this Agreement as fully as though they were set forth verbatim in such bonds. In the event the total compensation is adjusted by Change Order executed by the Contractor, the penal sum of both the performance bond and the payment bond shall automatically be deemed increased by like amount. The performance and payment bonds furnished by the Contractor shall be in form suitable to the City and the City's legal counsel and shall be executed by a surety, or sureties, reasonably suitable to the City.

20.0 Additional Terms

Neither the City nor any Department shall be bound by any terms and conditions included in any Contractor packaging, invoice, catalog, brochure, technical data sheet, or other document which attempts to impose any condition in variance with or in addition to the terms and conditions contained herein.

21.0 Antitrust Actions

For good cause and as consideration for executing this Contract or placing this order, Contractor acting herein by and through its duly authorized agent hereby conveys, sells, assigns, and transfers to the City all rights, title, and interest to and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of Georgia relating to the particular goods or services purchased or acquired by the City of Stonecrest pursuant hereto.

22.0 Reporting Requirement

Reports shall be submitted to the Project Manager on a quarterly basis providing, as a minimum, data regarding the number of items purchased, as well as the total dollar volume of purchases made from this contract.

23.0 Governing Law

This Agreement shall be governed in all respects by the laws of the State of Georgia. The Superior Court of DeKalb County, Georgia shall have exclusive jurisdiction to try disputes arising under or by virtue of this contract.

24.0 Entire Agreement

This Agreement constitutes the entire Agreement between the parties with respect to the subject matter contained herein; all prior agreements, representations, statements, negotiations, and undertakings are suspended hereby. Neither party has relied on any representation, promise, or inducement not contained herein.

25.0 Severability

If any provision of this Agreement shall be deemed invalid or unenforceable by a court of competent jurisdiction, such provision shall be modified to the extent necessary to cure such invalidity or unenforceability; provided, however, if such modification is not possible without creating a material conflict with another provision of this Agreement, such invalid or unenforceable provision shall be deemed stricken from this Agreement.

26.0 Notices

All notices required or permitted to be given hereunder shall be deemed to be properly given if delivered in writing personally or sent by United States certified or registered mail addressed to the Contractor or the City, as the case may be, with postage thereon fully prepaid. The effective time of notice shall be at the time of mailing.

If to the City:

Stonecrest City Hall
Attn: K. Hildebrandt
3120 Stonecrest Blvd.
Stonecrest, Georgia 30038

With copies to:

Fincher Denmark, LLC
Attn: Winston A. Denmark, Esq.
8024 Fair Oaks Court
Jonesboro, Georgia 30236

If to the Contractor:

Blount Construction Company, Inc.
Attn: _____
1730 Sands Place
Marietta, Georgia 30067

27.0 Time is of the essence

Time is of the essence for this Contract, the Contract Documents, and all supporting documents.

28.0 Participation in Federal Work Authorization Program

The Contractor shall participate in the federal work authorization program throughout the Agreement period, as provided in OCGA 13-10-91. The Contractor shall be required to, at the time of the contract, provide a signed, notarized affidavit, attesting that it has registered with, is authorized to use, and uses the federal work authorization program; it will continue to use the federal work authorization program throughout the agreement period; and it will contract for the physical performance of services in satisfaction of such agreement only with subcontractors who present an affidavit containing the above information. Further, to the extent that a subcontractor is utilized, the Subcontractor's federal work authorization program user identification number and the date of authorization shall be included in the affidavit.

[SIGNATURES CONTAINED ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their duly authorized officers as of the day and year set forth next to each signature.

CITY OF STONECREST:

By:_____

Title:_____ **CITY MANAGER** _____

Name:_____

Date:_____

Attest:_____
 City Clerk (Seal)

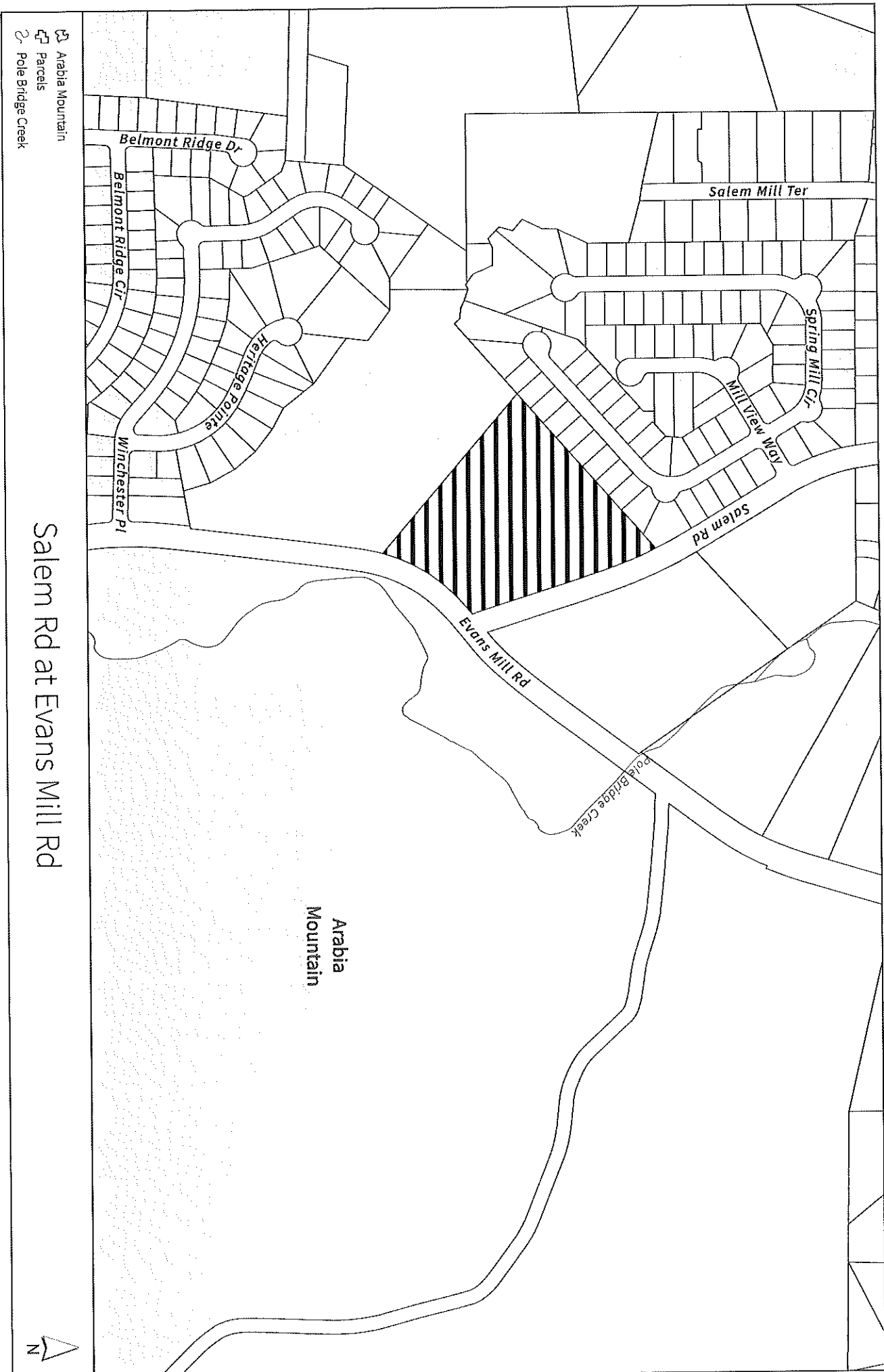
CONTRACTOR:

By:_____

Title:_____

Name:_____

Date_____



Salem Rd at Evans Mill Rd



WORK SESSION AGENDA ITEM

SUBJECT: MOU for Youth Services (Summer Camp at Browns Mill Recreation Center)

☐ ORDINANCE ☐ POLICY ☐ STATUS REPORT

☐ DISCUSSION ONLY ☐ RESOLUTION ☒ OTHER

Work Session Meeting: 04/22/2019

DOCUMENTATION TO BE PROVIDED AS SOON AS AVAILABLE

TO BE SUBMITTED BY: Sean De Palma

PURPOSE:

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION:



WORK SESSION AGENDA ITEM

SUBJECT: 2019 Fee Schedule for Parks & Recreation

☐ **ORDINANCE** ☐ **POLICY** ☐ **STATUS REPORT**
☐ **DISCUSSION ONLY** ☐ **RESOLUTION** ☒ **OTHER**

Work Session Meeting: 04/22/2019

DOCUMENTATION TO BE PROVIDED AS SOON AS AVAILABLE

TO BE SUBMITTED BY: Sean De Palma

PURPOSE:

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION:



WORK SESSION AGENDA ITEM

SUBJECT: Parks and Recreation IGA

☐ ORDINANCE	☐ POLICY	☐ STATUS REPORT
☒ DISCUSSION ONLY	☐ RESOLUTION	☐ OTHER

Work Session Meeting: 04/22/2019

SUBMITTED BY: Julian Jackson, Interim City Manager

PURPOSE:

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION:

**INTERGOVERNMENTAL AGREEMENT
FOR THE PROVISION OF PARKS SERVICES
AND FOR THE TRANSFER OF PARK PROPERTY**

**Between
DEKALB COUNTY, GEORGIA and
THE CITY OF STONECREST, GEORGIA**

THIS INTERGOVERNMENTAL AGREEMENT (the "Agreement") is entered into as of the _____ day of _____, 2019, by and between DeKalb County, Georgia ("County") and the City of Stonecrest, Georgia ("City") (collectively, County and City may be referred to herein as "Parties" or individually as "Party").

WHEREAS, the County is a constitutionally created political subdivision of the State of Georgia; and

WHEREAS, the City is a municipality created by the 2016 Georgia General Assembly pursuant to Senate Bill 208 (hereafter referred to as "SB 208"); and

WHEREAS, the County and the City desire to maintain a mutually beneficial, efficient and cooperative relationship that will promote the interests of the citizens of both jurisdictions, including, but not limited to, the transfer of Park Property and the provision of Park Services as herein after defined.

NOW THEREFORE, in consideration of the following mutual obligations, the Parties agree as follows:

**ARTICLE 1
PURPOSE AND INTENT**

The purpose of this Agreement is to provide the terms by which (1) the County shall transfer the Park Property (as hereinafter defined) to the City; (2) the County shall provide services and activities, related to recreation, aquatic and summer programs; and maintaining and operating parks, playgrounds, pools, athletic fields, golf courses and recreational centers within the jurisdictional boundaries of the City in the manner provided by the DeKalb County Department of Parks, Recreation and Cultural Affairs (the "Park Services"); and (3) the County will transfer the responsibility of providing Park Services to the City.

**ARTICLE 2
TERM OF AGREEMENT**

2.1 The Parties agree that the term of this Agreement (the "Term") shall begin at 12:00 a.m. on May 1, 2019 and conclude at 12:00 a.m. on January 1, 2020, during or after the termination of which the parties may seek to renew or enter into a new agreement.

2.2 During the Term, the County, through its Department of Parks, Recreation and Cultural Affairs, shall be solely responsible for providing all Park Services within the boundaries of the City in a manner no less than provided to other park and recreation properties in the unincorporated areas of the County, until the date specified for each park property in Article 5 of this Agreement, or unless agreed to otherwise by the parties.

ARTICLE 3 COMPENSATION AND CONSIDERATION

3.1 The real property, and all improvements thereto, that is the subject of this Agreement is described in Exhibit "A" attached hereto (collectively, the "Park Property"). The Park Property, and all improvements thereto, shall be transferred and conveyed, subject to the provisions herein, in exchange for payment to the County in the amount of One-Hundred Dollars (\$100.00) per acre pursuant to O.C.G.A. § 36-31-11.1.

3.2 During the time in which Park Services are rendered by the County, the City agrees that the County shall remain entitled to impose and collect from the City's owners of taxable property ad valorem tax annually in the same manner and at the same rate that such tax is imposed and collected within the unincorporated portion of DeKalb County for Park Services. The County agrees to contribute to the City a portion of the total ad valorem tax revenue and for Park Services within the City during 2019, commensurate with the percentage of Park Services transitioned to the City before the end of the Term, upon receipt of such funds from the Tax Commissioner. The County further agrees to contribute to the City a portion of any bond revenue for Park Services or improvements within the City during 2019. Commencing January 1, 2020, the County shall not collect ad valorem taxes from any of the City's owners of taxable property for Park Services within the City.

3.3 As part of the conveyance of the Park Property, it is further agreed that:

- a. On May 1, 2019 or upon the successful completion of the title work and environmental reports required pursuant to O.C.G.A. 36-31-11.1(g), whichever is later, unless otherwise agreed to by the parties, the County agrees to convey the Park Property to the City pursuant to this Agreement and record the quitclaim deeds for each parcel of the Park Property following the purchase thereof in accordance with O.C.G.A. 36-31-11.1(g). All purchases shall be completed no later than January 1, 2020, unless the environmental reports required pursuant to O.C.G.A. 36-31-11.1(g) reveal the presence of hazardous materials.
- c. The City agrees to take over all Park Services for the Park Property no later than January 1, 2020 and agrees to waive and release any right to pursue or initiate any legal claims against the County which arises from January 1, 2020 forward related to alleged performance or failure to perform Park Services, except for the right to assert claims to enforce the terms of this Agreement. The County agrees to contribute to the City ad valorem tax revenue received for Park Services within the City during 2020 upon receipt of such funds from the Tax Commissioner.

- d. The County hereby agrees to operate and maintain the Park Property and related greenspace, open space and recreational facilities until the date specified for each park property in Article 5 of this Agreement. The Park Property shall be used and maintained pursuant to O.C.G.A. 36-31-11.1.
- e. Residents of the unincorporated area of the County shall have the same access to the Park Property as is allowed for residents of the City at the same cost charged to City residents, if any; and the same Park Services being provided on or related to the Park Property shall be made available to residents of unincorporated DeKalb County as made available to residents of the City, at the same cost charged to City residents, if any.
- f. The Parties agree that, whether or not recorded, the provisions and obligations in this Section shall continue as binding restrictive covenants upon the Parties after expiration or termination of this Agreement.

3.4 As to all Park Property herein, the City shall be solely responsible for identifying and conducting due diligence at the City's cost, including, but not limited to all surveys, environmental reports, and title searches.

3.5 The Parties agree that all public stormwater facilities, ponds, basins and dams located within the City (hereinafter, collectively the "Stormwater Systems") shall remain the property of the County as part of the County Stormwater System and shall require separate intergovernmental agreements to include easements for access and maintenance. In no event, however, shall the County be obligated to maintain, undertake or expend monies on the above Stormwater Systems except where required by law, mutual written consent or by separate agreement. As part of this transaction and conveyance, the City shall execute all access and easement documents requested by the County which are related to and necessary for the County to access, connect, and repair all stormwater, sewer, and water pipes, drainage, and utilities located on the Park Property, including, but not limited to a 20-foot easement on either side of the centerline of any water and sewer lines located on the Park Property which are currently being maintained by the County and for the future maintenance and replacement of such lines (collectively, the "Utility Easements").

ARTICLE 4

DIRECTOR OF PARKS AND RECREATION

For the park properties managed by the County during the Term, the County Parks Director will direct and manage the daily parks operations in the City and supervise the delivery of Park Services contracted for in this Agreement; provided, however, the County Parks Director shall confer with and receive input from the City Parks Director regarding the daily parks operations and delivery of Park Services contracted for in this Agreement. For the park properties managed by the City during the Term, the City Parks Director will direct and manage the daily parks operations in the City and supervise the delivery of Park Services; provided, however, the City Parks Director shall confer with and receive input from the County Parks Director regarding the daily parks operations and delivery of Park Services.

ARTICLE 5

SERVICES

5.1 The City will take over responsibility for providing Park Services pursuant to the Park Services transfer dates below and agrees to waive and release any right to pursue or initiate any legal claims against the County which arises from the Park Services transfer dates forward related to alleged performance or failure to perform Park Services, except for the right to assert claims to enforce the terms of this Agreement.

Park Services Transfer Dates

Chestnut Lakes Park	May 1, 2019
Everett Park	May 1, 2019
Panola Shoals PATH Trailhead	May 1, 2019
Browns Mill Recreation Center	May 1, 2019
Southeast Athletic Complex	May 1, 2019
Browns Mill Sports Field	June 3, 2019
Fairington Park	June 3, 2019
Salem Park	June 3, 2019
Gregory Mosely Park	June 3, 2019
Browns Mill Aquatic Center	September 30, 2019
Arabia Mountain Nature Preserve	To be later agreed upon by the Parties

5.2 For the park properties managed by the County during the Term, the County will provide Park Services to the City residents in no less than the same manner that they are provided to unincorporated DeKalb County in 2019. Such Park Services shall equal or exceed the Park Services provided by the County in 2019 within the area that comprises the territorial limited of the City.

5.3 Monthly reports regarding the Park Services provided by the County will be given to the City Parks Director in the manner given to the government of DeKalb County with respect to its parks and recreation centers in unincorporated areas of the County.

5.4 The Parties acknowledge that the City Parks Director does not have the authority to direct the activities of any employee of the DeKalb County Parks Department. The City Parks Director will discuss with the County Parks Director any concerns or issues arising during the Term regarding the scope of work contemplated under this Agreement.

ARTICLE 6 EQUIPMENT

The County agrees to provide DeKalb County parks personnel assigned to work within the City with all necessary equipment and motor vehicles in connection with this Agreement in order

to perform its Park Services, in accordance with applicable DeKalb County policies and procedures for Park Services. The County agrees to maintain said equipment and vehicles and to provide replacements as necessary during the Term.

ARTICLE 7 EMPLOYMENT STATUS

All County personnel assigned under this Agreement are and will continue to be employees of the County for all purposes, including but not limited to: duties and responsibilities, employee benefits, grievance, payroll, pension, promotion, annual or sick leave, standards of performance, training, workers compensation and disciplinary functions.

ARTICLE 8 RECORD KEEPING AND REPORTING

8.1 The County parks and recreation department is the central repository for all departmental records and makes available public records as defined by the Georgia Open Records Act, O.C.G.A. § 50-18-70, *et seq.* During the Term, the County will continue to comply with the applicable provisions of the Georgia Open Records Act.

8.2 Except as limited by any provision of state or federal law, the City may request, review and access data and County records at a mutually agreed upon time to ensure compliance with this Agreement.

ARTICLE 9 TRANSITION

The Parties agree that ninety (90) days prior to the end of this Agreement, the City Manager and the Executive Assistant of the County will meet and confer to affect a smooth transition.

ARTICLE 10 TERMINATION AND REMEDIES

10.1 The City may terminate this Agreement with or without cause by giving thirty (30) days prior written notice to the County. If the City intends to terminate this Agreement for cause prior to the expiration of the term of this Agreement, the City must notify the County in writing, specify the basis for the termination and advise the County that the issue(s) must be cured to the City's reasonable satisfaction within a 30-day period.

10.2 The parties reserve all available remedies afforded by law to enforce any term of condition of this Agreement.

ARTICLE 11 NOTICES

All required notices shall be given by certified first class U.S. Mail, return receipt requested. The parties agree to give each other non-binding duplicate facsimile or electronic mail notice. Future changes in address shall be effective upon written notice being given by the City to the County Executive Assistant or by the County to the City Manager via certified first-class U.S. mail, return receipt requested. Notices shall be addressed to the parties at the following addresses:

If to the County: Executive Assistant
 1300 Commerce Drive, 6th Floor
 Decatur, Georgia 30030
 Facsimile: _____
 Electronic Mail: _____

With a copy to: County Attorney
 1300 Commerce Drive, 5th Floor
 Decatur, Georgia 30030
 Facsimile: _____
 Electronic Mail: _____

With a copy to: County Parks Director
 DeKalb County, Georgia
 DeKalb County Parks Department

 Facsimile: _____
 Electronic Mail: _____

If to the City: City Manager
 City of Stonecrest
 3120 Stonecrest Blvd.
 Stonecrest, Georgia 30038
 Facsimile: _____
 Electronic Mail: _____

With a copy to: City Attorney
 City of Stonecrest
 3120 Stonecrest Blvd.
 Stonecrest, Georgia 30038
 Facsimile: _____
 Electronic Mail: _____

With a copy to: Winston Denmark
 City Attorney – City of Stonecrest
 8024 Fair Oaks Court
 Jonesboro, Georgia 30236

Facsimile: 770.471.9948
Electronic Mail:

ARTICLE 12
EXTENSION AND AMENDMENT OF AGREEMENT

This Agreement may be extended and/or amended at any time by mutual consent of the Parties so long as such extension and/or amendment is approved by official action of the City Council and approved by official action of the County governing authority.

ARTICLE 13
NON-ASSIGNABILITY

Neither party shall assign any of the obligations or benefits of this Agreement.

ARTICLE 14
ENTIRE AGREEMENT

This Agreement constitutes the entire understanding and agreement between the Parties concerning the subject matter of this Agreement and supersedes all prior oral or written agreements or understandings. No representation oral or written not incorporated in this Agreement shall be binding upon the City or the County. All parties must sign any subsequent changes in the Agreement.

ARTICLE 15
SEVERABILITY, VENUE AND ENFORCEABILITY

If a court of competent jurisdiction renders any provision of this Agreement (or portion of a provision) to be invalid or otherwise unenforceable, that provision or portion of the provision will be severed and the remainder of this Agreement will continue in full force and effect as if the invalid provision or portion of the provision were not part of this Agreement. No action taken pursuant to this Agreement should be deemed to constitute a waiver of compliance with any representation, warranty, covenant or agreement contained in this Agreement and will not operate or be construed as a waiver of any subsequent breach, whether of a similar or dissimilar nature. This Agreement is governed by the laws of the state of Georgia without regard to conflicts of law principles thereof. Should any party institute suit concerning this Agreement, venue shall be in the Superior Court of DeKalb County, Georgia. Should any provision of this Agreement require judicial interpretation, it is agreed that the court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who itself or through its agent prepared the same, it being agreed that the agents of all parties have participated in the preparation hereof.

**ARTICLE 16
BINDING EFFECT**

This Agreement shall inure to the benefit of, and be binding upon, the respective parties' successors.

**ARTICLE 17
MUTUAL WAIVER AND RELEASE**

17.1.1 The City hereby waives and releases, effective the date the City receives the quitclaim deed for the Park Property, any right to pursue or initiate any legal claims against the County related to the transfer and conveyance of the Park Property, except for the right to assert claims to enforce the terms of this Agreement. The City agrees never to file any demand, claim, interpleader, charge, lawsuit or any other legal proceeding with any court, arbitration forum or government agency asserting any matter, claim or cause of action that is settled or released by this Agreement.

17.2 The County hereby waives and releases, effective the date the City receives the quitclaim deed for the Park Property, any right to pursue or initiate any legal claims against the City related to the transfer Park Property, except for the right to assert claims to enforce the terms of this Agreement. The County agrees never to file any demand, claim, interpleader, charge, lawsuit or any other legal proceeding with any court, arbitration forum or government agency asserting any matter, claim or cause of action that is settled or released by this Agreement.

**ARTICLE 18
COUNTERPARTS**

This Agreement may be executed in several counterparts, each of which shall be an original, and all of which shall constitute but one and the same instrument.

SIGNATURES APPEAR ON THE FOLLOWING PAGES

IN WITNESS WHEREOF, the County and the City have executed this Agreement through their duly authorized officers.

This _____ day of _____, 20__.

DEKALB COUNTY, GEORGIA

ATTEST:

MICHAEL L. THURMOND
Chief Executive Officer
DeKalb County, Georgia

BARBARA H. SANDERS, CCC, CMC
Clerk of the Chief Executive Officer
and Board of Commissioners of
DeKalb County, Georgia

APPROVED AS TO SUBSTANCE:

APPROVED AS TO FORM:

Director, DeKalb County Parks

TERRY G. PHILLIPS
Supervising Attorney

CITY OF STONECREST, GEORGIA

Jason Lary, Sr., Mayor

_____, Municipal Clerk

APPROVED AS TO SUBSTANCE:

APPROVED AS TO FORM:

_____, City Manager

Winston Demark, City Attorney

Exhibit “A”

**List of
PARK PROPERTY**