

CITY OF SOUTH FULTON, GEORGIA
South Fulton Service Center Auditorium, 5600 Stonewall Tell Road
June 13, 2017, 5:00pm



The Honorable William “Bill” Edwards, Mayor
The Honorable Catherine F. Rowell, District 1, Mayor Pro Tem
The Honorable Carmalitha Gumbs, District 2 Councilmember
The Honorable Helen Z. Willis, District 3 Councilmember
The Honorable Naeema Gilyard, District 4 Councilmember
The Honorable Rosie Jackson, District 5 Councilmember
The Honorable khalid kamau, District 6 Councilmember
The Honorable Mark Baker, District 7 Councilmember

WORK SESSION AGENDA

1. Retreat
2. Ambulance Services
3. Review of the June 13, 2017 Regular Meeting Agenda
4. Other discussion

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CITY OF SOUTH FULTON, GEORGIA
South Fulton Service Center Auditorium, 5600 Stonewall Tell Road
Tuesday, June 13, 2017, 7:00pm



The Honorable William “Bill” Edwards, Mayor
The Honorable Catherine F. Rowell, District 1, Mayor Pro Tem
The Honorable Carmalitha Gumbs, District 2 Councilmember
The Honorable Helen Z. Willis, District 3 Councilmember
The Honorable Naeema Gilyard, District 4 Councilmember
The Honorable Rosie Jackson, District 5 Councilmember
The Honorable khalid kamau, District 6 Councilmember
The Honorable Mark Baker, District 7 Councilmember

REGULAR MEETING AGENDA

1. Call to Order
2. Invocation
3. Pledge of Allegiance
4. Approval of the Consent Agenda
 - a. Meeting Minutes – Tuesday, May 23, 2017
 - b. Meeting Minutes – Tuesday, May 30, 2017
 - c. Meeting Minutes – Friday, June 2, 2017
 - d. Meeting Minutes – Tuesday, June 6, 2017
 - e. Proclamations
 - i. Last of the Lancers Alumni Appreciation Day **(Willis)**

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- ii. General Overseer Dr. Craig L. Oliver, Sr. Appreciation Day **(Edwards)**
- 5. Approval of the Regular Meeting Agenda
- 6. Proclamations and Recognitions
- 7. Public Comment
 - a. Speakers will be granted up to two minutes each and public comment will not exceed 30 minutes. Speakers will not be allowed to yield or donate their time to other speakers.
- 8. Business
 - a. Resolutions
 - i. Resolution approving certain contracts for Employee Benefits (Kaiser, BCBS, Aetna, and EyeMed) **(Res2017-016)**;
 - ii. Resolution adopting defined contribution plan and 457(b) deferred compensation plan **(Res2017-028)**;
 - iii. Resolution designating the legal organ for the City **(Res2017-024)**;
 - iv. Resolution to adopt the Fiscal Year 2017 Final Budget for each fund of the City, appropriating the amounts shown in each fund as expenditures/expenses, adopting the several items of revenue anticipations, and prohibiting expenditures or expenses from exceeding the actual funding available, and for various other reasons **(Res2017-025)**;
 - v. Resolution approving a cable television franchise agreement between the City and Comcast of Georgia/Michigan, LP **(Res2017-026)**;
 - vi. Resolution authorizing the City to request and accept due compensation from telephone companies operating within City limits **(Res2017-027)**;
 - b. Ordinances
 - i. Ordinance granting permission and consent to Georgia Power Company, a Georgia corporation, and its

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successors, lessees, and assigns, to occupy the streets and public places of the City, in constructing, maintaining, operating, and extending poles, lines, cables, equipment, and other apparatus for transmitting and distributing electricity and for other purposes **(Ord2017-004)**;

- ii. Ordinance granting permission and consent to Greystone Power Corporation, a Georgia nonprofit electric membership corporation, and its successors, lessees, and assigns, to occupy the streets and public places of the City, in constructing, maintaining, operating, and extending poles, lines, cables, equipment, and other apparatus for transmitting and distributing electricity and for other purposes **(Ord2017-005)**;
- iii. Ordinance to establish collection of franchise fees applicable to holders of cable and video franchises issued by the State of Georgia **(Ord2017-006)**;
- iv. Adoption of Taxation Ordinance **(Ord2017-007)**; and,
- v. Adoption of Business and Occupation Taxation Ordinance **(Ord2017-008)**.

9. Other (New) Business

- 10. Mayor and City Council Comments
- 11. Executive Session (CLOSED), if necessary
- 12. Adjournment

City of South Fulton
City Hall
5440 Fulton Industrial Blvd SW
Atlanta, GA 30336
404-344-6935



The Honorable William “Bill” Edwards, Mayor (present)

The Honorable Catherine F. Rowell, District 1, Mayor Pro Tem (absent)

The Honorable Carmalitha Gumbs, District 2 Councilmember (present)

The Honorable Helen Z. Willis, District 3 Councilmember (absent)

The Honorable Naeema Gilyard, District 4 Councilmember (present)

The Honorable Rosie Jackson, District 5 Councilmember (present)

The Honorable khalid kamau, District 6 Councilmember (present)

The Honorable Mark Baker, District 7 Councilmember (present)

WORK SESSION MINUTES

1. Budget
2. ~~Retreat~~
3. ~~Ambulance Services~~
4. Review of the May 23, 2017 Regular Meeting Agenda
5. Other discussion

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South Fulton Service Center Auditorium, 5600 Stonewall Tell Road
Tuesday, May 23, 2017, 5:00pm

The Work Session was called to order by Mayor Edwards at 5:00pm. He acknowledged that he had a quorum and all members were present, except Mayor Pro Tem Rowell and Councilmember Willis.

The Mayor and Council began by reviewing the meeting agenda.

- a. A motion was made by Councilmember Baker and seconded by Councilmember Jackson to move agenda item related to Benefits to the Consent Agenda for approval. The motion passed unanimously.
- b. A motion was made by Councilmember Jackson and seconded by Councilmember kamau to move the agenda item related to the Tax Commissioner to the Consent Agenda for approval, as proposed by the Tax Commissioner and recommended by staff. The motion passed unanimously.
- c. A motion was made by Councilmember Jackson and seconded by Councilmember Gilyard to delay taking action on any agenda items due to the delay in receiving the agenda packets on Saturday. The motion failed. Councilmembers Jackson and Gilyard vote yea. Councilmembers Gumbs, Willis, kamau, and Baker voted no.
- d. A motion was made by Councilmember Gilyard and seconded by Councilmember Gumbs to hold the agenda item related to agreements under \$25,000.00. The motion passed unanimously.
- e. A motion was made by Councilmember Baker and seconded by Councilmember Gumbs to move the agenda item related to becoming a City of Ethics to the Consent Agenda for approval. The motion passed unanimously.
- f. A motion was made by Councilmember Gumbs and seconded by Councilmember Baker to move the agenda item related to Boards and Commissions to the Consent Agenda for approval. The motion passed unanimously.

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- g. A motion was made by Councilmember Baker and seconded by Councilmember Gumbs to hold the agenda item related to Proclamations and Letters of Commendation. The motion passed unanimously.
- h. A motion was made by Councilmember kamau and seconded by Councilmember Jackson to rescind/reconsider the motion and vote taken under motion a., and to hold the agenda item related to Benefits.
- i. A motion was made by Councilmember Gilyard and seconded by Councilmember Gumbs to hold an additional Executive Session regarding Personnel at the conclusion of the Work Session. The motion passed. Councilmembers Gumbs, Willis, Gilyard, Jackson and Baker voted yea. Councilmember kamau voted no.
- j. A motion was made by Councilmember kamau and seconded by Councilmember Gilyard to close the Work Session in order to go into Executive Session. The motion passed unanimously.
- k. A motion was made by Mayor Edwards and seconded by Councilmember kamau to enter into an Executive Session regarding Personnel.

The Work Session ended at 6:30pm, whereupon the Mayor and Council entered into an Executive Session that ended at 6:54pm.



The Honorable William “Bill” Edwards, Mayor (present)
The Honorable Catherine F. Rowell, District 1, Mayor Pro Tem (present)
The Honorable Carmalitha Gumbs, District 2 Councilmember (present)
The Honorable Helen Z. Willis, District 3 Councilmember (present)
The Honorable Naeema Gilyard, District 4 Councilmember (present)
The Honorable Rosie Jackson, District 5 Councilmember (present)
The Honorable khalid kamau, District 6 Councilmember (present)
The Honorable Mark Baker, District 7 Councilmember (present)

REGULAR MEETING MINUTES

1. Call to Order

Mayor Edwards called the meeting to order at 7:05pm, where upon the Clerk called the roll and a quorum was present.

2. Invocation

The invocation was provided by Paster Warren Henry.

3. Pledge of Allegiance

[Recited]

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4. Approval of the Consent Agenda

a. Meeting Minutes – Tuesday, May 9, 2017

Along with the meeting minutes, the following items were moved from the Regular Meeting agenda to the Consent Agenda to be considered routine by the City Council and voted upon with one motion:

- **Res2017-017 – Tax Commissioner’s item**
- **Res2017-020 – City of Ethics item**
- **Res2017-021 – City Boards and Commissions item**
- **Res2017-022 – Airport West CID item**

A motion was made by Councilmember Jackson and seconded by Councilmember Baker to approve the Consent Agenda as amended. The motion passed unanimously. Mayor Pro Tem Rowell and Councilmember Willis were not present.

5. Approval of the Regular Meeting Agenda

A motion was made by Councilmember Baker and seconded by Councilmember Gilyard to approve the Regular Meeting Agenda as amended. The motion passed unanimously. Mayor Pro Tem Rowell and Councilmember Willis were not present.

6. Proclamations and Recognitions

- a. Recognition of Langston Hughes High School students.
(Gilyard) - Presented
- b. Proclamation recognizing Reverend Dr. Greg L. Pollard’s 24th Anniversary at Enon Baptist Church. **(Edwards) - Presented**
- c. Proclamation recognizing Older Americans Month. **(Gumbs) - Presented**

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- d. Proclamation recognizing Damacia Howard Appreciation Day.
(Baker) - Presented

7. Public Comment

- a. Speakers will be granted up to two minutes each and public comment will not exceed 30 minutes. Speakers will not be allowed to yield or donate their time to other speakers.

The following sixteen (16) speakers made public comment:

- **Fairburn City Councilman James Whitmore**
- **State Senator Donzella James**
- **Ms. Denise Hamb**
- **Ms. Glenda Collins**
- **Mr. Jaceey Sebastian**
- **Ms. Judith Henson**
- **Mr. Roger Davis**
- **Mr. Shadeed Abdulsalaam**
- **Mr. Arthur “Mr. T” Tarpkin**
- **Ms. Jewel Johnson**
- **Mr. Latif Fadzel**
- **Mr. John Jones**
- **Ms. Carolyn Lisbon**
- **Ms. Brenda Moore**
- **Ms. Kelly Rambo**
- **Ms. Sunshine Martin**

8. Business

- a. Resolutions
- i. Resolution approving certain contracts for Employee Benefits **(Res2017-016); [Held]**

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- ii. Resolution approving an agreement with the Fulton County Tax Commissioner for the billing and collection of taxes **(Res2017-017); [Approved on the Consent Agenda]**
- iii. Resolution awarding building and inspection services to Charles Abbot Associates, Inc. **(Res2017-018);**

A motion was made by Councilmember Jackson and seconded by Councilmember kamau to approve the Building and Inspection Services agenda item. The motion passed unanimously. Mayor Pro Tem Rowell was not present.

- iv. Resolution permitting the City Manager to enter into agreements less than \$25,000.00 annually **(Res2017-019); [Held]**
- v. Resolution declaring the City of South Fulton's intent to be a certified City of Ethics as designated by the Georgia Municipal Association **(Res2017-020); [Approved on the Consent Agenda]**
- vi. Resolution directing the Interim City Manager to report on city boards and commissions **(Res2017-021); [Approved on the Consent Agenda]**
- vii. Resolution of the City of South Fulton consenting to expansion of Airport West Community Improvement District **(Res2017-022); [Approved on the Consent Agenda]** and,

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viii. Resolution regarding standards for issuing Proclamations and Letters of Commendation **(Res2017-023)**. **[Held]**

9. Other (New) Business

Councilmember Gumbs requested an external financial audit of all County assets.

10. Mayor and City Council Comments

All Councilmembers made announcements or statements regarding activities held or upcoming in their respective districts.

11. Executive Session (CLOSED), if necessary

- a. **A motion was made by Councilmember Willis and seconded by Councilmember Gumbs to close the Regular Meeting and enter into an Executive Session regarding Personnel. The motion passed unanimously. The Executive Session began at 8:54pm.**
- b. **In open session, a motion was made by Mayor Pro Tem Rowell and seconded by Councilmember Baker to close/end the Executive Session. The motion passed unanimously. The Executive Session ended at 10:15pm.**
- c. **A motion was made by Councilmember kamau and seconded by Mayor Pro Tem Rowell to begin holding additional Work Sessions on the 1st and 3rd Tuesday at the 5440 FIB location at 10am, through September 30. The motion failed. Mayor Pro Tem Rowell and Councilmember**

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kamau voted yea. Councilmembers Gumbs, Willis, Gilyard, Jackson, kamau and Baker voted no.

- d. A motion was made by Councilmember kamau to begin holding additional Work Sessions on the 1st and 3rd Tuesday at the 5600 Stonewall Tell Road location at 5pm, through September 30. The motion failed for a lack of a second.**
- e. A motion was made by Councilmember Willis and seconded by Councilmember kamau to begin holding additional Work Sessions on the 1st and 3rd Tuesday at the 5440 FIB location at 5pm, with a friendly amendment by Councilmember kamau to hold them through September 30. The friendly amendment was accepted. The motion passed. All members voted yea, except Councilmember Baker who opposed.**

12. Adjournment

The Council Meeting adjourned at 10:34pm.

**City of South Fulton
City Hall
5440 Fulton Industrial Blvd SW
Atlanta, GA 30336
404-344-6935**



The Honorable William “Bill” Edwards, Mayor (present)
The Honorable Catherine F. Rowell, District 1, Mayor Pro Tem (present)
The Honorable Carmalitha Gumbs, District 2 Councilmember (present)
The Honorable Helen Z. Willis, District 3 Councilmember (present)
The Honorable Naeema Gilyard, District 4 Councilmember (present)
The Honorable Rosie Jackson, District 5 Councilmember (present)
The Honorable khalid kamau, District 6 Councilmember (present)
The Honorable Mark Baker, District 7 Councilmember (absent)

WORK SESSION MINUTES

1. Organizational Chart
2. Pay and Wage Scale
3. Budget
4. Timeline
5. Other discussion

The meeting was called to order by Mayor Edwards at 5:04pm.

- a. A motion was made by Councilmember Willis and seconded by Councilmember Jackson to add an Executive Session to the agenda regarding Personnel. The motion passed unanimously. Councilmember Baker was absent.**

Councilmember khalid requested a weekly update of the organizational chart, as things are being filled. Information should include names and timelines.

- b. A motion was made by Councilmember Gumbs and seconded by Councilmember Willis to hear the Budget presentation prior to the hearing the organizational chart presentation. The motion passed. Councilmember khalid voted no. Councilmember Baker was absent.**
- c. A motion was made by Councilmember khalid and seconded by Councilmember Willis to authorize funding that is needed to make payroll and for reimbursements to be authorized for any outstanding expenses. The motion passed. Mayor Pro Tem Rowell and Councilmember Gumbs voted no. Councilmember Baker was absent.**
- d. A motion was made by Councilmember Willis to reimburse any startup costs that have been paid out of pocket and to ensure that everyone now working gets a paycheck for their services. The motion was not seconded; therefore the motion failed.**
- e. A motion was made by Councilmember Willis to authorize startup costs and to make payroll. The motion was not seconded; therefore the motion failed.**
- f. A motion was made by Councilmember Jackson and seconded by Councilmember Gilyard to rescind the previous motion c. No vote was taken.**

- g. Another motion was made by Councilmember Jackson and seconded by Councilmember Gumbs to withdraw motion j. (to rescind). The motion to withdraw passed. Mayor Pro Tem Rowell and Councilmember Gilyard voted no. Councilmember Baker was absent.**

During the Storm Water Management discussion, Mayor Edwards requested staff to look very closely at what we are experiencing in this area, and to request a “due/response by” date whenever forwarding complaints to the County.

- h. A motion was made by Mayor Pro Tem Rowell and seconded by Councilmember Gilyard with respect to 911 spending to explore cost savings by looking at various options, including to look at outsourcing. A friendly amendment was made by Councilmember Willis to hold this matter until the budget gets approved. The friendly amendment was not accepted by the motion maker. The original motion passed. Councilmember Willis voted no. Councilmember Baker was absent.**

Councilmember khalid requested a separate link on the website for only the Budget, utilizing pages 30-43.

- i. A motion was made by Councilmember Willis and seconded by Councilmember Gumbs to enter into a Closed Executive Session regarding Personnel at 7:34pm. The motion passed unanimously. Councilmember Baker was absent. Whereupon the Mayor and City Council moved from the auditorium into the conference room behind the auditorium for executive session.**

In Open Session:

- j. A motion was made by Councilmember Gumbs and seconded by Councilmember Gilyard to close the Executive Session at 9:12pm. The motion passed unanimously. Councilmember khalid did not vote. Councilmember Baker was absent.**
- k. A motion was made by Councilmember khalid and seconded by Councilmember Jackson to discuss only the Intergovernmental Agreement (IGA) at the next Work Session (Special Called Meeting) on June 6, 2017. The motion failed. Councilmembers khalid and Jackson voted aye. Councilmembers Rowell, Gumbs, Willis and Gilyard voted no. Councilmember Baker was absent.**
- l. A motion was made by Mayor Pro Tem Rowell and seconded by Councilmember Gilyard to finish discussing the remaining agenda items (organizational chart, pay scale, and the timeline), along with the IGA, at the next Work Session (Special Called Meeting) on June 6, 2017 from 5pm to 7pm, then hold the Public Hearing for the Budget at 7pm. The motion passed. Councilmember khalid voted no. Councilmember Baker was absent.**
- m. A motion was made by Councilmember Gumbs and seconded by Councilmember Gilyard to adjourn the meeting. The motion passed unanimously. The meeting was adjourned at 9:23pm.**



The Honorable William “Bill” Edwards, Mayor (present)
The Honorable Catherine F. Rowell, District 1, Mayor Pro Tem (present)
The Honorable Carmalitha Gumbs, District 2 Councilmember (present)
The Honorable Helen Z. Willis, District 3 Councilmember (present)
The Honorable Naeema Gilyard, District 4 Councilmember (present)
The Honorable Rosie Jackson, District 5 Councilmember (present)
The Honorable khalid kamau, District 6 Councilmember (present)
The Honorable Mark Baker, District 7 Councilmember (present)

SPECIAL MEETING MINUTES

The meeting was called to order by Peachtree Corners Mayor Mike Mason at 10:18pm. Also present were the City Manager Brian Johnson and other CH2M representatives.

There being no action taken the meeting adjourned at 1:45pm.

CITY OF SOUTH FULTON, GA

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Tuesday, June 6, 2017



The Honorable William “Bill” Edwards, Mayor (present)
The Honorable Catherine F. Rowell, District 1, Mayor Pro Tem (present)
The Honorable Carmalitha Gumbs, District 2 Councilmember (present)
The Honorable Helen Z. Willis, District 3 Councilmember (present)
The Honorable Naeema Gilyard, District 4 Councilmember (present)
The Honorable Rosie Jackson, District 5 Councilmember (present)
The Honorable khalid kamau, District 6 Councilmember (present)
The Honorable Mark Baker, District 7 Councilmember (present)

SPECIAL CALLED MEETING - WORK SESSION AGENDA MINUTES

5:00 PM – 7:00 PM

1. Organizational Chart
2. Pay and Wage Scale
3. Other discussion
4. Executive Session regarding Personnel and Real Estate (IGA)

The Work Session was called to order by Mayor Edwards at 5:00pm and a quorum was present.

Councilmember khalid requested the Council to add a presentation from the Atlanta Airport Publications, under the Other discussion

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item, as listed upon the agenda. There being no opposition, it was so ordered to add the item.

Following a presentation by Mike Simpson, a motion was made by Councilmember Khalid and seconded by Councilmember Gilyard to purchase an Ad for the Atlanta Airport Publications summer issue in the amount of \$1,000.00. The motion passed unanimously.

A motion was made by Councilmember Willis and seconded by Councilmember Gumbs to recess/enter into Executive Session regarding Personnel. The motion passed unanimously. The recess began at 5:20pm.

Upon their return from Executive Session, a motion was made by Councilmember Willis and seconded by Councilmember Gumbs to close the Executive Session regarding Personnel at 7:00pm.

PUBLIC HEARING ON THE BUDGET (MINUTES)

7:00 PM

Speakers will be granted up to two minutes each, on a first-come first-served basis. After signing up to speak, please listen for your name to be called.

The public hearing was opened by Mayor Edwards at 7:00pm, whereupon he explained the purpose of the Budget hearing to hear comments from the public.

The following nine (9) speakers offered public comment:

- State Senator Donzella James (Property Assessments and new City)
- Ms. Cynthia Thomas (Littering, dumping, dirt bikes, school buses and code enforcement issues)

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- **Mr. Corro'll Driskoll (Management vs Policy, personal relationships with respect to the Abbott firm for building services)**
- **Mr. Winson Cook (Fees to FC for services, IGA and economic development)**
- **Ms. Glynda Collins (Budget, salaries and percentage of obligations compared to other new cities)**
- **Mr. A. W. Davis (Establishment of City, spending and employees)**
- **Ms. Jewel Johnson (Hiring and residents)**
- **Mr. Michael Venable (Code Enforcement & Budget)**
- **Mr. Alvin Reynolds (Lack of details in the budget and the IGA)**

Following the public hearing, the chief financial officer Frank Milazi made a budget presentation.

Councilmember Willis requested legal counsel to explain why the City Council made the decision to create positions and hire employees. Legal counsel (Kimberly Anderson) advised that the City Manager had the authority to fill positions under the Charter and the Council has the authority to create positions that the City Manager can fill, which have been and will be ratified as a part of the budget process.

A motion was made by Mayor Pro Tem Rowell and seconded by Councilmember Baker to recess/close the meeting for an Executive Session regarding Real Estate (IGA). The motion passed unanimously. The closed executive session began at 7:44pm.

The closed executive session ended at 10:00pm.

In open session, a motion was made by Mayor Pro Tem Rowell and seconded by Councilmember Baker to close the Executive Session and adjourn the meeting at 10:03pm. The motion passed

CITY OF SOUTH FULTON, GA

South Fulton Service Center, 5600 Stonewall Tell Road, College Park, GA 30349

Tuesday, June 6, 2017

**unanimously with the following members present: Mayor Edwards,
Mayor Pro Tem Rowell, Councilmember Willis, Councilmember
Gilyard, and Councilmember Jackson present.**

DRAFT



City of South Fulton

Whereas, the City of South Fulton supports and recognizes that the mission of the Last of the Lancers Alumni Association is to provide a liaison between the alumni and the legacy of Lakeshore High School, and to bring to alumni, knowledge of the organization's various philanthropic and social activities; and

Whereas, to reflect the sentiment of the alumni on matters affecting the school's legacy by fostering moral, spiritual and financial support for the continuous enhancement of quality educational pursuits and sustainability for communities in South Fulton County; and

Whereas, the Last of the Lancers has held the annual roundup since 2008 each year during the 2nd weekend in June at Delano Park, Lakeshore High School's old "stomping grounds"; and

Whereas, since 2013 the Last of the Lancers have donated thousands of dollars to various programs; \$1000 to Harriet Tubman formerly Lakeshore High School such as the Father/ Daughter dance, field day, \$500 worth of bereavement support for Last of the Lancer families, \$600 in book scholarships, and \$500 toward alumni children and teachers for college.

Now, therefore be it resolved, That the Mayor and City Council of the City of South Fulton congratulate the Lancers Alumni Association on their philanthropic and social activities along with their contributions to the City of South Fulton's growth and development, and does hereby proclaim Saturday, June 10, 2017, as "LAST OF THE LANCERS ALUMNI ASSOCIATION APPRECIATION DAY" in the City of South Fulton, Georgia.

Councilwoman Helen Zenobia Willis



City of South Fulton

Whereas, Senior Pastor of Elizabeth Baptist Church, Dr. Craig L. Oliver has a passionate yet academic approach to preaching and touches the hearts, fortifies the spirits and transforms the minds of believers and non-believers across the world; and

Whereas, Dr. Oliver has overcome insurmountable odds and challenges, emerging as a premier leader among leaders, and he has been the Pastor of Elizabeth Baptist Church for 22 years; and

Whereas, through the Grace of God upon him, he transitioned Elizabeth Baptist Church from a single-site church to a multi-site church with five locations and well over 10,000 members; and

Whereas, he is the esteemed author of the book “Travel Lightly”, an accomplished scholar with multiple degrees to include a Master of Arts Degree in Biblical/Theological Studies, and a Doctorate Degree from Gordon Conwell Theological Seminary, and he is the General Overseer of the Senior Pastors Division of the Full Gospel Baptist Church Fellowship International; and

Whereas, we are proud of what God continues to do through him and the heights he has yet to ascend and it is our privilege to honor the man that God chose to lead and pastor us these past 22 years.

Now, therefore be it resolved, That the Mayor and City Council of the City of South Fulton congratulates General Overseer Dr. Craig L. Oliver, Sr. of Elizabeth Baptist Church on his 22nd Pastoral Anniversary and does hereby proclaim Sunday, June 11, 2017, as “GENERAL OVERSEER DR. CRAIG L. OLIVER, SR. APPRECIATION DAY” in the City of South Fulton, Georgia.

**STATE OF GEORGIA
COUNTY OF FULTON
CITY OF SOUTH FULTON**

RESOLUTION NO. 2017-016

**A RESOLUTION APPROVING CERTAIN CONTRACTS FOR
EMPLOYEE BENEFITS**

WHEREAS, the City of South Fulton ("City") is a municipal corporation duly organized and existing under the laws of the State of Georgia;

WHEREAS, through a duly enacted resolution, the City empowered the City Manager to negotiate for certain employee benefits;

WHEREAS, the City Manager has negotiated for certain employee benefits as authorized in the prior resolution;

WHEREAS, the City is authorized to employ persons to assist with City functions;

WHEREAS, to hire the best and brightest workforce for the City of South Fulton, the City should provide competitive benefits to City employees;

WHEREAS, the City Manager has negotiated for the contracts that are substantially similar to those offered by Fulton County, and the City finds the contracts to be in the best interests of City residents;

BE IT HEREBY RESOLVED by the Mayor and City Council that:

1. The aforesaid recitals are not mere recitals, but are material portions of this Resolution;
2. The Mayor is authorized to enter into the following contracts, which have been negotiated by the City Manager:
 - a. Aetna Life Insurance and AD&D Insurance Plan (Exhibit 1);
 - b. Kaiser Permanente Health Maintenance Organization Plan option (Exhibit 2); and
 - c. Blue Cross Blue Shield Open Access POS option (Exhibit 3); and
 - d. EyeMed Vision Care option (Exhibit 4).

The foregoing Resolution No. _____ was offered by Councilmember _____, who moved its approval. The motion was seconded by Councilmember _____, and being put to a vote, the result was as follows:

	AYE	NAY
William “Bill” Edwards, Mayor	_____	_____
Catherine Foster Rowell,		
Mayor Pro Tem	_____	_____
Carmalitha Lizandra Gumbs	_____	_____
Helen Zenobia Willis	_____	_____
Gertrude Naeema Gilyard	_____	_____
Rosie Jackson	_____	_____
khalid kamau	_____	_____
Mark Baker	_____	_____

THIS RESOLUTION adopted this _____ day of _____ 2017. **CITY OF
SOUTH FULTON, GEORGIA**

WILLIAM "BILL" EDWARDS, MAYOR

ATTEST:

_____, CITY CLERK

APPROVED AS TO FORM:

_____, INTERIM CITY ATTORNEY

RESOLUTION NO. 2017-028

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SOUTH FULTON ADOPTING THE CITY OF SOUTH FULTON DEFINED CONTRIBUTION PLAN AND THE CITY OF SOUTH FULTON 457(b) DEFERRED COMPENSATION PLAN AND AUTHORIZING THE MAYOR OR HIS DESIGNEE TO EXECUTE THE APPLICABLE PLAN DOCUMENTS.

WHEREAS, the City of South Fulton (the “City”) wishes to establish a defined contribution plan, which is intended to be qualified under Section 401(a) of the Internal Revenue Code of 1986, as amended (the “Code”), for the purpose of providing retirement benefits for its employees through City contributions and mandatory employee contributions (which shall be treated as “pick up” contributions under Section 414(h)(2) of the Code); and

WHEREAS, the City wishes to establish an eligible deferred compensation plan within the meaning of Section 457(b) of the Code for the benefit of its employees to make elective deferrals;

NOW, THEREFORE, BE IT RESOLVED, that Mayor and Council hereby authorize and approve the adoption of the City of South Fulton Defined Contribution Plan, substantially in the form attached hereto (the “DC Plan”), effective as of June 15, 2017.

BE IT FURTHER RESOLVED, that the mandatory employee contributions to the DC Plan are hereby designated as “pick up” contributions by the City in accordance with Section 414(h)(2) of the Code and shall be treated, for tax purposes, as employer contributions and as tax deferred to the employee.

BE IT FURTHER RESOLVED, that Mayor and Council hereby authorize and approve the adoption of the City of South Fulton 457(b) Deferred Compensation Plan, substantially in the form attached hereto (the “457(b) Plan”), effective as of June 15, 2017.

BE IT FURTHER RESOLVED, that the Mayor or his designee is hereby authorized, empowered and directed to take all actions and to execute and deliver all agreements, instruments, indentures, and documents as he shall deem necessary to carry out the intent of the foregoing resolutions, including, without limitation, the execution and delivery of the DC Plan and 457(b) Plan.

BE IT FURTHER RESOLVED, that the signature of the Mayor or any designee on any agreement, instrument, indenture, or document shall be conclusive evidence of his authority.

BE IT FINALLY RESOLVED, that this Resolution shall become effective when adopted, and that all resolutions and parts of resolutions in conflict with this Resolution are hereby repealed to the extent of the conflict.

The foregoing Resolution No. _____ was offered by Councilmember _____, who moved its approval. The motion was seconded by Councilmember _____, and being put to a vote, the result was as follows:

	AYE	NAY
William “Bill” Edwards, Mayor	_____	_____
Catherine Foster Rowell (Mayor Pro Tem)	_____	_____
Carmalitha Lizandra Gumbs	_____	_____
Helen Zenobia Willis	_____	_____
Gertrude Naeema Gilyard	_____	_____
Rosie Jackson	_____	_____
khalid kamau	_____	_____
Mark Baker	_____	_____

SO PASSED AND ADOPTED this _____ day of _____, 2017.

CITY OF SOUTH FULTON, GEORGIA

By: _____
William “Bill” Edwards, Mayor

ATTEST:

APPROVED AS TO FORM:

City Clerk

**CITY OF SOUTH FULTON DEFINED CONTRIBUTION PLAN
SUMMARY OF KEY TERMS**

Key Term	Description														
Type of Plan	Governmental 401(a) plan														
Eligibility	Full-time employees (including elected and appointed officials) other than those listed below are eligible to participate in the Plan: • leased employees • temporary or casual employees • employees hired on a contract basis • poll officers and election workers who are not regular employees • employees actively participating in a retirement or pension plan sponsored by the State of Georgia.														
Mandatory Employee Contributions	Mandatory pre-tax employee contributions (designated as "pick up" contributions for tax purposes) of 6% of Compensation. These contributions are automatically deducted from each paycheck.														
Employer Basic Contributions	Each payroll period, the City will make an employer basic contribution of 8% of Compensation for that period.														
Employer Matching Contributions (on 457(b) contributions)	The City will make an employer matching contribution for each payroll period equal to 50% of the first 4% of pay for the Plan Year that an employee contributed to the 457(b) Plan (i.e., a maximum contribution of 2% per year).														
Vesting Schedule of Employer Basic, Employer Match, and Transfer Contributions	<table> <tr> <th>Year of Services</th><th>Vesting Percentage</th></tr> <tr> <td>0</td><td>0%</td></tr> <tr> <td>1</td><td>20%</td></tr> <tr> <td>2</td><td>40%</td></tr> <tr> <td>3</td><td>60%</td></tr> <tr> <td>4</td><td>80%</td></tr> <tr> <td>5</td><td>100%</td></tr> </table>	Year of Services	Vesting Percentage	0	0%	1	20%	2	40%	3	60%	4	80%	5	100%
Year of Services	Vesting Percentage														
0	0%														
1	20%														
2	40%														
3	60%														
4	80%														
5	100%														
Full Vesting	Mandatory Employee Contributions and Rollover Contributions are always fully vested. If you die, become disabled or reach normal retirement age (age 65) while employed, you will become 100% fully vested in Employer Basic and Employer Match Contributions.														
Forms of Distribution	• Lump sum cash payment; • Installment payments for a period of years (payable on a monthly, quarterly, semi-annual, or annual basis), which extends no longer than the life expectancy of the Participant; or • A partial lump-sum payment of a designated amount.														
Administrative Committee	The committee appointed by City Council (or its delegate) to oversee the investment and administration of the Plan.														

**CITY OF SOUTH FULTON
DEFINED CONTRIBUTION PLAN**

Effective June 15, 2017

**CITY OF SOUTH FULTON
DEFINED CONTRIBUTION PLAN**

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ARTICLE I

PURPOSE

Effective as of June 15, 2017, the City of South Fulton (the "Employer") hereby adopts a defined contribution plan for the benefit of its employees (the "Plan"). The purpose of the Plan is to provide funds at retirement for the employees and, in the event of death, to provide funds for their beneficiaries all through an arrangement by which contributions are made to the Plan by Employees and the Employer.

This Plan is intended to be a profit sharing plan within the meaning of Treasury Regulations §1.401-1(b)(1)(ii) and is intended to meet the applicable requirements of Sections 401(a), 414(h) and 501(a) of the Internal Revenue Code of 1986, as amended (the "Code"). Except where otherwise noted, the terms of the Plan that are in effect when a Participant terminates employment, govern the accumulation and vesting of benefits during his or her period of employment.

ARTICLE II

DEFINITIONS

Where the following words and phrases appear in this Plan, they shall have the respective meanings set forth in this Article, unless the context clearly indicates to the contrary.

For purposes of the Plan, the following terms, when used with an initial capital letter, shall have the meanings set forth below unless a different meaning plainly is required by the context.

2.1 Account means, with respect to a Participant or Beneficiary, the amount of money or other property in the Trust Fund, evidenced by the last balance posted to the account established for such individual. The Administrative Committee may establish and maintain separate subaccounts for each such individual. "Account" shall refer to the aggregate of all separate subaccounts or to individual, separate subaccounts, as may be appropriate in context.

2.2 Active Participant means, for any Plan Year (or any portion thereof), any Eligible Employee who, pursuant to the terms of Article III, has been admitted to, and not removed from, active participation in the Plan since the last date his employment commenced or recommenced.

2.3 Administrative Committee means the committee which shall act on behalf of the Employer to administer the Plan as provided in Article IX. The Administrative Committee shall be the Plan administrator, as that term is defined in Code §414(g); provided, the Employer may act in lieu of the Administrative Committee as it deems appropriate or desirable.

2.4 Affiliate means the City and any entity, person or organization which is considered a member of the same controlled group of corporations [within the meaning of Code §414(b)] as the Employer; is a trade or business (whether or not incorporated) which controls, is controlled by or is under common control with [within the meaning of Code §414(c)] the Employer; is a member of an affiliated service group [as defined in Code §414(m)] which

includes the Employer; or is required to be aggregated with the Employer pursuant to regulations promulgated under Code §414(o). Solely for purposes of Code §415 and Section 5.3 of the Plan, the term "Affiliate" as defined in this Section shall be deemed to include corporations that would be Affiliates if the phrase "more than 50 percent" were substituted for the phrase "at least 80 percent" in each place the latter phrase appears in Code §1563(a)(1).

2.5 Annual Addition means the sum of the amounts described in Section 5.3(d).

2.6 Beneficiary means the person(s) designated in accordance with Section 7.4 to receive any death benefits that may be payable under the Plan upon the death of a Participant.

2.7 City means the City of South Fulton.

2.8 Code means the Internal Revenue Code of 1986, as amended, and any succeeding federal tax provisions.

2.9 Compensation means all of a Participant's wages as defined in Code §3401(a) for purposes of income tax withholding at the source (that is, income reportable on IRS Form W-2), but determined without regard to employee suggestion pay and any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code §3401(a)(2)). Compensation shall include before-tax or salary deferral contributions made under Code §§125, 132(f)(4), 402(g)(3) or 457 to the Plan or other plans, on behalf of a Participant for such Plan Year. On a plan year-by-plan year basis, the Administrative Committee may elect to use any definition of "Compensation" that satisfies Code §415(c)(3) and the regulations promulgated thereunder.

Notwithstanding the foregoing, in no event shall the annual compensation taken into account under the Plan for Plan Years (or other applicable periods) exceed \$200,000 as adjusted for cost-of-living in accordance with Code §401(a)(17)(B).

2.10 Contribution means, individually or collectively, the Mandatory Employee, Employer Basic, Employer Matching, and Rollover Contributions as permitted under the Plan.

2.11 Disabled or Disability means "disabled" or "disability" as defined under the applicable long term disability insurance policy provided by the City to its employees.

2.12 Effective Date means June 15, 2017.

2.13 Eligible Employee means any full-time Employee of the Employer. In addition, elected or appointed officials and members of the City Council shall be considered Eligible Employees. Notwithstanding the foregoing, the following individuals shall not be eligible to participate in the Plan:

(a) Any individual who is an Employee solely by means of being a "leased employee" under Code §414(n)(2).

(b) Temporary or causal Employees.

- (c) Employees hired on a contract basis.
- (d) Poll officers and election workers who are not regular Employees.
- (e) Any individual who is an active member of any retirement or pension plan sponsored by the State of Georgia.

2.14 Eligible Retirement Plan means a plan which is a defined contribution plan, the terms of which permit the acceptance of rollover distributions and which is either (a) an individual retirement account described in Code §408(a), (b) an individual retirement annuity described in Code §408(b) (other than an endowment contract), (c) a qualified trust described in Code §401(a) and exempt from taxation under Code §501(a), (d) an annuity plan described in Code §403(a), (e) an annuity contract described in Code §403(b), (f) an eligible plan under Code §457(b) which is maintained by a state, political subdivision or agency or instrumentality of a state and which agrees to separately account for amounts transferred to such plan from this Plan, or (g) to the extent permitted and in accordance with the rules applicable under Code §408A, a Roth individual retirement account described in Code §408A. This definition shall also apply in the case of a distribution to a Participant's Surviving Spouse. If any portion of an Eligible Rollover Distribution is attributable to payments or distributions from a designated Roth account (as defined in Code §402A), an Eligible Retirement Plan with respect to such portion shall include only another designated Roth account and a Roth IRA.

2.15 Eligible Rollover Distribution means any distribution to a distributee of all or any portion of the balance to his credit in a qualified trust (including any distribution to a Participant of all or any portion of his Account), except that an Eligible Rollover Distribution shall not include (a) any distribution which is one of a series of substantially equal periodic payments made not less frequently than annually, (i) for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or (ii) for a specified period of 10 years or more, (b) any distribution to the extent such distribution is required under Code §401(a)(9), and (c) the portion of any distribution that is not includable in gross income.

2.16 Employee means any individual who is employed by the Employer (including elected or appointed officials) and shall include leased employees of the Employer within the meaning of Code §414(n). Notwithstanding the foregoing, if leased employees constitute 20 percent or less of the Employer's non-highly compensated work force within the meaning of Code §414(n)(5)(C)(ii), the term "Employee" shall not include those leased employees covered by a plan described in Code §414(n)(5)(B).

2.17 Employer means the City of South Fulton, a Georgia governmental entity, and any Affiliate that affirmatively elects to adopt this Plan for the benefit of its employees and such adoption is agreed to by the City.

2.18 Employer Basic Contributions mean the contributions made by the Employer behalf of Participants under the terms of the Plan pursuant to Section 4.2.

2.19 Employer Basic Contribution Account means the separate subaccount established and maintained on behalf of a Participant, his Beneficiary to reflect his interest in the Trust Fund attributable to Employer Basic Contributions and any earnings or losses thereon.

2.20 Employer Matching Contribution means the Contributions made by the Employer that are based on the Employee's voluntary contributions to a Code §457 Plan pursuant to the terms of Section 4.3 of the Plan.

2.21 Employer Matching Contribution Account means the separate subaccount established and maintained on behalf of a Participant or his Beneficiary to reflect his interest in the Trust Fund attributable to Employer Matching Contributions.

2.22 Employment Date means the date on which the Employee first performs an Hour of Service for the Employer or Affiliates.

2.23 Entry Date means the later of the first day of the first pay period beginning after the Effective Date, or the first day of the first pay period beginning on or after Participant's date of hire.

2.24 Forfeiture means, for any Plan Year, the amount of an Account of a Former Participant which is removed from the Account during the Plan Year pursuant to Section 3.5 or Article VI.

2.25 Former Participant means a Participant whose employment with the Employer has terminated but who has a vested Account balance under the Plan which has not been paid in full and who, therefore, is continuing to participate in the allocation of earnings or losses under the Trust.

2.26 Hour of Service means each hour for which an Employee is paid, or entitled to payment, for the performance of duties for the Employer or an Affiliate.

2.27 Investment Committee means the committee which shall act on behalf of the Employer with respect to making and effecting investment decisions, as provided in Article VIII. Unless the Employer specifies otherwise, the Administrative Committee or its delegates shall serve as the Investment Committee.

2.28 Investment Fund or Funds means those funds identified and established by the Investment Committee from time to time pursuant to the terms of Sections 8.2 and 8.3.

2.29 Leave of Absence means an excused leave of absence granted to an Employee by the Employer or an Affiliate in accordance with applicable federal or state law. Among other things, Leave of Absence shall be granted to an Employee:

(a) who leaves the service of the Employer or an Affiliate, voluntarily or involuntarily, to enter the Armed Forces of the United States; provided, (i) the Employee is legally entitled to reemployment under the veteran's reemployment rights provisions as codified at 38 USC §2021, et seq., its predecessors and successors; and (ii) the Employee applies for and

reenters service with the Employer or an Affiliate within the time, in the manner and under the conditions prescribed by law; and

(b) under such other circumstances as the Administrative Committee shall determine are fair, reasonable and equitable as applied uniformly among Employees under similar circumstances.

2.30 Limitation Year means the Plan Year, which shall be the "limitation year" for purposes of Code §415 and the regulations promulgated thereunder.

2.31 Mandatory Employee Contributions means the amounts paid by the Employer to the Trust Fund on behalf of each Participant pursuant to Plan Section 3.1.

2.32 Mandatory Employee Contribution Account means the separate subaccount established and maintained on behalf of a Participant or his Beneficiary to reflect his interest in the Trust Fund attributable to Mandatory Employee Contributions.

2.33 Maternity or Paternity Leave means any period during which an Employee is absent from work as an employee of the Employer or an Affiliate (a) because of the pregnancy of such Employee; (b) because of the birth of a child of such Employee; (c) because of the placement of a child with such Employee in connection with the adoption of such child by such Employee; or (d) for purposes of such Employee caring for a child immediately after the birth or placement of such child.

2.34 Normal Retirement Age means age 65.

2.35 Normal Retirement Date. The first day of the month coincident with or next following the date a Participant attains Normal Retirement Age.

2.36 Participant means any person who has been admitted to, and has not been removed from, participation in the Plan pursuant to the provisions of Article III. "Participant" shall include Active Participants and Former Participants who have an Account under the Plan.

2.37 Period of Service means the aggregate of all service performed by the Employee for the Employer or Affiliate commencing with the Employee's Employment Date and ending with the first date a Period of Severance begins.

2.38 Period of Severance means a continuous period of time during which the Employee is not employed by the Employer. Such period begins on the date the Employee retires, quits or is discharged or if earlier, the 12-month anniversary of the date on which the Employee was first absent from service. A one year Period of Severance shall be a Period of Severance of at least 12 consecutive months. A Period of Severance shall not be deemed to have occurred during any period for which he is granted a Leave of Absence if he returns to the service of the Employer or an Affiliate within the time permitted as set forth in the Plan.

(a) Maternity or Paternity Leave. In the case of an Employee absent from work due to a Maternity or Paternity Leave, the 12-consecutive month period beginning on the first anniversary of the first date of such absence shall not constitute a Period of Severance.

(b) Family and Medical Leave Act. For purposes of determining whether or not an Employee has incurred a Period of Severance, and solely for the purpose of avoiding a Period of Severance, to the extent required under the Family and Medical Leave Act of 1993 and the regulations thereunder, an Employee shall be deemed to be performing services for the Employer or an Affiliate during any period the Employee is granted leave under such Act (i) for the birth of a child, (ii) for the placement with the Employee of a child for adoption or foster care, (iii) to care for a spouse, child or parent of the Employee with a serious health condition, or (iv) for a serious health condition that makes the Employee unable to perform the functions of the Employee's job.

2.39 Plan means the City of South Fulton Defined Contribution Plan as contained herein and all amendments thereto.

2.40 Plan Year means initially the Effective Date to December 31, 2017, and thereafter the 12-month period beginning on January 1st of each year and ending on the following December 31st.

2.41 Reemployment Date means the date on which the Employee first performs an Hour of Service following a one year Period of Severance.

2.42 Restoration Contributions mean the amounts paid to the Trust Fund by or on behalf of a rehired individual pursuant to the terms of Section 4.6.

2.43 Rollover Account means the separate subaccount established and maintained on behalf of a Participant or his Beneficiary to reflect his interest in the Trust Fund attributable to Rollover Contributions and any earnings or losses thereon.

2.44 Rollover Contributions means the amounts contributed to the Plan (and received and accepted by the Trustee) as "rollover" contributions as defined in Code §402 and Eligible Rollover Distributions. An amount shall be treated as a Rollover Contribution only to the extent that its acceptance by the Trustee is permitted under the Code (including the regulations and rulings promulgated thereunder).

2.45 Severance from Service Date means the date the Employee quits, is discharged, retires, dies or otherwise ceases to be employed by the Employer.

2.46 Spouse or Surviving Spouse means, with respect to a Participant the person who is treated as married to such Participant under the laws of the state in which the Participant resides. The determination of a Participant's Spouse or Surviving Spouse shall be made as of the earlier of the date as of which benefit payments from the Plan to such Participant are made or commence (as applicable) or the date of such Participant's death. Notwithstanding the foregoing, for purposes of Sections 6.13 and 7.2(c) and to the extent otherwise required by Federal law, Spouse or Surviving Spouse means a person who is legally married to a Participant under Federal law as determined in accordance with Revenue Ruling 2013-17 and Notice 2014-19.

2.47 Terminate or Termination of Employment means an Employee's termination of employment which may result from retirement, death, disability, voluntary or involuntary

termination, unauthorized absence, or by failure to return to active employment with the Employer by the date on which an authorized Leave of Absence expires.

2.48 Trust Fund means the total amount of cash and other property held by the Trustee (or its nominee) at any time under the Trust Agreement with the Trustee.

2.49 Trustee(s) means shall mean the corporate trustee, custodian or one or more individuals collectively appointed and acting under the Trust Agreement.

2.50 Trust(s) or Trust Agreement means the separate agreement between the City and the Trustee governing the creation of the Trust Fund.

2.51 Valuation Date means each business day.

2.52 Year of Service means a period of twelve (12) consecutive months during which an Employee completes at least one (1) Hour of Service with the Employer during each such month. Participants receive credit for any Period of Severance of less than 12 consecutive months.

ARTICLE III

PARTICIPATION AND SERVICE

3.1 Participation.

(a) Except as provided below, each Eligible Employee whose Employment Date is on or after the Effective Date, shall become a Participant in this Plan effective upon the first Entry Date thereafter and shall be required to participate in the Plan.

(b) Except for the continuing participation in earnings and losses of the Account of a Former Participant, participation in the Plan shall cease upon Termination of Employment with the Employer.

(c) Elected officials and department heads may waive in writing the right to participate in the Plan. Such waiver shall be irrevocable.

3.2 Reemployment.

If an Eligible Employee is rehired and was previously a Participant, he shall participate in the Plan as of his date of reemployment.

3.3 Transfers to Ineligible Status.

If a Participant's employment status changes such that he is no longer an Eligible Employee, his participation under the Plan shall be suspended; provided, however, that during the period of his employment in such ineligible position: (a) he shall continue to participate in allocations of earnings and losses pursuant to Section 5.2(d); (b) his Employer Account shall receive no Employer Basic Contributions; (c) he shall make no Mandatory Employee Contributions to the Plan during that time and (d) the applicable provisions of Articles V, VI and VII shall continue to apply.

3.4 Omission of Eligible Employee.

If, in any Plan Year, any Employee who should be included as a Participant in the Plan is omitted erroneously and discovery of such omission is not made until after a contribution by the Employer has been made and allocated for such year, the Employer shall make a subsequent contribution with respect to the omitted Eligible Employee in the amount which the said Employer would have contributed with respect to him had he not been omitted.

3.5 Inclusion of Ineligible Employee.

If, in any Plan Year, any person who should not have been included as a Participant in the Plan is included erroneously, and discovery of such incorrect inclusion is not made until after a contribution by the Employer has been made and allocated for such year, the Employer shall not be entitled to recover the contribution made with respect to the ineligible person. In such event, the amount contributed with respect to the ineligible person shall constitute a Forfeiture for the Plan Year in which the discovery is made.

ARTICLE IV

CONTRIBUTIONS

4.1 Mandatory Employee Contributions.

(a) Mandatory Employee Contributions. There shall be deducted from the Compensation paid by the Employer to each individual who becomes a Participant in the Plan on or after an Entry Date occurring after the Effective Date, the sum of six percent (6%) of such Compensation as a Mandatory Employee Contribution to the Plan.

(b) Employer Pick-Up Contributions. The Employer or Affiliate shall contribute to the Plan, as applicable, as of each payroll period on behalf of and to the credit of each Participant, the amount of Mandatory Employee Contributions required for participation. No Participant shall be entitled under any circumstances to receive such contributions in cash in lieu of having them contributed to the Plan by the Employer in accordance with the preceding sentence. Such contributions shall be made pursuant to Code §414(h) shall be treated as employer contributions in determining their federal income tax treatment under the Code.

The Employer may reduce the Compensation payable to a Participant in an amount not exceeding the amount of the contribution paid by it on behalf of such individual pursuant to this subsection. Such reduction in Compensation may be made, notwithstanding the fact that the Compensation provided by or pursuant to law for the individual may be reduced thereby.

Mandatory Employee Contributions made by the Employer on behalf of Plan Participants shall otherwise be treated as Employee contributions for all purposes under the Plan.

4.2 Employer Basic Contributions.

(a) Formula for Determining Employer Basic Contribution. For each pay period, the Employer shall contribute on behalf of each Participant eight percent (8%) of such Participant's Compensation paid or accrued for the pay period.

(b) Failure to Make Contribution for a Plan Year. Should the Employer, for any reason, fail to make a contribution for any pay period or should the Employer fail to make a contribution as provided herein, such deficiency shall be corrected in subsequent pay periods. Such contribution shall be paid by the Employer to the Trust and shall equal the amount of the deficiency plus interest at a reasonable rate from the date the contribution was due until the date the deficiency was corrected. All contributions by the Employer shall be made in cash or cash equivalents.

4.3 Employer Matching Contributions.

(a) For each Active Participant who is also making voluntary employee contributions under a Code §457 Plan, the Employer will make an Employer Matching Contribution of 50% of the total of such contribution made by the Participant to such Code §457 Plan for the Plan Year, limited as described below.

(b) The Employer Matching Contribution will be limited to fifty percent (50%) of the first four percent (4%) of the Participant's Compensation for the Plan Year that is contributed to the Code §457 Plan. Therefore, a maximum contribution of two percent (2%) of Compensation per year may be made on behalf of any Participant.

4.4 Timing of Contribution.

The Employer shall pay to the Trustee all Mandatory Employee Contributions, Employer Basic Contributions and Employer Matching Contributions as soon as possible following each payroll period and in no event later than the time prescribed by law.

4.5 Rollover Amount From Other Plans.

(a) All Participants are eligible to transfer an Eligible Rollover Distribution to the Plan. The procedures approved by the Administrative Committee shall provide that such a transfer may be made only if the following conditions are met:

- (1) the amount is received directly from an Eligible Retirement Plan or the transfer occurs on or before the 60th day following the Eligible Employee's receipt of the distribution from the Eligible Retirement Plan; and
- (2) the amount transferred is equal to any portion of the distribution the Eligible Employee received from the Eligible Retirement Plan, subject to the maximum rollover provisions of Code §402(c)(2).

(b) Notwithstanding the foregoing, if an Eligible Employee had deposited an Eligible Rollover Distribution previously received from an Eligible Retirement Plan into an individual retirement account ("IRA"), as defined in Code §408, and that IRA contains no other money from any other source, he may transfer the amount of such distribution, plus earnings thereon from the IRA to this Plan; provided, such rollover amount is deposited with the Trustee on or before the 60th day following receipt thereof from the IRA.

(c) The Administrative Committee shall develop such procedures, and may require such information from an Eligible Employee desiring to make such a transfer, as it deems necessary or desirable to determine that the proposed transfer will meet the requirements of this Section. Upon approval by the Administrative Committee, the amount transferred shall be deposited in the Plan and shall be credited to a Rollover Account. Such Rollover Accounts shall be one hundred percent (100%) vested and shall share in earnings and losses (net appreciation or net depreciation) in accordance with Section 5.2(d). Upon termination of employment, the total amount of the Employee's Rollover Account shall be distributed in accordance with Article VI.

4.6 Restoration Contributions.

(a) Restoration Upon Buy-Back. If a Participant who is not 100 percent vested in his Account has received a distribution of the entire vested portion of his Account [such that he forfeited the nonvested portion of his Account in accordance with the terms of Section 6.3], and such Participant subsequently is rehired as an Eligible Employee prior to the occurrence

of 5 consecutive one year Periods of Severance, that individual may repay the full amount of the distribution to the Trustee (unadjusted for gains or losses), prior to the earlier of (i) 5 years after the first date on which he is rehired or (ii) the close of the first period of 5 consecutive one year Periods of Severance commencing after the distribution. Upon such repayment, his Account will be credited with (i) all of the benefits (unadjusted for gains or losses) which were forfeited, and (ii) the amount of the repayment.

(b) Restoration of Other Forfeitures. If a Participant has forfeited his nonvested Account and such Participant subsequently is rehired as an Eligible Employee prior to the occurrence of 5 consecutive one year Periods of Severance, his Account shall be credited with all of the benefits (unadjusted for gains or losses) which were forfeited.

(c) Restoration Contribution. The assets necessary to fund the Account of the rehired individual (in excess of the amount of the repayment, if any) shall be provided no later than as of the end of the Plan Year following the Plan Year in which repayment occurs (if subsection (a) hereof applies) or in which the individual is rehired (if subsection (b) hereof applies), and shall be provided in the discretion of the Administrative Committee from (i) income or gain to the Trust Fund, (ii) Forfeitures arising from the Accounts of Participants employed or formerly employed by the Employer, or (iii) contributions by the Employer.

(d) Notice of Buy-Back Rights. It shall be the duty of the Administrative Committee to give timely notice to any rehired individual who is eligible to make a repayment, of his right to make such repayment in accordance with this Section by the time required in subsection (a) hereof, and of the consequences of not making such repayment; namely that the nonvested portion of the benefits accrued under the Plan during his previous employment will not be restored by the Plan, will remain forfeited, and will not become vested even though he may perform additional Years of Service.

4.7 Reemployed Veterans.

(a) To the extent and in the manner required under the Uniformed Services Employment and Reemployment Rights Act of 1994, a Participant who is absent from employment for service in the uniformed services and returns to employment with the Employer or Affiliate shall be permitted to make Mandatory Employee Contributions to the Plan with respect to such period of uniformed service, and the Employer or Affiliate shall make any Employer Basic Contributions required to be made under such Act on behalf of such Employee for the period of absence, based on the contribution rates in effect for the Plan Year(s) in which the Employee was in qualified military service. The Employee shall designate the plan year(s) to which Mandatory Employee Contributions made-up by such Employee relate. Such contributions may be made during the period beginning on the date of the reemployment of such Employee, and must be made by the end of the period that is the lesser of (i) the product of 3 and the period of qualified military service, or (ii) five years following the date of such reemployment. In the event any Mandatory Employee Contributions are made pursuant to this Section, the Employee shall not be entitled to retroactive earnings on such contributions.

(b) Any Employee who returns to employment with the Employer following a period of qualified military service shall, for purposes of this Section, be treated as receiving

Compensation equal to the Compensation the Employee would have received during such period if the Employee were not in qualified military service, determined based on the rate of pay the Employee would have received but for the absence; provided, however if the Compensation the Employee would have received during such period is not reasonably certain, Compensation for this purpose shall equal the Employee's average Compensation during the 12 months immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

(c) Any contributions made pursuant to subsection (a) above are not subject to the limits under Code §415 in the Plan Year(s) in which made; rather, such contributions are subject to such limits in the Plan Year(s) to which the contributions relate as determined according to the Employee's election under subsection (a).

4.8 Form of Contributions.

All contributions shall be paid to the Trustee in the form of cash or cash equivalents.

4.9 Circumstances Permitting Return of Employer Basic Contributions.

A contribution to the Plan and Trust by the Employer or an Affiliate that was made by a mistake of fact shall be returned to the Employer. Any such contribution shall be returned within one year after the mistaken payment of the contribution. The amount of the contribution that may be returned to the Employer is the excess of (i) the amount contributed over (ii) the amount that would have been contributed had there not occurred a mistake of fact. Earnings attributable to the excess contribution may not be returned to the Employer, but losses attributable thereto must reduce the amount to be so returned.

ARTICLE V

ALLOCATIONS TO PARTICIPANTS' ACCOUNTS

5.1 Individual Accounts.

To the extent appropriate, the Administrative Committee shall establish and maintain, on behalf of each Participant or Beneficiary, an Account which shall be divided into segregated subaccounts. The subaccounts shall include Mandatory Employee Contribution, the Employer Basic Contribution, Employer Matching Contribution, Rollover Account, and such other subaccounts as the Administrative Committee shall deem appropriate or helpful. Each Account shall be credited with Contributions or transfers allocated to such Account and generally shall be credited with earnings and losses on investments derived from the assets of such Accounts. Each Account of a Participant or Beneficiary shall be maintained until the value thereof has been distributed to or on behalf of such person.

5.2 Allocations.

The Accounts of Participants, Former Participants and Beneficiaries shall be adjusted, subject to the provisions of Sections 5.3, 5.4 and 5.5, in accordance with the following:

(a) Mandatory Employee Contributions. As of each payroll period for which the Mandatory Employee Contributions are made, such Mandatory Employee Contributions shall be allocated and credited directly to the such Participant's Mandatory Employee Contribution Account.

(b) Employer Basic and Employer Matching Contributions. As of each payroll period, the Employer shall provide the Administrative Committee with all information required to make a proper allocation of the Employer Basic Contribution and Employer Matching Contributions (if any) for that period. As soon as practicable after the date of receipt by the Administrative Committee of such information, the Administrative Committee shall allocate the Employer Basic Contribution and Employer Matching Contributions (if any) to each Participant's Employer Basic Contribution and Employer Matching Contributions (if any) Accounts in accordance with Sections 4.2 and 4.3.

(c) Restoration Contributions. As of the date on which a Restoration Contribution is received from an Active Participant, such Contribution (together with the nonvested benefits restored by the Plan as a result of such Contribution) shall be credited to the appropriate Mandatory Employee, Employer Matching, Employer Basic, and Rollover Accounts of the Active Participant, in the amounts held by such Accounts immediately prior to the earlier distribution to such Participant.

(d) Income. As of each Valuation Date, any earnings or losses (net appreciation or net depreciation) shall be allocated to each Participant's Account. Each segregated Account maintained on behalf of a Participant shall be credited or charged with its separate earnings and losses.

5.3 Code §415 Limitations on Maximum Contributions.

(a) General Limit on Annual Additions. In no event shall the Annual Addition to a Participant's Account for any Limitation Year, under the Plan and any other Defined Contribution Plan (as defined below) maintained by the Employer, exceed the lesser of (1) and (2) below:

- (1) 100% of the Participant's Compensation or
- (2) \$54,000 (in 2017) adjusted in subsequent years as determined in accordance with regulations prescribed by the Secretary of the Treasury or his delegate, pursuant to the provisions of Code §415(d).

The Compensation limit referred to in (1) above shall not apply to any contribution for medical benefits after separation from service (within the meaning of Code §401(h) or 419(f)(2)) which is otherwise treated as an Annual Addition.

For purposes of applying the Code §415 limitations, Compensation shall include compensation paid to the Participant by the later of 2-1/2 months after the Participant's Severance from Service Date with the Employer or the end of the Limitation Year that includes the Participant's Severance from Service Date if such compensation is regular compensation for services during or outside the Participant's regular working hours, commissions, bonuses, or other similar payments and the compensation would have been paid to the Participant prior to a severance from employment if the Participant had continued in employment with the Employer. Compensation shall also include compensation paid to the Participant by the later of 2-1/2 months after the Participant's Severance from Service Date with the Employer or the end of the Limitation Year that includes the Participant's Severance from Service Date if such compensation is for vacation or other leave and the Participant would have been able to use the leave if the Participant had continued in employment with the Employer. A Participant's Compensation for a Limitation Year shall not include Compensation in excess of the limitation under Code §401(a)(17) that is in effect for the calendar year in which the Limitation Year begins. In accordance with Code §414(u)(12), Compensation shall include any differential wage payment (within the meaning of Code §3401(h)(2)) made by an Employer to an individual who does not currently perform services for the Employer by reason of qualified military service (within the meaning of Code §414(u)(5)) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer.

(b) Correction of Excess Annual Additions. If, as a result of either the allocation of Forfeitures to an Account, a reasonable error in estimating a Participant's Compensation or such other occurrences as the Internal Revenue Service permits, the Annual Addition made on behalf of a Participant exceeds the limitations set forth in this Section, the excess amount will be corrected in any method permitted by the Internal Revenue Service's Employee Plans Compliance Resolution System (EPCRS) or any successor guidance.

(c) Special Definitions Applicable to Code §415 Limitations.

- (1) Annual Addition. For purposes of this Section, the term "Annual Addition" for any Participant means the sum for any Limitation Year of:
 - (A) contributions made by the Employer or an Affiliate on behalf of the Participant under all Defined Contribution Plans;
 - (B) contributions made by the Participant under all Defined Contribution Plans of the Employer or Affiliate [excluding rollover contributions as defined in Code §§402(a)(5), 403(a)(4), 403(b)(8), 408(d)(3) and 414(h) and contributions of previously distributed benefits which result in such a Plan's restoration of previously forfeited benefits pursuant to Treasury Regulations §1.415(c)-1(b)(2)(ii)]; and
 - (C) forfeitures allocated to the Participant under all Defined Contribution Plans of the Employer or an Affiliate.
- (2) Defined Contribution Plan. The term "Defined Contribution Plan" means any qualified retirement plan maintained by an Affiliate which provides for an individual account for each Participant and for benefits based solely on the amount contributed to the Participant's account and any income, expenses, gains, losses and forfeitures of accounts of other Participants, which may be allocated to such Participant's account.

(d) Compliance with Code § 415. The limitations in this Section are intended to comply with the provisions of Code §415 so that the maximum benefits permitted under plans of the Affiliates shall be exactly equal to the maximum amounts allowed under Code §415 and the final regulations promulgated thereunder. If there is any discrepancy between the provisions of this Section and the provisions of Code §415 and the regulations promulgated thereunder, such discrepancy shall be resolved in such a way as to give full effect to the provisions of the Code.

5.4 ACP or Average Contribution Percentage.

In accordance with Treasury Regulations §1.401(m)-1(b)(2), the Plan automatically satisfies the requirements of Code §401(m).

5.5 Construction of Limitations and Requirements.

The descriptions of the limitations and requirements set forth in this Article are intended to serve as statements of the minimum legal requirements necessary for the Plan to remain qualified under the applicable terms of the Code. The Employer does not desire or intend, and

the terms of this Article shall not be construed, to impose any more restrictions on the operation of the Plan than required by law. Therefore, the terms of this Article and any related terms and definitions in the Plan shall be interpreted and operated in a manner which imposes the least restrictions on the Plan. For example, if use of a more liberal definition of "Compensation" or a more liberal multiple use test is permissible at any time under the law, then the more liberal provisions may be applied as if such provisions were included in the Plan.

5.6 Notice to Participants of Account Balances.

At least once each calendar quarter, the Administrative Committee shall cause a written statement of a Participant's Account balance to be distributed to the Participant.

5.7 Good Faith Valuation Binding.

In determining the value of the Trust Fund and the Accounts, the Trustee and the Administrative Committee shall exercise their best judgment, and all such determinations of value (in the absence of bad faith) shall be binding upon all Participants and Beneficiaries.

5.8 Errors and Omissions in Accounts.

If an error or omission is discovered in the Account of a Participant or Beneficiary, the Administrative Committee shall cause appropriate, equitable adjustments to be made as soon as practical.

ARTICLE VI

RETIREMENT/TERMINATION BENEFITS

6.1 Retirement.

If a Participant's employment with the Employer is terminated at or after his Normal Retirement Date, he is entitled to receive one hundred percent (100%) of his Account credited as of his Normal Retirement Date. However, a Participant may postpone the termination of his employment with the Employer to a later date, in which event the participation of such Participant in the Plan shall continue until his actual retirement date. Upon a Participant's actual retirement date, or as soon thereafter as is practicable, the Trustee shall distribute all amounts credited to such Participant's Account in accordance with this Article VI.

6.2 Termination for Other Reasons.

(a) If a Participant's employment with the Employer is terminated before his Normal Retirement Date for any reason other than death, he is entitled to receive the vested amount of his Account as of the date that the Administrative Committee processes his distribution request.

(b) All Participants shall at all times be fully vested in their Mandatory Employee Contributions and Rollover Accounts. Except as provided below, the Employer Matching Contribution Accounts and Employer Basic Contribution Accounts of a Participant shall vest in accordance with the following vesting schedule, based on the total of the Participant's Years of Service:

<u>Years of Service</u> <u>Completed by Participant</u>	<u>Vested Percentage</u>
Less than 1	0%
1 Year, but less than 2	20%
2 Years, but less than 3	40%
3 Years, but less than 4	60%
4 Years, but less than 5	80%
5 Years or more	100%

Notwithstanding the rules above, a Participant's Employer Matching Contribution and Employer Basic Contribution Accounts shall become 100 percent vested and nonforfeitable upon the occurrence of any of the following events:

- (1) The Participant's attainment of Normal Retirement Age while still employed as an Employee of the Employer or Affiliate;
- (2) The Participant's death while still employed as an Employee of the Employer or Affiliate;

- (3) The Participant's becoming Disabled while still employed as an Employee of the Employer or Affiliate; or
- (4) The Participant has an involuntary termination of employment with the Employer due to a reduction in force.

(c) Timing and Application of Forfeitures; Vesting After Restoration Contributions.

If a Participant who is not yet 100% vested in his Employer Matching Contribution Account or Employer Basic Contribution Account, Terminates Employment as an Employee of the Employer and all Affiliates and receives an immediate distribution of the vested amounts in his Employer Matching Contribution Account, Employer Basic Contribution Account or Transfer Account, the nonvested amounts held in such Accounts shall become a Forfeiture as of the last day of the Plan Year in which the distribution is made. If a Participant has no vested interest in his Account at the time his employment Terminates, he shall be deemed to have received a cash-out distribution at the time his employment Terminates, and the forfeiture provisions of this Section shall apply. Forfeitures shall be used first to reduce the Employer's obligation to make Restoration Contributions, and second to reduce the Employer's obligation to make Employer Basic Contributions and third to reduce Employer Matching Contributions. Forfeitures shall be used to pay expenses in the administration of the Plan (to the extent not paid out of the Trust), to reduce Restoration Contributions, or to reduce future Employer Basic Contributions or Employer Matching Contributions. If such a Participant resumes employment with the Employer or an Affiliate after he has incurred 5 or more consecutive one-year Periods of Severance, his nonvested amount shall not be restored. If such a Participant resumes employment with an Affiliate before he has incurred 5 consecutive one-year Periods of Severance, the nonvested amount shall be restored as follows:

(a) Reemployment and Vesting After Cash-Out Distribution. If by the date of reemployment such a Participant has received a distribution of the entire vested interest in his Account not later than the close of the second Plan Year following the Plan Year in which his Termination of Employment with all Affiliates occurred, the provisions of Section 4.7(a) shall apply (requiring repayment by such a Participant as a condition for restoration of the nonvested amount). Upon such repayment, the rehired individual immediately shall be credited on the vesting schedule set forth in Section 6.2(b) with all previously earned Years of Vesting Service.

(b) Reemployment and Vesting Before Any Distribution. If by the date of reemployment such a Participant has not received any distributions of his vested interest in his Account, or if he has no vested interest in his Account, the nonvested amount of his Accounts shall be restored pursuant to the terms of Section 4.6(b) and shall be credited to those Accounts. The Participant's Account then shall be subject to all of the vesting rules in this Article as if no Forfeitures had occurred.

(c) Reemployment and Vesting After Other Distribution or Prior to Distribution. If by the date of reemployment such a Participant (i) has received a distribution of a portion but not all of the vested portion of his Account, or (ii) has received a distribution of the entire vested interest in his Account later than the close of the second Plan Year following the

Plan Year in which Termination of Employment with all Affiliates occurred, then the nonvested amount of his Account shall be restored pursuant to the terms of Section 4.6(b) and the total amount of his undistributed Accounts (including the restored amount) shall be credited to his Accounts. The vested interest of such Participant in such Accounts prior to the date such Participant (i) again terminates his employment with all Affiliates, (ii) incurs 5 consecutive one-year Periods of Severance (such that the nonvested portion of his Accounts are forfeited), or (iii) becomes 100% vested pursuant to the terms of Section 6.2 hereof (whichever is earliest), shall be determined pursuant to the following formula:

$$X = P (AB + [R \times D]) - (R \times D)$$

where X is the vested interest at the relevant time (that is, the time at which the vested percentage in such Accounts cannot increase); P is the vested percentage at the relevant time; AB is the balance of his Accounts at the relevant time; D is the amount of the distribution; and R is the ratio of his Account balance at the relevant time to such Account balance immediately after the distribution.

6.3 Benefit Payments.

(a) Application for Benefits. Before payment of any benefit hereunder, the Administrative Committee shall require that the Participant or Beneficiary, as the case may be, make an application for such benefit and submit the application to the Administrative Committee or its delegee in such form and manner as it shall uniformly prescribe.

(b) Effect of Payment. Any payment made in accordance with the provisions of the Plan to a Participant or Beneficiary, or to his legal representative, shall, to the extent of the method of computation as well as the amount thereof, constitute full satisfaction of claims hereunder against the Trustee, the Administrative Committee and the Employer, any of whom may require such Participant, Beneficiary or legal representative, as a condition precedent to such payment, to execute a receipt and release therefor.

6.4 Normal Payment Forms.

Except as otherwise provided herein, a benefit described in this Article VI shall be made in accordance with one of the following payment options as selected by the Participant on the Application for Benefits, as described in Section 6.4(a):

- (a) A single lump-sum payment;
- (b) Installment payments for a period of years (payable on a monthly, quarterly, semi-annual, or annual basis), which extends no longer than the life expectancy of the Participant as permitted under Code § 401(a)(9) and applicable Treasury Regulations issued thereunder; or
- (c) A partial lump-sum payment of a designated amount.

6.5 Assets Distributed.

Any distribution to a Participant or his Beneficiary shall be made in the form of cash. Cash distributions shall be paid directly from the Trust Fund.

6.6 Time of Payment.

(a) Except as provided below, benefits payable to a Participant under this Section shall be distributed, or shall commence to be distributed, as soon as administratively feasible after the date the benefits are requested by the Participant following such Participant's Termination of Employment for any reason other than death.

(b) Notwithstanding the foregoing, in the event that the value of the Participant's Account exceeds \$5,000 (ignoring any amount held in his Rollover Contribution Account) at the time of distribution, benefits shall not be distributed to such Participant at the time set forth in subsection (a) hereof without the Participant's written election, on a form provided by the Administrative Committee (or its designee). In order for such Participant's election to be valid, his employment must actually Terminate, his election must be filed with the Administrative Committee within the 90-day period beginning on the date of termination, and the Administrative Committee (or its designee) (no later than 30 days and no earlier than 90 days before his distribution) must have presented him with a notice informing him of his right to defer his distribution. If the Participant does not consent in writing to the distribution of his benefit at such time, his benefit shall be distributed as soon as practicable after he files an election with the Administrative Committee requesting such payment. If a Participant fails to file an election specifying the time of payment, his benefit shall be distributed as soon as administratively feasible after the end of the Plan Year in which he attains Normal Retirement Age, but in no event later than the 60th day after the end of such Plan Year. In the event of a mandatory distribution of greater than \$1,000, if the Participant does not elect to have such distribution paid directly to an Eligible Retirement Plan specified by the Participant in a direct rollover or to receive the distribution directly, then the Administrative Committee will pay the distribution in a direct rollover to an individual retirement plan designated by the Administrative Committee.

(c) Notwithstanding anything in the Plan to the contrary, in no event shall payment of a Participant's benefit be made later than 60 days after the end of the Plan Year which includes the latest of (i) the date on which the Participant attained Normal Retirement Age, (ii) the date which is the 10th anniversary of the date he commenced participation in the Plan, or (iii) the date he actually Terminates Employment as an Employee of the Employer and all Affiliates; provided, if the amount of the payment cannot be ascertained by the date as of which payments are scheduled to be made hereunder, payment shall be made no later than 60 days after the earliest date on which such payment can be ascertained under the Plan; and, provided further, the Participant's benefit payments shall be made no later than the later of April 1 following the calendar year (i) in which the Participant attains age 70½, or (ii) in which the Participant Terminates. All distributions will be made in accordance with Code §401(a)(9), the regulations promulgated under Code §401(a)(9) and any other provisions reflecting the requirements of Code §401(a)(9) and prescribed by the Internal Revenue Service; and the terms of the Plan reflecting the requirements of Code §401(a)(9) override the distribution options (if any) in the Plan which are inconsistent with those requirements.

(d) In-service Distribution After Age Seventy. Notwithstanding anything in the Plan to the contrary, any Participant who is age seventy (70) or older while continuing to be actively employed by the Employer, may request a distribution of all or part of his Account under the Plan at any time. Such distribution shall be made as soon as administratively feasible after the request is made.

6.7 Nonalienation of Benefits.

Except with respect to federal income tax withholding, benefits payable under this Plan shall not be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, garnishment, execution, or levy of any kind, either voluntary or involuntary, prior to actually being received by the person entitled to the benefit under the terms of the Plan; and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge or otherwise dispose of any right to benefits payable hereunder, shall be void. Notwithstanding the foregoing, this Section shall not apply to a "qualified domestic relations order" as defined in Code §414(p), and benefits may be paid pursuant to the provisions of such order. The Administrator shall establish a procedure to determine the qualified status of domestic relations orders and to administer distributions under such qualified orders.

6.8 Forfeiture of Benefits for Public Employment Related Crimes, Other Crimes.

Notwithstanding any other provision to the contrary, a Participant's Employer Basic Contribution and Employer Matching Contribution Accounts under the Plan otherwise payable under the Plan shall be reduced or forfeited upon final conviction for a public employment-related crime or final conviction for a drug-related crime, in accordance with and subject to the applicable provisions of O.C.G.A. §47-1-20 through §47-1-24. The terms of O.C.G.A. §47-1-20 et seq. are incorporated herein by reference, including any future amendments thereto.

Survivor benefits or refunds otherwise payable to a person upon the death of a Participant or Beneficiary shall be forfeited if the person commits or conspires to commit murder or involuntary manslaughter against a Participant or Beneficiary, in accordance with and subject to the applicable provisions of O.C.G.A. §47-1-24. The terms of O.C.G.A. §47-1-24 are incorporated herein by reference, including any future amendments thereto.

In the event the City shall receive, prior to payment of a Participant's benefit under the Plan, information providing a reasonable basis for belief that the Participant has violated the terms of this Section 6.9 the City may freeze the distribution of benefits to the Participant pending the determination whether such violation has occurred.

6.9 Unclaimed Benefits.

In the event a Participant becomes entitled to benefits under the Plan other than death benefits and the Administrative Committee is unable to locate such Participant (after sending a letter, return receipt requested, to the Participant's last known address, and after such further diligent efforts as the Administrative Committee in its sole discretion deems appropriate) within one year from the date upon which he becomes so entitled, the Administrative Committee shall direct that such benefits be paid to the person(s) who have been designated as the Participant's Beneficiary or, if none, who have been designated as the Beneficiary by operation of the Plan;

and, provided further, if the distribution is payable upon termination of the Plan, the Administrative Committee shall not be required to wait until the end of such 1-year period. If neither the Participant nor his Beneficiary can be located and all of them fail to claim such benefits by the end of the fifth Plan Year following the Plan year in which such Participant becomes entitled to such benefits, then the full Account of the Participant shall be deemed abandoned and treated as a Forfeiture; provided, in the event such Participant or Beneficiary is located or makes a claim subsequent to the allocation of the abandoned Account but prior to the expiration of the time within which any such person's claim to the Account would expire under appropriate state law, then the amount of the abandoned Account (unadjusted for any investment gains or losses from the time of abandonment) shall be restored (from abandoned Accounts, Trust earnings or Contributions made by the Employer) to such Participant or Beneficiary, as appropriate; and, provided further, the Administrative Committee, in its sole discretion, may delay the deemed date of abandonment of any such Account for a period longer than the prescribed five Plan Years if it believes that it is in the best interest of the Plan to do so.

6.10 Maintenance of Account.

Upon the occurrence of circumstances which entitle a Participant or his Beneficiary to benefit payments under the Plan, the amount from which benefits are payable to or with respect to him, computed in accordance with the provisions of the Plan, may be retained in the Trust Fund as such Participant's Account. Any such Account shall benefit proportionately from any earnings of the Trust Fund and any appreciation in the value of its assets and shall suffer the detriment of any losses or depreciation in the value of the Trust assets. The Account balance shall be distributed to the Participant or his Beneficiary at such time and in such manner as provided in the Plan.

6.11 Claims.

(a) Procedure. Claims for benefits under the Plan shall be approved by the Administrative Committee or its designee.

(b) Review Procedure. Any Participant or Beneficiary who has been denied a benefit, or his duly authorized representative, shall be entitled, upon request to the Administrative Committee, to appeal the denial of his claim. To do so, the claimant must obtain a form from the Administrative Committee on which to request further consideration of his position. The claimant, or his duly authorized representative, may review pertinent documents related to the Plan and in the Administrative Committee's possession in order to prepare the appeal. The form containing the request for review, together with a written statement of the claimant's position, must be filed with the Administrative Committee no later than 60 days after receipt of the written notification of denial of a claim. The Administrative Committee's decision shall be made within 120 days following the filing of the request for review and shall be communicated in writing to the claimant. If unfavorable, the notice of decision shall explain the reason or reasons for denial and indicate the provisions of the Plan or other documents used to arrive at the decision.

6.12 Certain Rollover Distributions.

Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the Employer, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the distributee in a direct rollover. For purposes of this section, the following definitions shall apply.

(a) Distributee. A distributee includes a Participant or a Participant's Surviving Spouse. A non-spouse Beneficiary of a deceased Participant who is either an individual or an irrevocable trust where the beneficiaries of such trust are identifiable and the trustee provides the Administrative Committee with a final list of trust beneficiaries or a copy of the trust document by October 31 of the year following the Participant's death, shall be a Distributee with regard to the interest of the deceased Participant, but only if the Eligible Rollover Distribution is transferred in a direct trustee-to-trustee transfer to an Eligible Retirement Plan which is an individual retirement account described in Code §408(a) or an individual retirement annuity described in Code §408(b) (other than an endowment contract).

(b) Direct Rollover. A direct rollover is a payment by the Plan to the Eligible Retirement Plan specified by the distributee.

ARTICLE VII

DEATH BENEFITS

7.1 Death.

If the termination of employment of a Participant is caused by his death, or if a Former Participant dies before he receives a distribution of his Account, his death benefit shall be equal to one hundred percent (100%) of his Account credited as of the Valuation Date coincident with or next following his date of death and the Beneficiary is entitled to receive the entire amount in his Account to be paid in one lump sum payment. The Participant's Beneficiary shall be the person(s) designated in accordance with Section 7.4 of the Plan to receive any death benefits that may be payable under the Plan. The Administrative Committee may require such proper proof of death and such evidence of the right of any person to receive payment of the value of the Account of a deceased Participant or a deceased Former Participant as the Administrative Committee may deem desirable. The Administrative Committee's determination of death and of the right of any person to receive payment shall be conclusive.

Payment of benefits due under this Section shall be made in accordance with the provisions of this Article VII.

7.2 Payment of Survivor Benefits.

(a) Payments to Spouse. Except as provided in Section 6.10, if the Participant's Spouse is his Beneficiary and is eligible to receive a survivor benefit under Section 7.1, payment of such benefit shall be made as soon as practical following the later of (i) the date on which the Participant would have attained his Normal Retirement Age (if he had survived) or (ii) the Participant's date of death; provided, if the Participant dies before his Normal Retirement Age, his Spouse instead may elect (on a form provided for this purpose by the Administrative Committee) for the payment of his survivor benefit to be paid as of the first day of any calendar month following the Participant's date of death.

(b) Payments to a Non-Spouse Beneficiary. If a Beneficiary who is not the Participant's Spouse is eligible to receive a survivor benefit under Section 7.1, payment of such benefit shall be made as soon as practical following the Participant's date of death.

(c) Minimum Benefit Rules. All distributions will be made in accordance with Code §401(a)(9), the regulations promulgated under Code §401(a)(9), including Treasury Regulation §1.401(a)(9)-2 and any other provisions reflecting the requirements of Code §401(a)(9) and prescribed by the Internal Revenue Service; and the terms of the Plan reflecting the requirements of Code §401(a)(9) override the distribution options (if any) in the Plan which are inconsistent with those requirements.

7.3 Cash-Out Payment of Survivor Benefits.

If the Participant's vested Account balance is \$5,000 or less on the Participant's date of death, the full amount of such vested Account balance automatically shall be paid to his

Beneficiary in one single-sum, cash-out distribution as soon as practicable after the Participant's date of death.

7.4 Beneficiary Designation.

(a) General. In accordance with the terms of this Section 7.4, Participants shall designate and from time to time may redesignate their Beneficiary or Beneficiaries in such form and manner as the Administrative Committee may determine. If no Beneficiary designation is made by the Participant, the Beneficiary shall be his Surviving Spouse.

(b) No Designation or Designee Dead or Missing. In the event that:

- (1) a Participant dies without designating a Beneficiary;
- (2) the Beneficiary designated by a Participant is not surviving when a payment is to be made to such person under the Plan, and no contingent Beneficiary has been designated; or
- (3) the Beneficiary designated by a Participant cannot be located by the Administrative Committee within one year after the date benefits are to commence to such person;

then, in any of such events, the Beneficiary of such Participant with respect to any benefits that remain payable under the Plan shall be the Participant's Surviving Spouse, if any, and if not, then the estate of the Participant.

7.5 Distribution for Minor Beneficiary.

In the event a distribution is to be made to a minor, then the Administrative Committee may, in the Administrative Committee's sole discretion, direct that such distribution be paid to the legal guardian, or if none, to a parent of such Beneficiary or a responsible adult with whom the Beneficiary maintains his residence, or to the custodian for such Beneficiary under the Uniform Gift to Minors Act or similar statute, if such is permitted by the laws of the state in which said Beneficiary resides. Such a payment to the legal guardian or parent of a minor Beneficiary shall fully discharge the Trustee, Employer and Plan from further liability on account thereof.

7.6 Death Benefits under USERRA.

In the case of a Participant who dies while performing "qualified military service" (as defined in Code §414(u)(5)), the survivors of the Participant are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan, if any, had the Participant resumed and then terminated employment on account of death.

ARTICLE VIII

TRUST FUND

8.1 Establishment of Trust Fund.

All Contributions are to be paid over to the Trustee to be held in the Trust Fund and invested in accordance with the terms of the Plan and the separate Trust Agreement which is incorporated herein and made a part hereof.

8.2 Investment Funds.

(a) Named Investment Funds. In accordance with instructions from the Investment Committee and the terms of the Plan, the Trustee shall establish Investment Funds for the investment of Contributions and Accounts. Such Investment Funds may be established, modified or eliminated from time to time without necessity of amendment to the Plan and shall have the investment objectives prescribed by the Investment Committee.

(b) Reinvestment of Cash Earnings. Any investment earnings received in the form of cash with respect to any Investment Fund (in excess of the amounts necessary to pay Plan or Trust expenses) shall be reinvested in such Investment Fund.

8.3 Participant Direction of Investments.

Each Participant or Beneficiary generally may direct the manner in which his Accounts shall be invested in and among the Investment Funds; provided, such investment directions shall be made in accordance with the following terms:

(a) Investment of Account. As of each day, Contributions, plus earnings (or losses) thereon, will be transferred to the Investment Funds in the proportion designated by such Participant pursuant to his most recent election, as described below. If the Participant does not make an investment election, his contributions shall be allocated to the investment fund determined by the Investment Committee as the "default" fund.

In addition, effective as of each day following his Entry Date into the Plan, each Participant (or Beneficiary) may elect, the percentage of his Account that will be invested in each Investment Fund. Each such election shall remain in effect until changed by such Participant or Beneficiary. In the event an individual fails to make an election for his Accounts pursuant to the terms of this subsection or if an investment election is incomplete or insufficient in some manner, the Accounts will continue to be invested in the same manner provided under the terms of the most recent election affecting such Accounts.

(b) Conditions Applicable to Elections. Allocations of investments in the various Investment Funds, as described in subsection (a) hereof, shall be made in whole percentages as directed by the Participant or Beneficiary. The Administrative and Investment Committees shall have complete discretion to adopt and revise procedures to be followed in making such investment elections. Such procedures may include, but are not limited to, the format of the election forms, use of interactive telephone system, the deadline for filing elections

and the effective date of such elections; provided, elections must be permitted at least once every three months. Any procedures adopted by the Administrative and Investment Committees that are inconsistent with the deadlines specified in this Section shall supersede such provisions of this Section without the necessity of a Plan amendment.

8.4 Expenses.

The Employer shall pay all expenses in the administration of the Plan to the extent not paid out of the Trust.

8.5 Voting and Tender Offer Rights with Respect to Investment Funds.

Only if, to the extent and in the manner, permitted by the Trust and/or any documents establishing or controlling any of the Investment Funds, shall Participants and Beneficiaries be given the opportunity to vote and tender their interests in each such Investment Funds. Otherwise, such interests shall be voted and/or tendered by the Investment Manager or other fiduciary that controls such Investment Fund, as may be provided in the controlling documents.

8.6 Appointment of Investment Manager.

(a) Investment Advisor. The Investment Committee may appoint any one or more individuals or entities to serve as an Investment Advisor to the Committee. Such Investment Advisor would aid the Investment Committee in the selection of Investment Funds.

(b) Investment Manager. The Investment Committee may appoint any one or more individuals or entities to serve as the Investment Manager or Managers of the entire Trust or of all or any designated portion of a particular Investment Fund or Investment Funds. The Investment Manager shall certify that it is qualified to act as an "investment manager" within the meaning of §3(38) of ERISA and shall acknowledge in writing its fiduciary status with respect to the assets placed under its control. The appointment of the Investment Manager shall be effective upon the Trustee's receipt of a copy of an appropriate Investment Committee resolution (or such later effective date as may be contained therein), and the appointment shall continue in effect until receipt by the Trustee of a copy of an Investment Committee resolution removing or accepting the resignation of the Investment Manager (or such later effective date as may be specified therein). If an Investment Manager is appointed, the Investment Manager shall have the power to manage, acquire and dispose of any and all assets of the Trust Fund, as the case may be, which have been placed under its control, except to the extent that such power is reserved to the Trustee by the Controlling Company. If an Investment Manager is appointed, the Trustee shall be relieved of any and all liability for the acts or omissions of the Investment Manager, and the Trustee shall not be under any obligation to invest or otherwise manage any assets which are subject to the management of the Investment Manager.

8.7 Purchase of Life Insurance.

Life insurance contracts shall not be purchased.

ARTICLE IX

ADMINISTRATION

9.1 Administrative Committee; Appointment and Term of Office.

(a) The Administrative Committee shall consist of not less than three members who shall be appointed by and serve at the pleasure of the City Council (or its delegate).

(b) The City Council (or its delegate) shall have the right to remove any member of the Administrative Committee at any time. A member who is also an Employee of the Employer or an Affiliate, shall be deemed to have been removed as of his termination of employment with the Employer and all Affiliates. If a vacancy in the Administrative Committee should occur, a successor may be appointed by the City Council (or its delegate).

(c) A written certification shall be given to the Trustee of all members of the Administrative Committee together with a specimen signature of each member. For all purposes hereunder, the Trustee shall be conclusively entitled to rely upon such certification until the Trustee is otherwise notified in writing.

9.2 Organization of Administrative Committee.

The Administrative Committee may elect a Chairman and a Secretary/Treasurer from among its members. In addition to those powers set forth elsewhere in the Plan, the Administrative Committee may appoint such agents, who need not be members of such Administrative Committee, as it may deem necessary for the effective performance of its duties and may delegate to such agents such powers and duties, whether ministerial or discretionary, as the Administrative Committee may deem expedient or appropriate. The Administrative Committee shall act by majority vote. Its members shall serve as such without compensation.

9.3 Powers and Responsibility.

The Administrative Committee shall have complete control of the administration of the Plan hereunder, with all powers necessary to enable it properly to carry out its duties as set forth in the Plan and the Trust Agreement. The Administrative Committee shall have the following duties and responsibilities:

(a) to construe the Plan and to determine all questions that shall arise thereunder;

(b) to select and/or remove all service providers to the Plan including the Trustee, recordkeeper, broker and investment advisor;

(c) to decide all questions relating to the eligibility of Employees to participate in the Plan;

(d) to determine the benefits of the Plan to which any Participant or Beneficiary may be entitled;

(e) to maintain and retain records relating to Participants and Beneficiaries;

(f) to prepare and furnish to Participants all information required under state or federal law or provisions of the Plan to be furnished to them;

(g) to prepare and furnish to the recordkeeper and/or Trustee sufficient employee data and the amount of Contributions received from all sources so that the recordkeeper and/or Trustee may maintain separate accounts for Participants and Beneficiaries and make required payments of benefits;

(h) to prepare and file or publish with all other appropriate government officials all reports and other information required under law to be so filed or published;

(i) to provide directions to the Trustee with respect to methods of benefit payment and all other matters where called for in the Plan or requested by the Trustee;

(j) to engage assistants and professional advisers;

(k) to arrange for fiduciary bonding, if necessary;

(l) to provide procedures for determination of claims for benefits; and

(m) to delegate any or all of these responsibilities.

9.4 Records of Administrative Committee.

(a) Any notice, direction, order, request, certification or instruction of the Administrative Committee to the Trustee shall be in writing and shall be signed by a member of the Administrative Committee. The Trustee and every other person shall be entitled to rely conclusively upon any and all such notices, directions, orders, requests, certifications and instructions received from the Administrative Committee and reasonably believed to be properly executed, and shall act in accordance therewith.

(b) All acts and determinations of the Administrative Committee shall be duly recorded by its Secretary or under his supervision, and all such records, together with such other documents as may be necessary for the administration of the Plan, shall be preserved in the custody of such Secretary.

9.5 Reporting and Disclosure.

The Administrative Committee shall keep all individual and group records relating to Participants and Beneficiaries and all other records necessary for the proper operation of the Plan. Such records shall be made available to each Participant and Beneficiary for examination during normal business hours except that a Participant or Beneficiary shall examine only such records as pertain exclusively to the examining Participant or Beneficiary and the Plan and Trust

Agreement. The Administrative Committee shall prepare and shall file as required by law or regulation all reports, forms, documents and other items required by the Code and every other relevant statute, each as amended, and all regulations thereunder. This provision shall not be construed as imposing upon the Administrative Committee the responsibility or authority for the preparation, preservation, publication or filing of any document required to be prepared, preserved or filed by the Trustee to whom such responsibilities are delegated by law or by the Plan.

9.6 Construction of the Plan.

The Administrative Committee shall take such steps as are considered necessary and appropriate to remedy any inequity that results from incorrect information received or communicated in good faith or as the consequence of an administrative error. The Administrative Committee shall interpret the Plan and shall determine the questions arising in the administration, interpretation and application of the Plan. The Administrative Committee shall endeavor to act, whether by general rules or by particular decisions, so as not to discriminate in favor of or against any person and so as to treat all persons in similar circumstances uniformly. The Administrative Committee shall correct any defect, reconcile any inconsistency or supply any omission with respect to the Plan.

9.7 Assistants and Advisers.

(a) The Administrative Committee shall have the right to delegate any of its responsibility hereunder and to hire such professional assistants and consultants as it, in its sole discretion, deems necessary or advisable. To the extent that the costs for such assistants and advisers are not paid by the City, they shall be paid at the direction of the Administrative Committee from the Trust Fund as an expense of the Trust Fund.

(b) The Administrative Committee shall be entitled to rely upon all certificates and reports made by an accountant, attorney or other professional adviser selected pursuant to this Section; the Administrative Committee shall be fully protected in respect to any action taken or suffered by them in good faith in reliance upon the advice or opinion of any such accountant, attorney or other professional adviser; and any action so taken or suffered shall be conclusive upon each of them and upon all other persons interested in the Plan.

9.8 Investment Committee.

(a) The Investment Committee may be named to act on behalf of the Administrative Committee to establish and carry out a funding policy consistent with the Plan objectives and with the requirements of any applicable law. Such policy shall be in writing and shall have due regard for the liquidity needs of the Trust. Such funding policy shall also state the general investment objectives of the Trust and the philosophy upon which maintenance of the Plan is based.

(b) The Administrative Committee shall determine the membership of the Investment Committee, and the members shall serve at the pleasure of the Administrative Committee or until their resignation.

(c) The Investment Committee also shall carry out the Administrative Committee's responsibility and authority as follows, to the extent delegated thereto by the Administrative Committee:

- (1) To appoint one or more persons to serve as investment manager or investment advisors with respect to all or part of the Plan assets;
- (2) To allocate the responsibility and authority being carried out by the Investment Committee among the members of the Committee;
- (3) To take any action appropriate to assure that the Plan assets are invested for the exclusive purpose of providing benefits to Participants and their Beneficiaries in accordance with the Plan and defraying reasonable expenses of administering the Plan, subject to the requirements of any applicable law; and
- (4) To employ one or more persons to render advice with respect to any responsibility or authority being carried out by the Investment Committee. To the extent that the costs for such assistants and advisers are not paid by the City, they shall be paid at the direction of the Administrative Committee from the Trust Fund as an expense of the Trust Fund.

9.9 Direction of Trustee.

The Administrative Committee shall have the power to provide the Trustee with general investment policy guidelines and directions to assist the Trustee respecting investments made in compliance with, and pursuant to, the terms of the Plan.

9.10 Bonding.

The Administrative Committee shall arrange for fiduciary bonding if required by law, but no bonding in excess of the amount required by law shall be required by the Plan.

ARTICLE X

ALLOCATION OF AUTHORITY AND RESPONSIBILITIES

10.1 General Responsibilities.

The City, as Plan sponsor, have the following authority and responsibilities:

- (a) To appoint the Trustee, the Administrative Committee and the recordkeeper, and to monitor each of their performances;
- (b) To communicate such information to the Trustee, the Administrative Committee and the recordkeeper as each needs for the proper performance of its duties;
- (c) To provide channels and mechanisms through which the Administrative Committee, the recordkeeper and/or the Trustee can communicate with Participants and Beneficiaries;
- (d) To delegate responsibilities to officers, employees or to other individuals, all of whom shall serve at the pleasure of the City;
- (e) To perform such duties as are imposed by law or by regulation; and
- (f) To serve as Plan Administrator in the absence of an appointed Administrative Committee.

In the event any of the areas of authority and responsibilities of the City overlap with that of any other Plan fiduciary, the City shall coordinate with such other fiduciaries the execution of such authority and responsibilities; provided, the decision of the City with respect to such authority and responsibilities ultimately shall be controlling.

10.2 Administrative Committee.

The Administrative Committee shall have the authority and responsibilities imposed by Article IX hereof. With respect to said authority and responsibilities, the Administrative Committee shall be a fiduciary, and as such, shall have no authority or responsibilities other than as granted in the Plan or as imposed as a matter of law.

10.3 Investment Committee.

The Investment Committee, if any is appointed, shall be a fiduciary with respect to its authority and responsibilities, as imposed by Article IX. The Investment Committee shall have no authority or responsibilities other than those granted in the Plan and the Trust.

10.4 Trustee.

To the extent provided in the Trust Agreement, the Trustee shall be a fiduciary with respect to investment of Trust Fund assets and shall have the powers and duties set forth in the Trust Agreement.

10.5 Recordkeeper.

The recordkeeper shall have the responsibility of maintaining the Plan's records and such further responsibilities and duties as set forth in a written agreement between the City and the recordkeeper.

10.6 Limitations on Obligations of Fiduciaries.

No fiduciary shall have authority or responsibility to deal with matters other than as delegated to it under the Plan, under the Trust Agreement or by operation of law. A fiduciary shall not in any event be liable for breach of fiduciary responsibility or obligation by another fiduciary if the responsibility or authority for the act or omission deemed to be a breach was not within the scope of such fiduciary's authority or delegated responsibility.

10.7 Delegation.

Fiduciaries shall have the power to delegate specific fiduciary responsibilities (other than Trustee responsibilities). Such delegations may be to officers or employees of the City or to other persons, all of whom shall serve at the pleasure of the fiduciary making such delegation and, if full-time employees of the City, without compensation. Any such person may resign by delivering a written resignation to the delegating fiduciary. Vacancies created by any reason may be filled by the appropriate fiduciary or the assigned responsibilities may be reabsorbed or redelegated by the fiduciary.

10.8 Multiple Fiduciary Roles.

Any person may hold more than one position of fiduciary responsibility and shall be liable for each such responsibility separately.

10.9 ERISA Standard.

The Administrative Committee may look to the standards of fiduciary conduct prescribed by ERISA and the common law of trusts for general guidance with respect to their responsibilities.

ARTICLE XI

MISCELLANEOUS

11.1 No Guarantee of Employment.

Nothing contained in this Plan shall be construed as a contract of employment between the Employer and any Employee, or as a right of any Employee to be continued in the employment of the Employer, or as a limitation of the right of the Employer to discharge any of its Employees, with or without cause.

11.2 Rights to Assets.

No Employee or Beneficiary shall have any right to, or interest in, any assets of the Plan upon termination of his employment or otherwise, except as provided from time to time under this Plan, and then only to the extent of the benefits payable under the Plan to such Employee or Beneficiary out of the assets of the Plan. All payments of benefits as provided for in this Plan shall be made solely out of the assets of the Plan and none of the fiduciaries shall be liable therefor in any manner.

11.3 Nonforfeitability of Benefits.

Subject only to the specific provisions of this Plan, nothing shall be deemed to divest a Participant of his right to the nonforfeitable benefit to which he becomes entitled in accordance with the provisions of this Plan.

11.4 Governing Law.

The Plan shall be governed by the laws of the State of Georgia to the extent applicable, and to the extent not applicable, by federal law.

11.5 Construction.

The masculine gender, where appearing in the Plan, shall be deemed to include the feminine gender, unless the context clearly indicates to the contrary. The words "hereof," "herein," "hereunder" and other similar compounds of the word "here" shall mean and refer to the entire Plan and not to any particular provision or Section. Article and Section headings are included for convenience of reference and are not intended to add to, or subtract from, the terms of the Plan.

11.6 Action by the Employer.

Whenever the Employer under the terms of the Plan is permitted or required to do or perform any act or matter, it shall be done and performed by a duly authorized individual.

11.7 Uniformity.

All provisions of the Plan shall be interpreted and applied in a uniform and nondiscriminatory manner.

ARTICLE XII

AMENDMENT, TERMINATION AND ADOPTION

12.1 Amendment.

The provisions of the Plan may be amended at any time and from time to time by written amendment approved by the City Council and the Mayor; provided:

(a) No amendment shall increase the duties or liabilities of the Trustee without the consent of such party;

(b) No amendment shall impair the contract rights of any Eligible Employee; and

(c) No amendment shall be made which would divert any of the assets of the Trust Fund to any purpose other than the exclusive benefit of Participants and Beneficiaries, except that the Plan and Trust Agreement may be amended retroactively and to affect the Accounts of Participants and Beneficiaries if necessary to cause the Plan and Trust to be qualified under the Code.

12.2 Termination.

(a) Right to Terminate. The Employer expects the Plan to be continued indefinitely, but it reserves the right to terminate the Plan or to completely discontinue Contributions to the Plan at any time by action of the City Council and the Mayor. In either event, the Administrative Committee, Investment Committee, each Affiliate and the Trustee shall be promptly advised of such decision in writing.

(b) Vesting Upon Complete Termination. If the Plan is terminated by the Employer or Contributions to the Plan are completely discontinued, the Accounts of all Participants and Beneficiaries or other successors in interest as of such date shall become 100 percent vested and nonforfeitable. Upon termination of the Plan, the Administrative Committee, in its sole discretion, shall instruct the Trustee either (i) to continue to manage and administer the assets of the Trust for the benefit of the Participants and their Beneficiaries pursuant to the terms and provisions of the Trust Agreement, or (ii) if there is no successor plan or no benefits subject to the restrictions in said Section, to pay over to each Participant or Beneficiary the value of his interest in a single sum and to thereupon dissolve the Trust.

(c) Dissolution of Trust. In the event that the Administrative Committee decides to dissolve the Trust, as soon as practicable following the termination of the Plan or the Administrative Committee's decision, whichever is later, the assets under the Plan shall be converted to cash or other distributable assets, to the extent necessary to effect a complete distribution of the Trust assets as described herein below. Following completion of the conversion, on a date selected by the Administrative Committee, each individual with an Account under the Plan on such date shall receive a distribution of the total amount then credited to his Account. The amount of cash and other property distributable to each such individual shall be determined as of the date of distribution. In the case of a termination distribution as

provided herein, the Administrative Committee may direct the Trustee to take any action dealing with unclaimed benefits, except that it shall not be necessary to hold funds for any period of time stated in such Section. Within the expense limitations set forth in the Plan, the Administrative Committee may direct the Trustee to use assets of the Trust Fund to pay any due and accrued expenses and liabilities of the Trust and any expenses involved in termination of the Plan.

(d) Vesting Upon Partial Termination. In the event of a partial termination of the Plan, the Accounts of those Participants and Beneficiaries affected shall become 100 percent vested and nonforfeitable and, unless transferred to another qualified plan, shall be distributed in a manner and at a time consistent with the terms of this Section.

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IN WITNESS WHEREOF, the Employer has caused this Plan to be adopted effective as of the Effective Date, executed as of this _____ day of _____, 2017.

CITY OF SOUTH FULTON, GEORGIA

By: _____
Mayor

10959194

**CITY OF SOUTH FULTON 457(b) DEFERRED COMPENSATION PLAN
SUMMARY OF KEY TERMS**

Key Term	Description
Type of Plan	Governmental 457(b) eligible deferred compensation plan
Eligibility	Any individual who is employed by the City and classified as a "permanent" (full-time or part-time) employee of the Employer, including any elected or appointed official. The following are excluded: • leased employees • independent contractor • temporary employees.
Employee Deferral Contributions	Pre-tax or Roth elective deferrals up to \$18,000, and an additional \$5,500 in age 50 catch-up contributions. Contributions made upon a payroll period basis.
Employer Contributions	None.
457 Catch-Up Contributions	Allowed. Such contributions may be made in last 3 taxable years ending before the Participant's attainment of Normal Retirement Age.
Vesting	Always 100% vested.
Forms of Distribution	• Lump sum cash payment; • Installment payments for a period of years (payable on a monthly, quarterly, semi-annual, or annual basis), which extends no longer than the life expectancy of the Participant; or • A partial lump-sum payment of a designated amount.
Loans	Permitted.
Unforeseeable Emergency Withdraws	Permitted upon certain hardship events allowed under Code Section 457(b).
In-Service Withdrawals	Not allowed, except for unforeseeable emergencies and small amounts less than \$1,000.
Administrative Committee	The committee appointed by City Council (or its delegate) to oversee the investment and administration of the Plan.

**CITY OF SOUTH FULTON 457(b)
DEFERRED COMPENSATION PLAN**

Effective June 15, 2017

CITY OF SOUTH FULTON 457(b) DEFERRED COMPENSATION PLAN

ARTICLE I. INTRODUCTION

The City of South Fulton City Council ("City Council") hereby adopts the City of South Fulton 457(b) Deferred Compensation Plan (the "Plan") effective as of June 15, 2017. The Plan is intended to be an "eligible deferred compensation plan" under section 457(b) of the Internal Revenue Code of 1986, as amended (the "Code"). The primary purpose of this Plan is to attract and retain qualified personnel by permitting them to provide for benefits in the event of their retirement or death. Nothing contained in this Plan shall be deemed to constitute an employment agreement between any Participant and the Employer and nothing contained herein shall be deemed to give any Participant any right to be retained in the employ of the Employer.

ARTICLE II. PLAN ELECTIONS

- 2.01 Plan Effective Date. The Plan is established by the Employer effective June 15, 2017 (the "Effective Date").
- 2.02 Unforeseeable Emergency Withdrawals. Withdrawals under Section 7.07 shall be available under this Plan.
- 2.03 Participant's Election to Receive In-Service Distribution. A Participant may not elect to receive an in-service distribution of his account balance as described in Section 7.08.
- 2.04 Distribution without Participant's Consent. Small accounts of certain inactive Participants may be distributed without the Participant's consent as described in Section 7.09, if the total amount payable to a Participant under the Plan does not exceed \$1,000. Such amount will be paid in cash to the Participant.
- 2.05 Loans. Loans shall be allowed under the Plan in accordance with Article X of the Plan.
- 2.06 Governing Law. This Plan shall be construed under the laws of the State of Georgia. This Plan shall be subject to any applicable State, county or local deferred compensation rules and regulations.

ARTICLE III. DEFINITIONS

- 3.01 Account: The account maintained for each Participant reflecting the cumulative amount of each Participant's Deferred Compensation, including any income, gains, losses, or increases or decreases in market value attributable to the investment of the Participant's Deferred Compensation, and further reflecting any distributions to the Participant or the Beneficiary and any fees or expenses charged against the Participant's Deferred Compensation.
- 3.02 Beneficiary or Beneficiaries: The person or persons designated by the Participant in his Deferred Compensation Agreement who shall receive any benefits payable hereunder in the event of the Participant's death. If more than one designated Beneficiary survives the Participant, payments shall be made equally to the surviving Beneficiaries, unless otherwise provided in the Deferred Compensation Agreement. If no Beneficiary is designated in the Deferred Compensation Agreement or if no designated Beneficiary survives the Participant, then the estate of the Participant shall be the Beneficiary. However, a Participant may designate a contingent Beneficiary (or Beneficiaries) who shall become the primary Beneficiary (or Beneficiaries) under this Plan in the event that no primary Beneficiary survives the Participant.
- 3.03 Code: The Internal Revenue Code of 1986, as amended, and regulations thereunder.
- 3.04 Compensation: Compensation means all of a Participant's wages as defined in Code section 3401(a) for purposes of income tax withholding at the source (that is, income reportable on IRS Form W-2), but determined without regard to employee suggestion pay and any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code section 3401(a)(2)). Compensation shall include before-tax or salary deferral contributions made under Code sections 125, 132(f)(4), 402(g)(3) or 457 to the Plan or other plans, on behalf of a Participant for such Plan Year.
- 3.05 Deferred Compensation: The amount of Normal Compensation otherwise payable to the Participant that the Participant and the Employer mutually agree to defer hereunder, any amount credited to a Participant's Account by reason of a transfer under Section 9.01, or any other amount that the Employer agrees to credit to a Participant's Account and that does not exceed the Maximum Limitation.
- 3.06 Deferred Compensation Agreement: An agreement entered into between a Participant and the Employer and any amendments or modifications thereof, which agreement shall fix the amount of Deferred Compensation as a percentage of the Participant's Compensation; specify the Participant's investment selection with respect to his Deferred Compensation; designate the Participant's Beneficiary or Beneficiaries and incorporate the terms, conditions, and provisions of this Plan by reference. Once executed and received by the Plan Administrator, or its designee, the Deferred Compensation Agreement shall be legally binding and irrevocable with regard to amounts paid or otherwise made available while the Deferred Compensation Agreement is in effect.

- 3.07 Eligible Retirement Plan: A plan described in Code section 402(c)(8)(B) to which an Eligible Rollover Distribution may be transferred pursuant to Code section 457(e)(16).
- 3.07 Eligible Rollover Distribution: A qualifying distribution to a Participant, or to a spousal Beneficiary of a deceased Participant, that is described in Code section 402(c)(4). A qualifying distribution to a non-spouse Beneficiary is also an Eligible Rollover Distribution as permitted by Code section 402(c)(11).
- 3.09 Employee: Employee means any individual who is employed by the Employer and classified as a "permanent" employee of the Employer, including any elected or appointed officials. Employee shall not include any individual who is deemed an independent contractor, a leased employee within the meaning of Code section 414(n), or classified as a "temporary" employee of the Employer. An Employee shall not include any individual who is performing services for the Employer pursuant to an agreement that provides that such individual shall not be eligible to participate in this Plan. If any individual is not classified as an Employee by the Employer and is subsequently reclassified as an Employee by any overriding governmental or regulatory authority, such individual shall nevertheless be deemed to have become an Employee prospectively only, effective as of the date of such reclassification (and not retroactive to the date on which he or she was found to have first become eligible for any other purposes), and then only if he or she otherwise satisfies the requirements of this Plan.
- 3.10 Employer: City of South Fulton, a political subdivision of the State of Georgia.
- 3.11 Includible Compensation: For a taxable year, the Participant's compensation, as defined in Code section 415(c)(3), for services performed for the Employer. In accordance with Code section 414(u)(12), Includible Compensation shall include any differential wage payment (within the meaning of Code section 3401(h)(2)) made by the Employer to an individual who does not currently perform services for the Employer by reason of qualified military service (within the meaning of Code section 414(u)(5)) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer. The amount of Includible Compensation shall be determined without regard to any community property laws.
- 3.12 Maximum Limitation: The maximum amount that may be deferred under this Plan (other than rollover amounts described in Section 9.02) for the taxable year of a Participant. Such amount shall be either the Normal Limitation or Catch-Up Limitation, whichever is applicable.
- (a) Normal Limitation: The maximum amount deferred shall not exceed the lesser of the applicable dollar amount (as described in Section 3.13(c) below) or 100% of the Participant's Includible Compensation, as adjusted by Section 3.13(d) below.

- (b) Catch-Up Limitation: For each one of the last three (3) taxable years of a Participant ending before the Participant's attainment of Normal Retirement Age, the maximum amount deferred for each such year shall be the lesser of:
- (1) twice the applicable dollar amount (as described in Section 3.13(c) below); or
 - (2) the sum of the Normal Limitation, plus that portion of the Normal Limitation not used in each of the prior taxable years of the Participant commencing after 1978 in which (i) the Participant was eligible to participate in this Plan or another eligible plan of the Employer, and (ii) compensation deferred under this Plan (or such other plan) was subject to the deferral limitations set forth in this section.

A Participant may utilize the Catch-Up Limitation only if the Participant has not previously utilized it with respect to a different Normal Retirement Age under this Plan or any other plan. In no case may the deferred amount be more than the Participant's Normal Compensation for the year.

- (c) Applicable Dollar Amount: The applicable dollar amount is the limit set forth in Code section 457(b)(2)(A), as adjusted for cost-of-living increases in accordance with Code section 457(e)(15). The applicable dollar limit for the 2017 calendar year is \$18,000.
- (d) Age-Based Catch-Up Contributions: In addition to any other limit set forth in this section, a Participant who will attain age 50 in the calendar year may contribute an additional \$5,500, as adjusted for cost-of-living increases in accordance with section 414(v)(2)(C) of the Code. The Age- Based Catch-Up Contribution limitation for the 2017 calendar year is \$5,500.
- (e) Coordination of Catch-Up Contributions: A Participant may not utilize both the Catch-Up Limitation and the Age-Based Catch-Up Contribution in the same year. The Age-Based Catch-Up Contribution shall not apply for any taxable year for which a higher Catch-Up Limitation applies.
- (f) Coordination with Other Plans: If a Participant participates in more than one Code section 457(b) plan, the maximum amount that may be credited or deferred under all such plans shall not exceed the Maximum Limitation, as adjusted for any Age-Based Catch-Up Contributions if applicable.
- (g) Excess Deferrals: Any amount deferred in excess of the Maximum Limitation or Age-Based Catch-Up Contribution shall be distributed to the Participant, with allocable net income, as soon as administratively practicable after the Plan determines that the amount is an excess deferral. An excess deferral as a result of a failure to comply with the individual limitation under Treas. Reg. section 1.457-5 for a taxable year may be distributed to the Participant, with allocable net

income, as soon as administratively practicable after the Plan determines that the amount is an excess deferral.

- 3.13 Normal Compensation: The amount of Compensation that would be payable to a Participant by the Employer if no Deferred Compensation Agreement were in effect to defer Compensation under this Plan.
- 3.14 Normal Retirement Age: The age that determines the period during which a Participant may utilize the Catch-Up Limitation of Section 3.13(b) hereunder. A Participant's Normal Retirement Age shall be age 70½, unless the Participant has elected an alternative Normal Retirement Age by written instrument delivered to the Employer prior to Severance from Employment.

A Participant's alternative Normal Retirement Age may not be earlier than the earliest date that the Participant shall become eligible to retire and receive unreduced retirement benefits under the Employer's defined benefit plan or money purchase plan covering that Participant and may not be later than the calendar year in which the Participant attains age 70½. If the Participant will not be eligible to receive benefits under a defined benefit plan or money purchase plan maintained by the Employer, the Participant's Normal Retirement Age may not be earlier than attainment of age 65 and may not be later than the calendar year in which the Participant attains age 70½.

If the Participant is a qualified police officer or firefighter as defined under section 415(b)(2)(H)(ii)(I) of the Code, then such qualified police officer or firefighter may designate an alternative Normal Retirement Age that is between age 40 and age 70½.

Once a Participant has to any extent utilized the Catch-Up Limitation of Section 3.13(b), his Normal Retirement Age may not be changed.

- 3.15 Participant: Any Employee who has enrolled in this Plan pursuant to the requirements of Article V or who has previously deferred compensation under this Plan and who has not received a distribution of his or her entire benefit under the Plan.
- 3.16 Plan Year: The 12-month period commencing each January 1 and ending on the following December 31.
- 3.17 Severance from Employment: Termination of the Participant's employment relationship with the Employer.
- 3.18 Service Provider: Mass Mutual or such other entity as the Employer designates to perform administrative services under this Plan. The Employer may appoint, select or terminate the Service Provider(s) from time to time and the Plan Administrator shall have the authority to direct the transfer of all Participant Accounts for any change in applicable Service Provider(s) to successor a Service Provider(s).

ARTICLE IV. ADMINISTRATION

- 4.01 Plan Administrator. City Council has designated the Administrative Committee (as defined in the City of South Fulton Defined Contribution Plan as responsible for administering the Plan (the "Plan Administrator"). The Plan Administrator shall act as the agent of the Employer in all matters concerning the administration of this Plan and shall include any person or group of persons authorized by the Administrative Committee to act on its behalf in carrying out its duties and responsibilities under the Plan. The Plan Administrator shall have full power to adopt, execute, amend, and revoke such rules and regulations consistent with and as may be necessary to implement, operate and maintain this Plan, to enter into contracts on behalf of the Employer under this Plan, and to make discretionary decisions affecting the rights or benefits of Participants under Section 7.06 of this Plan.
- 4.02 Employee with Administrative Responsibilities. Any Employee who is charged with administrative responsibilities hereunder may participate in the Plan under the same terms and conditions as apply to other Employees. However, he shall not have the power to participate in any discretionary action taken with respect to his participation under Section 7.06 of this Plan.
- 4.03 Administrative Services. The Employer may enter into an agreement with a Service Provider to provide nondiscretionary administrative services under this Plan for the convenience of the Employer, including, but not limited to, the enrollment of Employees as Participants, the maintenance of Accounts and other records, the making of periodic reports to Participants, and the disbursement of benefits to Participants.

ARTICLE V. PARTICIPATION IN THE PLAN

- 5.01 Participant. An Employee becomes a Participant when he or she has properly executed and entered into a Deferred Compensation Agreement with the Employer in accordance with this Article V.
- 5.02 Enrollment in the Plan. To participate in the Plan, each Employee shall complete and remit the Deferred Compensation Agreement, including any applicable enrollment forms, to the Plan Administrator or its designee. An Employee may become a Participant as of the first day of any calendar month by entering into a Deferred Compensation Agreement with respect to compensation not yet earned. A new Employee may become a Participant on the first day of employment by entering into a Deferred Compensation Agreement on or before the first day of employment with respect to compensation not yet earned. The Deferred Compensation Agreement shall defer compensation not yet earned, and each Deferred Compensation Agreement must be made before the beginning of the month in which it is to become effective or, with respect to a new Employee, on or before the first day of employment. Employees may contribute Deferred Compensation as a pre-tax deferral, a Roth deferral, as described in Appendix A, or a combination of both.

- 5.03 Minimum Deferral Amount. At the time of entering into or amending a Deferred Compensation Agreement hereunder, a Participant must agree to defer a minimum periodic amount as specified by the Plan Administrator.
- 5.04 Change in Amount of Deferred Compensation or Beneficiary. A Participant may not amend or modify an executed Deferred Compensation Agreement to change the amount of Deferred Compensation except with respect to compensation to be earned in the subsequent calendar month and provided that notice is given to the Plan Administrator or its designee prior to the beginning of the month for which such change is to be effective. A Participant may change the Beneficiary designated in his Deferred Compensation Agreement at any time by giving written notice to the Plan Administrator or its designee.
- 5.05 Revocation of Deferred Compensation Agreement. A Participant may revoke his Deferred Compensation Agreement and thereafter be restored to his Normal Compensation in the subsequent calendar month, by giving notice to the Plan Administrator or its designee prior to the beginning of the month for which such revocation is to be effective.
- 5.06 New Deferred Compensation Agreement Upon Return to Service or After Revocation. A Participant who returns to active service with the Employer after a Severance from Employment, or who has revoked his Deferred Compensation Agreement under Section 5.05, may again become an active Participant by executing a new Deferred Compensation Agreement with the Employer prior to the beginning of the calendar month as to which it is to be effective.
- 5.07 Leave of Absence; Other Absences. Compensation may continue to be deferred under this Plan with respect to a Participant who is on an approved leave of absence from the Employer with compensation, and all of the rules of this Article shall apply with respect to making, amending or revoking any Deferred Compensation Agreement for such a Participant.
- 5.08 Deferrals after Severance from Employment, Including Sick, Vacation, and Back Pay Under an Eligible Plan. A Participant who has not had a Severance from Employment may elect to defer accumulated sick pay, accumulated vacation pay, and back pay under this Plan in accordance with the requirements of Code section 457(b). These amounts may be deferred for any calendar month only if an agreement providing for the deferral is entered into before the beginning of the month in which the amounts would otherwise be paid or made available and the Participant is an employee on the date the amounts would otherwise be paid or made available. Compensation that would otherwise be paid for a payroll period that begins before Severance from Employment is treated as an amount that would otherwise be paid or made available before an Employee has a Severance from Employment. In addition, deferrals may be made for former Employees with respect to compensation described in Treas. Reg. section 1.415(c)-2(e)(3)(ii) (relating to certain compensation paid within 2½ months following Severance from Employment), compensation described in Treas. Reg. section 1.415(c)-2(g)(4) (relating to compensation

paid to participants who are permanently and totally disabled), and compensation relating to qualified military service under Code section 414(u).

ARTICLE VI. INVESTMENT OF DEFERRED COMPENSATION

- 6.01 Plan Investments. For the purposes of satisfying its obligation to provide benefits under this Plan, the amount of compensation deferred by each Participant shall be invested in Plan investments as specified in the Participants' Deferred Compensation Agreements. Amounts deferred under this Plan must be transferred to a trust, custodial account or annuity contract described in Section 6.02 within a period that is not longer than is reasonable for the proper administration of the Participant Accounts. Responsibility for the selection of investment alternatives for Plan assets shall be retained by the Employer, and the Employer shall have the right to modify the selection of investment alternatives from time to time. However, Participants and Beneficiaries may allocate amounts held in their Accounts or otherwise credited for their benefit under the Plan among the investment alternatives selected by the Employer, and the issuer, trustee, or custodian shall accept such allocation instructions directly from Participants and Beneficiaries.
- 6.02 Exclusive Benefit. Notwithstanding any provision of the Plan to the contrary, all amounts held under the Plan, including amounts deferred and or other accumulations attributable thereto, shall be held for the exclusive benefit of Plan Participants and Beneficiaries (i) in annuity contracts, or (ii) in trust or in one or more custodial accounts pursuant to one or more separate written instruments. Any such annuity contract, trust, or custodial account must satisfy the requirements of section 457(g)(1) of the Code. The annuity contract, trust or custodial account must make it impossible, prior to the satisfaction of all liabilities with respect to Participants and their Beneficiaries, for any part of the assets and income of the annuity contract, trust or custodial account to be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries. For purposes of this section, the terms Participant and Beneficiary shall also include contingent beneficiaries and/or spouses, former spouses, or children of Participants for whose benefit amounts are being held under the Plan pursuant to the terms of a domestic relations order which has been recognized under the terms of the Plan. Any discretionary authority reserved to the Employer (or to any administrator or administrative committee) under the Plan or under any investment held under the Plan, to the extent the exercise thereof would otherwise be inconsistent with this section, shall be exercised for the exclusive benefit of Plan Participants and Beneficiaries. Any issuer of an annuity contract or trustee or custodian of other investments held under the Plan shall have no authority to pay any amounts from such Plan investments to any creditor of the Employer, and shall have no duty to inquire into the validity of any request by the Employer or by an administrator or administrative committee for distribution of amounts for the benefit of a Participant or a Beneficiary under the Plan.
- 6.03 Benefits Based on Participant's Account Value. The benefits paid to a Participant or Beneficiary pursuant to Article VII of this Plan shall be based upon the value of the Participant's Account. In no event shall the Employer's liability to pay benefits exceed the value of the Participant's Account, and the Employer or Plan Administrator shall not be

liable for losses arising from depreciation or other decline in the value of any investments acquired under this Plan.

- 6.04 Periodic Reports. Each Participant shall receive periodic reports, not less frequently than quarterly, showing the then-current value of his Account.
- 6.05 Employer-Directed Accounts. Notwithstanding any provision of the Plan to the contrary, the Employer shall direct the issuer, trustee or custodian with respect to the investment of any contributions that are forwarded to the issuer, trustee or custodian prior to the date on which the Participant or Beneficiary completes the necessary paperwork with the issuer, trustee or custodian (or takes such other action or actions as may be necessary) to direct the investment of such amounts. Such direction shall be communicated to the issuer, trustee or custodian by means of a separate written agreement between the Employer and issuer, trustee or custodian, which agreement shall include a default investment option and a default beneficiary designation. This direction shall be effective only until such time as the Participant or Beneficiary exercises his right to direct the investment of such amounts and to designate a Beneficiary in accordance with the terms of the Plan.

ARTICLE VII. BENEFITS

- 7.01 Distribution of Benefits. Except as otherwise provided in this Article, a Participant's Account shall become distributable upon a Participant's attainment of age 70½ or upon Severance from Employment. If the Participant has had a Severance from Employment, the distribution of a Participant's Account shall commence no later than April 1 of the calendar year following the year of the Participant's attainment of age 70½. Distributions shall be made in accordance with one of the payment options described in Section 7.03.
- 7.02 Distribution Procedures. The Employer may from time to time establish procedures for Participant distribution elections, provided that such procedures are not inconsistent with the requirements of Section 7.01.
- 7.03 Payment Options. A Participant (or a Beneficiary as provided in Section 7.06) may elect to have the value of the Participant's Account distributed in accordance with one of the following payment options provided that such option is available under the investment and consistent with the limitations set forth in Section 7.04:
- (a) A single lump-sum payment;
 - (b) Installment payments for a period of years (payable on a monthly, quarterly, semi-annual, or annual basis), which extends no longer than the life expectancy of the Participant as permitted under Code Section 401(a)(9) and applicable Treasury Regulations issued thereunder;
 - (c) A partial lump-sum payment of a designated amount; or

- (d) any other method of payment agreed upon between Participant and Employer and accepted by the investment provider or Service Provider.

If a Participant fails to elect a payment option, any required payments shall be made under a payment option designated by the Employer.

7.04 Required Minimum Distributions.

- (a) No payment option may be selected by the Participant (or a Beneficiary) unless it satisfies the requirements of Code section 401(a)(9) and any additional Code limitations applicable to the Plan. The requirements of this section shall take precedence over any inconsistent provisions of the Plan. All distributions required under this section shall be determined and made in accordance with the regulations under section 401(a)(9) of the Code.
- (b) The Participant's entire interest shall be distributed, or begin to be distributed, to the Participant no later than the Participant's required beginning date. If the Participant dies before distributions begin, the Participant's entire interest shall be distributed, or begin to be distributed, no later than as follows:
 - (1) If the Participant's surviving spouse is the Participant's sole designated Beneficiary, then unless the surviving spouse elects to apply the 5-year rule (pursuant to subsection (f), below), distributions to the surviving spouse shall begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70-1/2, if later.
 - (2) If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, then unless the designated Beneficiary elects to apply the 5-year rule (pursuant to subsection (f)), below), distributions to the designated Beneficiary shall begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.
 - (3) If there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest shall be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
 - (4) If the Participant's surviving spouse is the Participant's sole designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this subsection (b), other than paragraph (b)(1), shall apply as if the surviving spouse were the Participant. For purposes of this subsection (b) and subsection (d), unless paragraph (b)(4) applies, distributions are considered to begin on the

Participant's required beginning date. If paragraph (b)(4) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under paragraph (b)(1). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's required beginning date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under paragraph (b)(1)), the date distributions are considered to begin is the date distributions actually commence. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions shall be made in accordance with subsections (c) and (d) of this section. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder shall be made in accordance with the requirements of section 401(a)(9) of the Code.

- (c) During the Participant's lifetime, the minimum amount that shall be distributed for each distribution calendar year is the lesser of:
 - (1) the quotient obtained by dividing the Participant's account balance by the distribution period in the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the regulations, using the Participant's age as of the Participant's birthday in the distribution calendar year; or
 - (2) if the Participant's sole designated Beneficiary for the distribution calendar year is the Participant's spouse, the quotient obtained by dividing the Participant's account balance by the number in the Joint and Last Survivor Table set forth in section 1.401(a)(9)-9 of the regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year. Required minimum distributions shall be determined under this subsection (c) beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.
- (d)
 - (1) If the Participant dies on or after the date distributions begin and there is a designated Beneficiary, the minimum amount that shall be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's designated Beneficiary, determined as follows:

- (a) The Participant's remaining life expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.
 - (b) If the Participant's surviving spouse is the Participant's sole designated Beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.
 - (c) If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, the designated Beneficiary's remaining life expectancy is calculated using the age of the Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.
- (2) If the Participant dies on or after the date distributions begin and there is no designated Beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that shall be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the Participant's remaining life expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.
 - (3) Except as otherwise elected (pursuant to subsection (f), below), if the Participant dies before the date distributions begin and there is a designated Beneficiary, the minimum amount that shall be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the remaining life expectancy of the Participant's designated Beneficiary, determined as provided in paragraph (d)(1) and subsection (2).
 - (4) If the Participant dies before the date distributions begin and there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest shall be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
 - (5) If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the

surviving spouse under paragraph (b)(1), this subsection (d) shall apply as if the surviving spouse were the Participant.

(e) Definitions.

- (1) "Designated Beneficiary" means the individual who is designated as the Beneficiary under the Plan and is the designated Beneficiary under section 401(a)(9) of the Code and section 1.401(a)(9)-4, Q&A-1, of the regulations.
- (2) "Distribution calendar year" means a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year that contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under subsection (b). The required minimum distribution for the Participant's first distribution calendar year shall be made on or before the Participant's required beginning date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's required beginning date occurs, shall be made on or before December 31 of that distribution calendar year.
- (3) "Life expectancy" means life expectancy as computed by use of the Single Life Table in section 1.401(a)(9)-9 of the regulations.
- (4) "Participant's account balance" means the account balance as of the last valuation date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the account balance as of dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. The account balance for the valuation calendar year includes any amounts rolled over or transferred to the plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.
- (5) "Required beginning date" means April 1st of the calendar year following the later of:
 - (a) the calendar year in which the Participant attains age 70-1/2; or
 - (b) the calendar year in which the Participant retires.
- (f) Participants or Beneficiaries may elect, on an individual basis, whether the 5-year rule or the life expectancy rule in subsections (b) and (d) applies to distributions after the death of a Participant who has a designated Beneficiary. The election must be made no later than the earlier of September 30 of the calendar year in

which distribution would be required to begin under subsection (b), or by September 30 of the calendar year which contains the fifth anniversary of the Participant's (or, if applicable, the surviving spouse's) death. If neither the Participant nor the Beneficiary makes an election under this paragraph, distributions shall be made in accordance with subsections (b) and (d).

- 7.05 Post-Retirement Death Benefits. Should the Participant die after he has begun to receive benefits under a payment option, the guaranteed or remaining payments, if any, under the payment option shall be payable to the Participant's Beneficiary commencing with the first payment due after the death of the Participant. Payment to the Participant's Beneficiary must comply with section 401(a)(9) of the Code, and with any additional Code limitations applicable to the Plan. If the Beneficiary does not continue to live for the remaining period of payments under the payment option, then the remaining benefits under the payment option shall be paid to the Beneficiary's beneficiary or, if none, the Beneficiary's estate. In no event shall the Employer be liable for any payments made in the name of the Participant or a Beneficiary before the Employer or its agent receives proof of the death of the Participant or Beneficiary.
- 7.06 Pre-Retirement Death Benefits. Should the Participant die before he has begun to receive benefits under Section 7.01, a death benefit equal to the value of the Participant's Account shall be payable to the Beneficiary. Such death benefit shall be paid in a lump sum unless the Beneficiary elects a different payment option. Payment to the Participant's Beneficiary must comply with section 401(a)(9) of the Code, and with any additional Code limitations applicable to the Plan. Should the Beneficiary die before the completion of payments under the payment option, the value of the remaining payments under the payment option shall be paid to the Beneficiary's beneficiary or, if none, the Beneficiary's estate.
- 7.07 Unforeseeable Emergency Withdrawals. If the Employer so elects under Section 2.02, then in the event of an unforeseeable emergency, a Participant may apply to the Service Provider to receive that part of the value of his Account that is reasonably needed to satisfy the emergency need (including any amounts that may be necessary to pay any federal, state or local income taxes or penalties reasonably anticipated to result from the distribution). If such application for withdrawal is approved by the Service Provider, the Service Provider shall direct the issuer, trustee or custodian to pay the Participant such value as the Service Provider deems necessary to meet the emergency need.

The regulations under section 457(d)(1)(A)(iii) of the Code define an unforeseeable emergency as a severe financial hardship of the Participant or Beneficiary resulting from an illness or accident of the Participant or Beneficiary, the Participant's or Beneficiary's spouse, or the Participant's or Beneficiary's dependent (as defined in Code section 152, without regard to Code section 152(b)(1), (b)(2), and (d)(1)(B)); loss of the Participant's or Beneficiary's property due to casualty (including the need to rebuild a home following damage to a home not otherwise covered by homeowner's insurance, *e.g.*, as a result of a natural disaster); or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant or Beneficiary. For example,

the imminent foreclosure of or eviction from the Participant's or Beneficiary's primary residence may constitute an unforeseeable emergency. In addition, the need to pay for medical expenses, including non-refundable deductibles, as well as for the cost of prescription drug medication, may constitute an unforeseeable emergency. Finally, the need to pay for the funeral expenses of a spouse or a dependent (as defined in Code section 152, without regard to Code section 152(b)(1), (b)(2), and (d)(1)(B)) may also constitute an unforeseeable emergency. Except as otherwise specifically provided in this Section 7.07, neither the purchase of a home nor the payment of college tuition is an unforeseeable emergency.

A distribution on account of an unforeseeable emergency may not be made to the extent that such emergency is or may be relieved through reimbursement or compensation from insurance or otherwise, by liquidation of the Participant's assets, to the extent the liquidation of such assets would not itself cause severe financial hardship, or by cessation of deferrals under the Plan.

7.08 Participant's Election to Receive In-Service Distribution. If the Employer so elects under Section 2.03, a Participant may elect to receive an in-service distribution of the total amount payable to him under the Plan if:

- (a) such amount does not exceed the dollar amount under section 411(a)(11)(A) of the Code,
- (b) no amount has been deferred under the Plan with respect to the Participant during the two-year period ending on the date of the distribution, and
- (c) there has been no prior distribution under the Plan to the Participant under this Section 7.08 or under Section 7.09.

7.09 Distribution without Participant's Consent. If the Employer so elects under Section 2.04, the total amount payable to a Participant under the Plan may be distributed to the Participant without his consent if:

- (a) such amount does not exceed \$1,000,
- (b) no amount has been deferred under the Plan with respect to the Participant during the two-year period ending on the date of the distribution, and
- (c) there has been no prior distribution under the Plan to the Participant under this Section 7.09 or under Section 7.08.

7.10 Death Benefits under USERRA. In the case of a Participant who dies while performing "qualified military service" (as defined in Code section 414(u)(5)), the survivors of the Participant are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan, if any, had the Participant resumed and then terminated employment on account of death.

- 7.11 Distribution During Military Service. A Participant who is performing services in the uniformed services (as defined in Chapter 43 of Title 38 of the United States Code) while on active duty for a period of more than 30 days shall be treated as having been Severance from Employment during such period and may elect to receive a distribution of all or a portion of his or her Plan Account. Any request for a distribution under this Section must be made in the manner prescribed by the Service Provider. If a Participant elects a distribution pursuant to this Section, the Participant may not make elective contributions to the Plan during the six-month period beginning on the date of the distribution.

ARTICLE VIII. NON-ASSIGNABILITY

- 8.01 In General. Except as provided in Section 8.02, the interests of each Participant or Beneficiary under the Plan are not subject to the claims of the Participant's or Beneficiary's creditors; and no Participant or Beneficiary shall have any right to commute, sell, assign, pledge, transfer or otherwise convey or encumber the right to receive any payments hereunder or any interest under the Plan, which payments and interests are expressly declared to be non-assignable and non-transferable.

8.02 Domestic Relations Orders.

- (a) Allowance of Transfers: Notwithstanding Section 8.01, if a judgment, decree or order (including approval of a property settlement agreement) that relates to the provision of child support, alimony payments, or the marital property rights of a spouse or former spouse, child, or other dependent of a Participant is made pursuant to a State domestic relations law ("domestic relations order"), then the amount of the Participant's Account shall be paid in the manner and to the person or persons so directed in the domestic relations order. Such payment shall be made without regard to whether the Participant is eligible for a distribution of benefits under the Plan. The Service Provider shall establish reasonable procedures for reviewing and determining the status of any such decree or order and for effectuating distribution pursuant to the domestic relations order. Where necessary to carry out the terms of such an order, a separate Account may be established with respect to the spouse, former spouse, or child who shall be entitled to make investment selections with respect thereto in the same manner as the Participant.
- (b) Release from Liability to Participant: The Plan's liability to pay benefits to a Participant shall be reduced to the extent that amounts have been paid or set aside for payment to a spouse, former spouse, child, or other dependent pursuant to paragraph (a) of this section. No such transfer shall be effectuated unless the Service Provider has been provided with satisfactory evidence that the Employer and the Plan are released from any further claim by the Participant with respect to such amounts. The Participant shall be deemed to have released the Employer and the Plan from any claim with respect to such amounts, in any case in which (i) the

Employer or Service Provider has been served with legal process or otherwise joined in a proceeding relating to such transfer, (ii) the Participant has been notified of the pendency of such proceeding in the manner prescribed by the law of the jurisdiction in which the proceeding is pending by service of process in such action or by mail from the Employer or Service Provider to the Participant's last known mailing address, and (iii) the Participant fails to obtain an order of the court in the proceeding relieving the Employer or Plan from the obligation to comply with the judgment, decree, or order. The Participant shall also be deemed to have released the Employer or Plan if the Participant has consented to the transfer pursuant to the terms of a property settlement agreement and/or a final judgment, decree, or order as described in paragraph (a).

- (c) Participation in Legal Proceedings: The Employer and the Service Provider shall not be obligated to defend against or seek to have set aside any judgment, decree, or order described in paragraph (a) or any legal order relating to the garnishment of a Participant's benefits, unless the full expense of such legal action is borne by the Participant. In the event that the Participant's action (or inaction) nonetheless causes the Employer or Service Provider to incur such expense, the amount of the expense may be charged against the Participant's Account and thereby reduce the Employer's obligation to pay benefits to the Participant. In the course of any proceeding relating to divorce, separation, or child support, the Employer or Service Provider shall be authorized to the extent permitted by applicable laws to disclose information relating to the Participant's Account to the Participant's spouse, former spouse, or child (including the legal representatives of the spouse, former spouse, or child), or to a court.

ARTICLE IX. TRANSFERS AND ROLLOVERS

- 9.01 Transfers. This Plan shall accept and allow transfers, pursuant to section 457 of the Code, of amounts deferred by an individual under this Plan or another eligible deferred compensation plan meeting the requirements of section 457(g) of the Code, provided the conditions of this Section 9.01 are met.

- (a) Directed by Individual Participant or Beneficiary. A transfer from this Plan to another eligible governmental deferred compensation plan or from another eligible governmental deferred compensation plan to this Plan is permitted only if the transferor plan provides for transfers, the receiving plan provides for the receipt of transfers, the Participant or Beneficiary whose amounts deferred are being transferred shall have an amount deferred immediately after the transfer at least equal to the amount deferred with respect to that Participant or Beneficiary immediately before the transfer, and in the case of a transfer for a Participant, the Participant whose amounts deferred are being transferred has had a severance from employment with the transferring employer and is performing services for the employer maintaining the transferee plan. Upon the transfer of assets from this Plan under this Section 9.01(a), the Plan's liability to pay benefits to the

Participant or Beneficiary under this Plan shall be discharged to the extent of the amount so transferred for the Participant or Beneficiary.

Any such transferred amount shall not be treated as a deferral subject to the limitations of Section 3.13, except that, for purposes of applying the limit of Section 3.13, an amount deferred during any taxable year under the plan from which the transfer is accepted shall be treated as if it had been deferred under this Plan during such taxable year and compensation paid by the transferor employer shall be treated as if it had been paid by the Employer.

- (b) Permissive Service Credit Transfers. Subject to any limitations imposed by an investment provider, if a Participant is also a participant in a tax-qualified defined benefit governmental plan (as defined in section 414(d) of the Code) that provides for the acceptance of plan-to-plan transfers with respect to the Participant, then the Participant may elect to have any portion of the Participant's Account transferred to the defined benefit governmental plan. A transfer under this Section 9.01(b) may be made before the Participant has had a Severance from Employment.

A transfer may be made under Section 9.01(b) only if the transfer is either for the purchase of permissive service credit (as defined in section 415(n)(3)(A) of the Code) under the receiving defined benefit governmental plan or a repayment to which section 415 of the Code does not apply by reason of section 415(k)(3) of the Code.

- 9.02 Rollovers. A Participant, a Participant's spouse or surviving spouse, a Participant's spouse or former spouse who is an alternate payee under a qualified domestic relations order may elect to roll over an Eligible Rollover Distribution to an Eligible Retirement Plan. The Participant shall be provided with a description of available rollover rights and rules in advance of such a distribution. A distribution that is an Eligible Rollover Distribution and that is paid in a form other than a rollover shall be subject to mandatory withholding of 20%, or such other mandatory withholding rate as may be imposed under the Code from time to time. This Plan shall be permitted to accept a rollover distribution from an Eligible Retirement Plan (including a distribution from an IRA) to this Plan, subject to any administrative restrictions imposed by the Plan or by the investment provider. To the extent required under the Code, the Plan shall separately account for any rollover contributions it receives.

A non-spouse Beneficiary of a deceased Participant who is a "designated beneficiary" under Code section 401(a)(9)(E) and the regulations thereunder, may roll over, by a direct trustee-to-trustee transfer, all or any portion of his distribution to an individual retirement account described in Code section 408(a) or an individual retirement annuity described in Code section 408(b) (other than an endowment contract) and such transfer shall be treated as an Eligible Rollover Distribution.

ARTICLE X. LOANS

If the Employer so elects under Section 2.05, loans shall be made available to all Participants on a reasonably equivalent basis, but only to the extent permitted under the Plan investment and the provisions of this Article. No loan shall be made available under this Plan unless it satisfies all of the requirements of Code section 72(p) and any other applicable regulatory guidance, including the limitations on the total of a Participant's non-taxable loans from all plans of the Employer for treatment as a tax-free loan. The making of loans under this Plan shall be subject to written guidelines set forth in a separate document, which guidelines shall govern the availability, terms and procedures for Participants to obtain loans under this Plan. The availability of loans under this Plan may be suspended, terminated or modified at any time. Notwithstanding any provision of the Plan to the contrary, if a Participant is in default on a Plan loan, such Participant shall not be eligible for a loan under the Plan until such default is cured.

ARTICLE XI. AMENDMENT OR TERMINATION OF PLAN

- 11.01 Amendment or Termination. The Employer may at any time amend this Plan or terminate this Plan and distribute the Participants' Accounts in conformity with the Code; provided, however, that such amendment or termination shall not impair the rights of Participants or their Beneficiaries with respect to any compensation deferred before the date of the amendment or termination of this Plan except as may be required to maintain the tax status of the Plan under the Code. In the event that the Plan is terminated, amounts deferred under the Plan (and all Plan assets) shall be distributed to all Plan Participants and Beneficiaries as soon as administratively practicable after the termination of the Plan and Participants shall thereafter receive their Normal Compensation. The Administrative Committee may at any time amend this Plan to comply with any applicable required law change or for any changes that are purely administrative in nature.
- 11.02 Amendment and Restatement of Previously Adopted Plan. If this Plan document constitutes an amendment and restatement of the Plan as previously adopted by the Employer, the amendments contained herein shall be effective as of the Effective Date, and the terms of the preceding plan document shall remain in effect through such date.

ARTICLE XII. USERRA

An Employee whose employment is interrupted by qualified military service under Code section 414(u) or who is on a leave of absence for qualified military service under Code section 414(u) may defer additional Compensation upon resumption of employment with the Employer equal to the maximum amount of Compensation that could have been deferred during that period if the Employee's employment with the Employer had continued (at the same level of Compensation) without the interruption of leave, reduced by the amount of Compensation, if any, actually deferred during the period of the interruption or leave. This right applies for five years following the resumption of employment (or, if sooner, for a period equal to three times the period of the interruption or leave).

ARTICLE XIII. MISTAKEN CONTRIBUTIONS

If any contribution (or any portion of a contribution) is made to the Plan by a good faith mistake of fact, then within one year after the payment of the contribution, and upon receipt in good order of a proper request approved by the Plan Administrator, the amount of the mistaken contribution (adjusted for any income or loss in value, if any, allocable thereto) shall be returned directly to the Participant or, to the extent required or permitted by the Plan Administrator, to the Employer.

ARTICLE XIV. RELATIONSHIP TO OTHER PLANS

This Plan serves in addition to any other retirement, pension or benefit plan or system presently in existence or hereinafter established.

[Remainder of Page Intentionally Left Blank.]

IN WITNESS WHEREOF, the Employer has caused this Plan to be adopted effective as of the Effective Date, executed as of this 23rd day of May, 2017.

CITY OF SOUTH FULTON, GEORGIA

By: _____
Mayor

APPENDIX A **ROTH DEFERRALS**

SECTION 1 **PURPOSE**

The purpose of this Appendix A to the Plan is to modify, supersede and supplement the terms of the Plan as they relate to Roth deferrals under the Plan. This Appendix is to be construed in accordance with Code Sections 402A and 457 and any applicable guidance or regulations issued thereunder.

SECTION 2 **GENERAL RULES**

(a) The provisions of this Appendix will apply to Roth deferrals beginning on or after July 1, 2015 (or such other date that is administratively feasible as determined by the Plan Administrator).

(b) As of the date specified above, the Plan will accept Roth deferrals made on behalf of Participants. A Participant's Roth deferrals will be allocated to a separate account maintained for such deferrals as described in Section 3 of this Appendix.

(c) Unless specifically stated otherwise in this Appendix, Roth deferrals will be treated in the same manner as before-tax deferrals or, if applicable, as Age-Based Catch-Up Contributions, for all purposes under the Plan.

(d) Roth deferrals will be aggregated with before-tax deferrals or, if applicable, with Age-Based Catch-Up Contributions when determining the limitations described in Section 3.13 of the Plan.

(e) The making of Roth deferrals shall be subject to such administrative procedures as the Plan Administrator may prescribe pursuant to Article V of the Plan and the Plan Administrator shall have the same discretionary authority to administer the Plan with respect to Roth deferrals as it does with respect to all other aspects of the Plan.

SECTION 3 **SEPARATE ACCOUNTING**

(a) The Plan will maintain a record of the amount of Roth deferrals in each Participant's Account in a separate Roth Account.

(b) Contributions and withdrawals of Roth deferrals will be credited and debited to the Roth Account established for the Roth deferrals maintained for each Participant.

(c) Roth Accounts will be invested among the available Investment Funds in accordance with Article VI of the Plan.

(d) Gains, losses, and other credits or charges must be separately allocated on a reasonable and consistent basis to each Participant's Roth Account and the Participant's other Accounts under the Plan.

(e) No contributions other than Roth deferrals and properly attributable earnings will be credited to each Participant's Roth Account.

SECTION 4

WITHDRAWALS

(a) A Participant may withdraw all or any portion of his or her Roth Account maintained under the Plan in accordance with Article VII of the Plan. Any withdrawal of a Participant's Roth Account will be subject to (i) the distribution rules of Code Section 402A(d) and any applicable guidance or regulations issued thereunder, and (ii) the rules and limitations as the Plan Administrator may from time to time prescribe.

(b) If a Participant takes a distribution of less than 100% of his Account (including an Unforeseeable Emergency Withdrawal), the Participant may designate whether such distribution shall be made from the Participant's before-tax deferrals or Roth deferrals.

SECTION 5

DIRECT ROLLOVERS

(a) Notwithstanding anything in this Plan to the contrary, a direct rollover of a distribution from a Roth Account under the Plan will only be made to another Roth elective deferral account under an applicable retirement plan described in Code Section 402A(e)(1) or to a Roth IRA described in Code Section 408A, and only to the extent the rollover is permitted under the rules of Code Section 402(c).

(b) The Plan will accept a rollover contribution of Roth elective deferrals to a Roth Contribution Rollover Account only if it is a direct rollover from another Roth elective deferral account under an applicable retirement plan described in Code Section 402A(e)(1) and only to the extent the rollover is permitted under the rules of Code Section 402(c).

(c) The Plan will not provide for a direct rollover (including an automatic rollover to an individual retirement plan designated by the Plan Administrator) for distributions from a Participant's Roth Account if the amount of the distributions that are Eligible Rollover Distributions are reasonably expected to total less than \$200 during a year. In addition, any distribution from a Participant's Roth Account is not taken into account in determining whether distributions from a Participant's other Accounts are reasonably expected to total less than \$200 during a year. However, Eligible Rollover Distributions from a Participant's Roth Account are taken into account in determining whether the total amount of the Participant's account balances under the Plan exceeds \$1,000 for purposes of mandatory distributions from the Plan.

(d) The provisions of the Plan that allow a Participant to elect a direct rollover of only a portion of an Eligible Rollover Distribution, but only if the amount rolled over is at least \$500, is applied by treating any amount distributed from the Participant's Roth Account as a separate

distribution from any amount distributed from the Participant's other Accounts in the Plan, even if the amounts are distributed at the same time.

SECTION 6

EXCESS DEFERRALS

In the case of a correction of excess deferrals under Section 3.13(a) of the Plan, the Plan will distribute all of a Participant's before-tax deferrals before distributing any of the Participant's Roth deferrals.

SECTION 7

ROLLOVERS

(a) A Participant, the surviving spouse of a Participant, or a Participant's former spouse who is an alternate payee under a qualified domestic relations order may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an Eligible Rollover Distribution, other than the individual's Roth Account, paid to the Plan as an in-Plan Roth rollover to the distributee's Roth Account in accordance with Code Section 402A(c)(4).

SECTION 8

DEFINITIONS

As used in this Appendix, the following words and phrases shall have the meaning set forth below:

- (a) **Roth deferrals.** Roth deferrals are elective deferrals that are:
 - (i) irrevocably designated by the Participant at the time the Participant completes and remits a Deferred Compensation Agreement pursuant to Section 5.02 of the Plan as Roth deferrals that is being made in lieu of all or a portion of the before-tax deferrals the Participant is otherwise eligible to make under the Plan; and
 - (ii) includible in the Participant's income at the time the Participant would have received that amount in cash if the Participant had not made a Deferred Compensation Agreement election.
- (b) **Roth Account.** The Roth Account is the account which shall reflect a Participant's interest in Roth deferrals and earnings and losses thereon.
- (c) **Roth Rollover Account.** The Roth Rollover Account is the account which shall reflect a Participant's interest in Roth elective deferral rollover amounts and earnings and losses thereon.

**STATE OF GEORGIA
COUNTY OF FULTON
CITY OF SOUTH FULTON**

RESOLUTION NO. 2017-024

**RESOLUTION DESIGNATING THE LEGAL ORGAN FOR THE CITY OF
SOUTH FULTON**

WHEREAS, the City of South Fulton (“City”) is a municipal corporation duly organized and existing under the laws of the State of Georgia and is charged with providing public services to local residents; and

WHEREAS, O.C.G.A. § 50-14-1 requires the City to provide notice of any meeting, other than a regularly scheduled meeting, by the City Council to be published in the City’s legal organ; and

WHEREAS, the City Council finds that designating a legal organ is necessary and beneficial to its citizens and to the efficient operation of the City.

**THEREFORE, IT IS NOW RESOLVED BY THE CITY COUNCIL OF THE
CITY OF SOUTH FULTON, GEORGIA, AS FOLLOWS:**

1. **Designating the Legal Organ.** The official legal organ for the City of South Fulton shall be the Fulton County Daily Report.
2. **Notice to Other Publications.** The City shall also provide notice to the Atlanta Voice, South Fulton Neighbor, and South Fulton Observer.
3. **Approval of Execution.** The Mayor is hereby authorized to sign all documents necessary to effectuate this Resolution. The City Clerk is authorized to execute, attest to, and seal any document that may be necessary to effectuate this Resolution, subject to approval as to form by the City Attorney.
4. **Severability.** To the extent, any portion of this Resolution is declared invalid, unenforceable or non-binding, that shall not affect the remaining portions of this Resolution.
5. **Repeal of Conflicting Provisions.** All City resolutions are hereby repealed to the extent they are inconsistent with this Resolution.
6. **Effective Date.** This Resolution shall take effect immediately.

The foregoing Resolution No. _____ was offered by Councilmember _____, who moved its approval. The motion was seconded by Councilmember _____, and being put to a vote, the result was as follows:

	AYE	NAY
William “Bill” Edwards, Mayor	_____	_____
Catherine Foster Rowell (Mayor Pro Tem)	_____	_____
Carmalitha Lizandra Gumbs	_____	_____
Helen Zenobia Willis	_____	_____
Gertrude Naeema Gilyard	_____	_____
Rosie Jackson	_____	_____
khalid kamau	_____	_____
Mark Baker	_____	_____

THIS RESOLUTION adopted this _____ day of _____ 2017. **CITY OF
SOUTH FULTON, GEORGIA**

WILLIAM "BILL" EDWARDS, MAYOR

ATTEST:

_____, CITY CLERK

APPROVED AS TO FORM:

_____, INTERIM CITY ATTORNEY

**STATE OF GEORGIA
COUNTY OF FULTON
CITY OF SOUTH FULTON**

RESOLUTION NO. 2017-025

RESOLUTION TO ADOPT THE FISCAL YEAR 2017 FINAL BUDGET FOR EACH FUND OF THE CITY OF SOUTH FULTON, GEORGIA, APPROPRIATING THE AMOUNTS SHOWN IN EACH FUND AS EXPENDITURES/EXPENSES, ADOPTING THE SEVERAL ITEMS OF REVENUE ANTICIPATIONS, AND PROHIBITING EXPENDITURES OR EXPENSES FROM EXCEEDING THE ACTUAL FUNDING AVAILABLE, AND FOR VARIOUS OTHER REASONS.

WHEREAS, the City of South Fulton (“City”) is a municipal corporation duly organized and existing under the laws of the State of Georgia and is charged with providing public services to local residents; and

WHEREAS, sound governmental operations require a budget in order to plan the financing of services for the residents of the City of South Fulton; and

WHEREAS, O.C.G.A. § 36-81-1 requires a balanced budget for the City’s fiscal year, which runs from October 1st to September 30th of each year; and

WHEREAS, the Mayor and City Council of the City of South Fulton have reviewed the Final abbreviated FY 2017 budget as presented by the City Manager; and

WHEREAS, each of these funds is a balanced budget, so that anticipated revenues and other financial resources for each fund equal the proposed expenditures or expenses; and

WHEREAS, the Mayor and City Council wish to adopt this proposal as the Final abbreviated Fiscal Year 2017 Annual Budget, effective from May 1, 2017 through September 30, 2017.

THEREFORE, IT IS NOW RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SOUTH FULTON, GEORGIA, AS FOLLOWS:

1. **Adoption of Budget.** That the Final Fiscal Year 2017 Budget, attached hereto and incorporated herein as a part of this Resolution is hereby adopted as the Final Budget for the City of South Fulton, Georgia for the abbreviated Fiscal Year 2017, which begins May 1, 2017 and ends on September 30, 2017.
2. **Appropriation.** That the several items of revenues, other financial resources, and sources of cash shown in the budget for each fund in the amounts shown anticipated are hereby adopted, and that the several amounts shown in the budget

for each fund as proposed expenditures or expenses, and uses of cash are hereby appropriated to the departments named in each fund.

3. **Legal Level of Control.** That the “legal level of control” as defined in O.C.G.A. § 36-81-2 is set at the department level, meaning that the City Manager in her capacity is authorized to move appropriations from one line item to another within a fund, but under no circumstances may expenditures or expenses exceed the amount appropriated for a fund without a further budget amendment approved by the Mayor and City Council.
4. **Expiration of Appropriations.** That all appropriations shall lapse at the end of the fiscal year.
5. **Full Force and Effect.** That this Resolution shall be and remain in full force and effect from and after its date of adoption.
6. **Approval of Execution.** The Mayor is hereby authorized to sign all documents necessary to effectuate this Resolution. The City Clerk is authorized to execute, attest to, and seal any document that may be necessary to effectuate this Resolution, subject to approval as to form by the City Attorney.
7. **Severability.** To the extent, any portion of this Resolution is declared invalid, unenforceable or non-binding, that shall not affect the remaining portions of this Resolution.
8. **Repeal of Conflicting Provisions.** All City resolutions are hereby repealed to the extent they are inconsistent with this Resolution.
9. **Effective Date.** This Resolution shall take effect immediately.

The foregoing Resolution No. _____ was offered by Councilmember _____, who moved its approval. The motion was seconded by Councilmember _____, and being put to a vote, the result was as follows:

	AYE	NAY
William “Bill” Edwards, Mayor	_____	_____
Catherine Foster Rowell (Mayor Pro Tem)	_____	_____
Carmalitha Lizandra Gumbs	_____	_____
Helen Zenobia Willis	_____	_____
Gertrude Naeema Gilyard	_____	_____
Rosie Jackson	_____	_____
khalid kamau	_____	_____
Mark Baker	_____	_____

THIS RESOLUTION adopted this _____ day of _____ 2017. **CITY OF
SOUTH FULTON, GEORGIA**

WILLIAM "BILL" EDWARDS, MAYOR

ATTEST:

_____, CITY CLERK

APPROVED AS TO FORM:

_____, INTERIM CITY ATTORNEY



City of South Fulton

2017 General Fund Proposed Budget

For Fiscal Year Ending September 30, 2017

Budget Transmittal Letter

June 9, 2017

Honorable Mayor and Members of the City Council
City of South Fulton

I am pleased to present to you the 2017 proposed general fund budget for the fiscal year ending September 30, 2017, for your review and approval in compliance with the City of South Fulton Charter and Georgia Statutes. The total budget of \$26,786,608.50 covers operating revenues and expenditures.

BUDGET DEVELOPMENT PROCESS:

The City Manager and Finance Department conservatively reviewed all proposed revenues to make sure there was enough revenue to meet the proposed expenditures. The proposed balanced budget was presented to the Council on May 30, 2017, followed by a public hearing on June 6, 2017. Final adoption of the 2017 budget is scheduled for June 13, 2017.

BUDGET DEVELOPMENT PREPARATION GUIDELINES:

The following preparation guidelines proposed by the City of South Fulton Management have been utilized in developing the 2017 five months, May - September budget:

- All mandated statutory funding requirements will be met
- Maintain current service levels as provided in the 2016 budget.
- Provide for the addition of new personnel including the Mayor and City Council, administrative staff composed of City Manager's Office, Finance Department, Human Resources Services, Information Technology and City Clerk/s Office.
- Avoid any tax increase
- Proposed 2017 budget started with zero fund balance. The City will strive to maintain a minimum of 12 percent of total expenditures as fund balance starting with 2018/2019 budget.

PROPOSED BUDGET:

The proposed general fund budget totals \$26,786,608.50 for the period of five months (May – September) while the total budget for full 2016 was \$57,818,648. Tax mileage for 2017 proposed budget remains the same as 2016 fiscal year level of 11.579 mills. The proposed budget seeks to meet the needs of our citizens in a manageable and cost-effective manner. The proposed budget includes all services currently provided to the City of South Fulton by Fulton County through Inter-Governmental Agreements (IGA). These services include police, fire, planning and community development services, code enforcement, parks and recreation and public works.

GENERAL FUND REVENUES:

General fund revenues are generated from tax collections, sales tax receipts, charges for services, licenses, and permits, and various fees. The proposed budget includes \$3 million in revenue from Fulton County as a reimbursement to the City of South Fulton for services provided to Fulton Industrial Blvd Corridor which remains unincorporated. The City is proposing to use \$10 million of the \$12 million TAN (Tax Anticipation Notice) which will be repaid by December 2017.

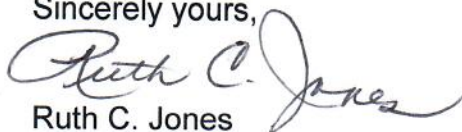
GENERAL FUND EXPENDITURES:

General fund expenditures are divided across several major areas of the City of South Fulton Government including Mayor and Council, City Clerk, City Manager, Economic Development, facilities and utilities, Finance, Fire, Human Resources, Information Technology, Municipal Court, Parks and Recreation, Planning and Community Development, Police, Public Works, Real Estate and Asset Management, Animal Control, Storm Water Management, Transfer Out for E911, and contingency for a total of \$26,786, 608.50.

This budget is intended to provide administration the opportunity to present its proposals for the levels of services and methods of financing these services in the next five months. This budget also provides the effective control possible by the Mayor and City Council over the expenditure of public funds. Lastly, this proposed budget provides the administration with the opportunity to point out various needs within the City's services. The Council has the opportunity to measure the adequacy of proposed programs and to set the level of City of South Fulton services.

Special thanks and appreciation are extended to the staff and transition team for the fiscal groundwork.

Sincerely yours,

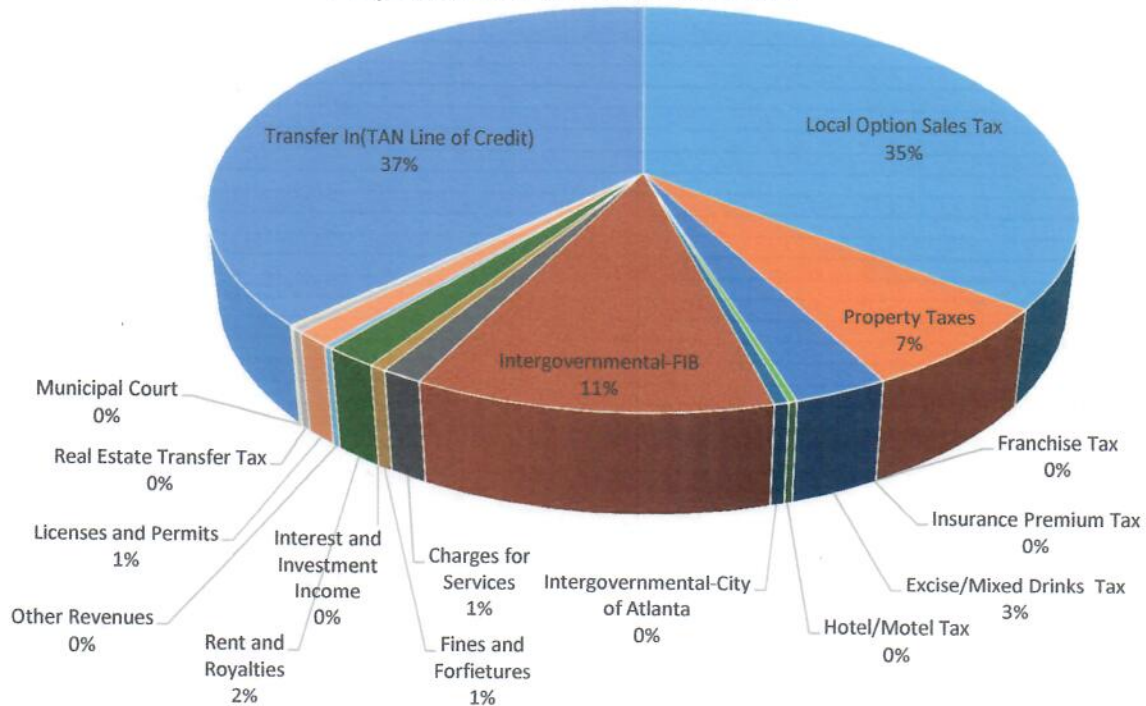


Ruth C. Jones
Interim City Manager
City of South Fulton

CITY OF SOUTH FULTON
2017 GENERAL FUND PROPOSED BUDGET

Revenues	FY16 Budget	FY16 Actuals	Proposed IGA	Proposed FY17 5 month Budget	Comments
Local Option Sales Tax				\$9,500,000.00	
Property Taxes	\$32,961,400.00	\$31,412,251.00		\$1,811,633.84	
Franchise Tax	\$0.00	\$0.00		\$0.00	
Insurance Premium Tax	\$4,348,964.00	\$4,880,985.00		\$0.00	Paid in October
Excise/Mixed Drinks Tax	\$1,050,855.00	\$1,916,074.00		\$800,000.00	
Hotel/Motel Tax	\$66,812.00	\$130,262.00		\$70,000.00	
Intergovernmental-City of Atlanta	\$254,705.00	\$126,348.00		\$125,000.00	
Intergovernmental-FIB	\$0.00	\$0.00	\$3,000,000.00	\$3,000,000.00	
Intergovernmental-State	\$0.00	\$21,310.00		\$0.00	
Intergovernmental-Federal	\$24,181.00	\$10,850.00		\$0.00	
Charges for Services	\$992,666.00	\$834,440.00		\$347,683.33	
Fines and Forfeitures	\$109,768.00	\$12,770.00		\$140,640.00	
Interest and Investment Income	\$89,302.00	\$0.00		\$0.00	
Rent and Royalties	\$1,145,368.00	\$1,263,419.00		\$450,000.00	
Other Revenues	\$101,153.00	\$80,927.00		\$80,000.00	
Licenses and Permits	\$6,238,584.00	\$6,195,933.00		\$320,000.00	
Real Estate Transfer Tax	\$108,648.00	\$119,263.00		\$108,000.00	
Municipal Court				\$33,651.33	
Transfer in	\$2,000,000.00	\$2,000,000.00		\$0.00	
Transfer In(TAN Line of Credit)				\$10,000,000.00	
				\$0.00	
Total Revenues	\$49,492,406.00	\$49,004,832.00	\$3,000,000.00	\$26,786,608.50	

Proposed FY17 5 month Revenues

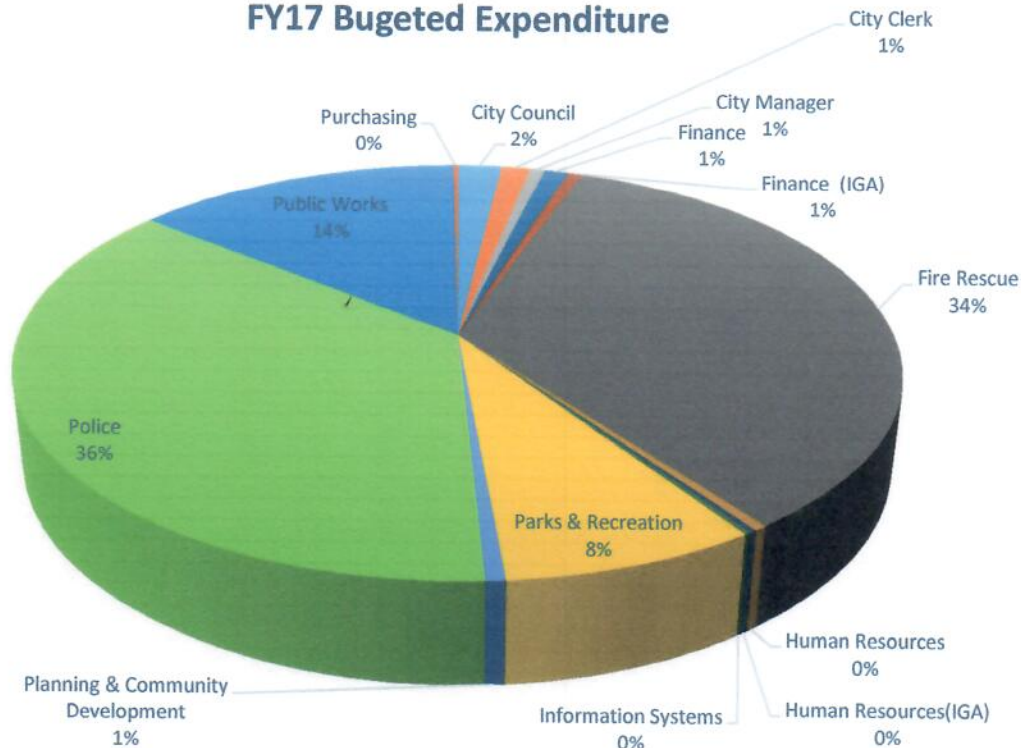


CITY OF SOUTH FULTON
2017 GENERAL FUND PROPOSED BUDGET

Expenditures	FTE	FY16 Budget	FY16 Actuals	Proposed IGA	Proposed FY17 5 month Budget	Comments
City Council	9				\$138,739.50	
City Clerk	6				\$194,433.59	
City Manager	3				\$192,097.17	
County Manager		\$72,217.00	\$29,790.00			
Economic Development					\$107,062.70	
Facilities(Lease incuding utilities)					\$131,143.75	
Finance	5				\$263,346.42	
Finance (IGA)	3	\$358,362.00	\$310,604.00	\$163,145.00	\$165,000.00	Article 26, Section 26.2
Fire Rescue	165	\$15,275,243.00	\$14,729,616.00	\$8,377,160.00	\$8,377,533.09	Article 19, Section 19.4
Human Resources	2	\$153,094.00	\$135,496.00		\$85,017.37	
Human Resources(IGA)	1				\$58,699.52	
Information Systems	1	\$84,500.00	\$84,279.00		\$56,452.88	
Municipal Court					\$33,651.00	
Non Agency*		\$14,930,510.00	\$8,303,130.00			
Operational Start Up Cost					\$248,000.00	
Parks & Recreation	38	\$4,377,667.00	\$4,196,065.00	\$2,400,775.00	\$2,400,775.00	Article 25, Section 25.2
Planning & Community Development	3	\$2,772,699.00	\$2,507,029.00	\$1,560,190.00	\$1,594,622.00	Article 24, Section 24.2
Police	175	\$17,028,193.00	\$16,694,058.00	\$9,338,500.00	\$9,436,857.25	Article 12, Section 12.5
Public Works	68	\$0.00			\$1,742,180.38	
Purchasing	1					
Real Estate & Asset Mgmt.		\$187,000.00	\$186,224.00		\$77,593.65	
Animal Control				\$411,858.25	\$411,585.25	Article 9, Section 9.2
Storm Water Management				\$122,935.00	\$125,000.00	Article 28, Section 28.2
Transfer Out(E911)					\$781,250.00	
Contingency					\$165,568.00	
Total Expenditures	473	\$55,239,485.00	\$47,176,291.00	\$22,374,563.25	\$26,786,608.50	

*Data

FY17 Bugeted Expenditure



Operational Start Up

	FY 2016		FY 2017
Expenditures	FTE		
Operating			
COURT AND PUBLIC OFFICIAL BOND			\$5,000.00
PROFESSIONAL SERVICES			
PROF SERVICES-GVMT SERVICES			
PROF SERVICES-AUDIT			\$10,000.00
TECHNICAL SERVICES			\$100,000.00
ELECTRONIC DEVICES			\$10,000.00
COMMUNICATIONS			\$2,000.00
SOFTWARE			\$77,000.00
GENERAL LIABILITY INSURANCE			\$20,000.00
POSTAGE			
ADVERTISING			\$2,000.00
PRINTING & BINDING			\$5,000.00
TRAVEL			\$15,000.00
DUES & FEES			
EDUCATION/TRAINING			
CONTRACTUAL SERVICES			
MERCHANT SERVICES CHARGES			
BANK SERVICE CHARGES			
GENERAL OPERATING SUPPLIES			\$5,000.00
HOSPITALITY			\$2,000.00
Total Operating		\$0.00	\$248,000.00
Personnel			
REGULAR SALARIES			
HEALTH INSURANCE			
DISABILITY INSURANCE			
DENTAL INSURANCE			
VISION INSURANCE			
LIFE INSURANCE			
SOCIAL SECURITY			
MEDICARE			
RETIREE-H/L/V			
RETIREMENT 401A			
RETIREMENT-MATCHING			
UNEMPLOYMENT TAX			
WORKERS' COMPENSATION			
Total Personnel		\$0.00	
Total budget	8	\$0.00	\$248,000.00

City Clerk

	FY 2016	FY 2017
Expenditures	FTE	
City Clerk	2	
Operating		
COURT AND PUBLIC OFFICIAL BOND		
PROFESSIONAL SERVICES		
PROF SERVICES-GVMT SERVICES		
PROF SERVICES-AUDIT		
TECHNICAL SERVICES		\$1,200.00
COMMUNICATIONS		
GENERAL LIABILITY INSURANCE		
POSTAGE		
ADVERTISING		\$2,000.00
PRINTING & BINDING		\$2,000.00
TRAVEL		
DUES & FEES		
EDUCATION/TRAINING		
CONTRACTUAL SERVICES		
MERCHANT SERVICES CHARGES		
BANK SERVICE CHARGES		
GENERAL OPERATING SUPPLIES		\$1,500.00
HOSPITALITY		
Total Operating	\$0.00	\$6,700.00
Personnel		
REGULAR SALARIES		\$130,417.00
HEALTH INSURANCE		\$20,000.00
DISABILITY INSURANCE		\$652.10
DENTAL INSURANCE		\$485.00
VISION INSURANCE		\$186.67
LIFE INSURANCE		\$1,416.67
SOCIAL SECURITY		\$8,085.80
MEDICARE		\$1,891.00
RETIREE-H/L/V		\$9,280.28
RETIREMENT 401A		\$2,608.30
RETIREMENT-MATCHING		\$10,433.30
UNEMPLOYMENT TAX		\$860.80
WORKERS' COMPENSATION		\$1,416.67
Total Personnel	\$0.00	\$187,733.59
Total budget	2	\$0.00 \$194,433.59

16,100 Benefits

Positions

City Clerk	0	1
Deputy Clerk	0	1
Assistant Clerk	0	1
Council Aide	0	3
Total Postions	0	6

The City Clerk is appointed by the Mayor and Council to arrange and coordinate Council Meetings, prepare and sound agenda, develop post agendas and minutes of all Council Meetings, create and maintain City records, research records and provide public access to these records, and assist Council with various administrative and legislative functions.

City Manager

	FY 2016	FY 2017
Expenditures	FTE	
Operating		
COURT AND PUBLIC OFFICIAL BOND		
PROFESSIONAL SERVICES		
PROF SERVICES-GVMT SERVICES		
PROF SERVICES-AUDIT		
TECHNICAL SERVICES		\$525.00
COMMUNICATIONS		
GENERAL LIABILITY INSURANCE		
POSTAGE		
ADVERTISING		\$250.00
PRINTING & BINDING		\$250.00
TRAVEL		
DUES & FEES		\$1,000.00
EDUCATION/TRAINING		
CONTRACTUAL SERVICES		
MERCHANT SERVICES CHARGES		
BANK SERVICE CHARGES		
GENERAL OPERATING SUPPLIES		
HOSPITALITY		
Total Operating	\$0.00	\$2,025.00
Personnel		
REGULAR SALARIES		\$133,542.00
HEALTH INSURANCE		\$12,000.00
DISABILITY INSURANCE		\$667.70
VISION INSURANCE		\$186.67
DENTAL INSURANCE		\$291.00
LIFE INSURANCE		\$57.00
SOCIAL SECURITY		\$8,279.60
MEDICARE		\$1,936.40
RETIREE-H/L/V		\$18,026.30
RETIREMENT 401A		\$2,670.80
RETIREMENT-MATCHING		\$10,683.30
UNEMPLOYMENT TAX		\$881.40
WORKERS' COMPENSATION		\$850.00
Total Personnel	\$0.00	\$190,072.17
Total budget	0	\$192,097.17

Positions

City Manager	0	1
Assistant to City Manager	0	1
Executive Assistant to City Manager	0	1
Total Postions	0	3

The City Manager is an appointed position. The department is tasked with overseeing the day-to-day operations of South Fulton. The City Manager provides leadership to the executive management staff and coordinates activities that involve analysis and coordiantion of procedure, policies and practices. The manager makes recommendations on complex administrative projects, oversees the other division and facilitates interaction and communication among departments. The manager also serves the Mayor and Council, citizens and employees.

Economic Development

	FY 2016	FY 2017
Expenditures	FTE	
Operating		
COURT AND PUBLIC OFFICIAL BOND		
PROFESSIONAL SERVICES		\$50,000.00
PROF SERVICES-GVMT SERVICES		
PROF SERVICES-AUDIT		
TECHNICAL SERVICES		\$500.00
COMMUNICATIONS		
GENERAL LIABILITY INSURANCE		
POSTAGE		
ADVERTISING		\$300.00
PRINTING & BINDING		\$150.00
TRAVEL		
DUES & FEES		
EDUCATION/TRAINING		
CONTRACTUAL SERVICES		
MERCHANT SERVICES CHARGES		
BANK SERVICE CHARGES		
GENERAL OPERATING SUPPLIES		\$500.00
HOSPITALITY		
Total Operating	\$0.00	\$51,450.00
Personnel		
REGULAR SALARIES		\$31,458.00
HEALTH INSURANCE		\$12,000.00
DISABILITY INSURANCE		\$157.30
DENTAL INSURANCE		\$291.00
VISION INSURANCE		
LIFE INSURANCE		\$850.00
SOCIAL SECURITY		\$1,950.40
MEDICARE		\$456.10
RETIREE-H/L/V		\$4,246.40
RETIREMENT 401A		\$629.20
RETIREMENT-MATCHING		\$2,516.70
UNEMPLOYMENT TAX		\$207.60
WORKERS' COMPENSATION		\$850.00
Total Personnel	\$0.00	\$55,612.70
Total budget	0	\$107,062.70

Positions

Director of Economic Development	0	1
Assistant Director	0	1
Administrative assistant	0	1
Total Postions	0	3

Finance

	FY 2016	FY 2017
Expenditures	FTE	
Operating		
COURT AND PUBLIC OFFICIAL BOND	\$30.00	\$250.00
PROFESSIONAL SERVICES	\$63,242.24	\$19,107.78
PROF SERVICES-GVMT SERVICES		
PROF SERVICES-AUDIT		\$10,000.00
TECHNICAL SERVICES		\$3,000.00
COMMUNICATIONS		
GENERAL LIABILITY INSURANCE	\$4,270.00	\$7,000.00
POSTAGE	\$340.00	\$340.00
ADVERTISING		
PRINTING & BINDING	\$263.83	\$150.00
TRAVEL		
DUES & FEES		
EDUCATION/TRAINING		
CONTRACTUAL SERVICES		
MERCHANT SERVICES CHARGES		
BANK SERVICE CHARGES		
GENERAL OPERATING SUPPLIES	\$2,467.25	\$2,000.00
HOSPITALITY		
Total Operating	\$70,583.32	\$41,597.78
Personnel		
REGULAR SALARIES	\$159,544.84	\$150,833.00
HEALTH INSURANCE	\$27,953.00	\$20,000.00
DISABILITY INSURANCE	\$811.30	\$754.20
DENTAL INSURANCE	\$1,300.00	\$485.00
VISION INSURANCE		\$186.67
LIFE INSURANCE	\$797.28	\$95.00
SOCIAL SECURITY	\$9,407.16	\$9,351.70
MEDICARE	\$2,199.52	\$2,187.10
RETIREE-H/L/V	\$21,552.00	\$20,360.40
RETIREMENT 401A	\$4,225.32	\$3,016.70
RETIREMENT-MATCHING	\$2,448.22	\$12,066.70
UNEMPLOYMENT TAX	\$84.00	\$995.50
WORKERS' COMPENSATION	\$196.91	\$1,416.67
Total Personnel	\$230,519.55	\$221,748.64
Total budget	0	\$301,102.87
		\$263,346.42

Positions		
Finance Director	0	1
Controller	0	1
Assistant to Finance Director	0	1
BUSN TAX SPEC	1	1
ACCT ASSOC	1	1
BUSN TAX SPEC	1	1
Purchasing Specialist	0	1
Risk Management Specialist	0	1
Total Postions	3	8

The Finance Department is the central point through which all revenue and disbursements are channeled. The responsibility of the department include payroll, budget development, and managing debt and investment portfolios. The department is also responsible for payables, business licenses and centralized collections of all funds.

Human Resources

		FY 2016	FY 2017	FY 2017 FULTON COUNTY
Expenditures	FTE			
Operating				
COURT AND PUBLIC OFFICIAL BOND				
PROFESSIONAL SERVICES				
PROF SERVICES-GVMT SERVICES				
PROF SERVICES-AUDIT				
TECHNICAL SERVICES			\$1,000.00	
COMMUNICATIONS				
GENERAL LIABILITY INSURANCE				
POSTAGE				
ADVERTISING			\$300.00	
PRINTING & BINDING			\$150.00	
TRAVEL				
DUES & FEES				
EDUCATION/TRAINING				
CONTRACTUAL SERVICES				
MERCHANT SERVICES CHARGES				
BANK SERVICE CHARGES				
GENERAL OPERATING SUPPLIES		\$5,000.00	\$1,000.00	\$2,083.33
HOSPITALITY				
Total Operating		\$5,000.00	\$2,450.00	\$2,083.33
Personnel				
REGULAR SALARIES		\$88,443.51	\$75,672.70	\$36,851.46
HEALTH INSURANCE		\$14,534.91	\$10,000.00	\$6,056.21
DISABILITY INSURANCE		\$269.06	\$693.03	\$112.11
DENTAL INSURANCE		\$600.00	\$606.25	\$250.00
VISION INSURANCE				\$0.00
LIFE INSURANCE		\$200.00	\$120.00	\$83.33
SOCIAL SECURITY		\$4,573.22	\$8,593.56	\$1,905.51
MEDICARE		\$3,012.33	\$2,009.78	\$1,255.14
RETIREE-H/L/V		\$12,116.98	\$18,709.00	\$5,048.74
RETIREMENT 401A		\$943.57	\$11,088.47	\$393.15
RETIREMENT-MATCHING		\$10,904.35	\$11,088.47	\$4,543.48
UNEMPLOYMENT TAX		\$84.00	\$914.80	\$35.00
WORKERS' COMPENSATION		\$196.91	\$1,770.83	\$82.05
Total Personnel		\$135,878.84	\$82,567.37	\$56,616.18
Total budget	0	\$140,878.84	\$85,017.37	\$58,699.52

Positions

HR Manager	0	1
Assistant HR Manager	0	1
HR Operations	1	1
Total Postions	1	3

Information Technology

		FY 2016	FY 2017
Expenditures	FTE		
City Clerk	2		
Operating			
COURT AND PUBLIC OFFICIAL BOND			
PROFESSIONAL SERVICES			\$20,000.00
PROF SERVICES-GVMT SERVICES			
PROF SERVICES-AUDIT			
TECHNICAL SERVICES			
COMMUNICATIONS			
GENERAL LIABILITY INSURANCE			
POSTAGE			
ADVERTISING			
PRINTING & BINDING			
TRAVEL			
DUES & FEES			
EDUCATION/TRAINING			
CONTRACTUAL SERVICES			
MERCHANT SERVICES CHARGES			
BANK SERVICE CHARGES			
GENERAL OPERATING SUPPLIES			\$1,000.00
HOSPITALITY			
Total Operating		\$0.00	\$21,000.00
Personnel			
REGULAR SALARIES		\$59,133.89	\$24,639.12
HEALTH INSURANCE		\$6,216.00	\$2,926.70
DISABILITY INSURANCE		\$309.05	\$128.77
DENTAL INSURANCE		\$284.00	\$118.33
VISION INSURANCE		\$116.00	\$48.33
LIFE INSURANCE		\$45.03	\$18.76
SOCIAL SECURITY		\$3,465.06	\$1,443.78
MEDICARE		\$810.38	\$337.66
RETIREE-H/L/V		\$8,002.00	\$3,334.17
RETIREMENT 401A		\$295.62	\$123.18
RETIREMENT-MATCHING		\$4,366.80	\$1,819.50
UNEMPLOYMENT TAX		\$390.00	\$162.50
WORKERS' COMPENSATION		\$845.00	\$352.08
Total Personnel		\$84,278.83	\$35,452.88
Total budget	2	\$84,278.83	\$56,452.88

Positions

Total Postions

0

1

Fire

	FY 2016	FY 2017
Expenditures	FTE	
Operating		
AUTOMOBILE LIABILITY COVERAGE AND CLAIMS	\$12,000.00	\$5,000.00
AUTOMOBILE PHYSICAL DAMAGE COVERAGE	\$8,610.00	\$3,587.50
INSURANCE DEDUCTIBLE	\$500.00	\$208.33
COURT AND PUBLIC OFFICIAL BOND	\$403.00	\$167.92
PROFESSIONAL SERVICES	\$40,951.57	\$17,063.15
PROF SERVICES-GVMT SERVICES		\$1,026,000.00
PROF SERVICES-AUDIT		\$0.00
MOTOR VEH/OPERATION SUPPLIES	\$374,367.26	\$155,986.36
TECHNICAL SERVICES		\$0.00
COMMUNICATIONS		\$0.00
GENERAL LIABILITY INSURANCE	\$254,769.00	\$106,153.75
POSTAGE	\$1,299.96	\$541.65
PHOTOCOPYING	\$11,764.39	\$4,901.83
ADVERTISING		\$0.00
PRINTING & BINDING	\$949.84	\$395.77
TRAVEL	\$6,672.17	\$2,780.07
DUES & FEES	\$1,379.00	\$574.58
EDUCATION/TRAINING	\$1,843.52	\$768.13
CONTRACTUAL SERVICES		\$0.00
MERCHANT SERVICES CHARGES		\$0.00
BANK SERVICE CHARGES		\$0.00
EQUIPMENT NON-CAPITALIZED	\$215,968.34	\$89,986.81
EQUIPMENT	\$297,043.04	\$123,767.93
GENERAL OPERATING SUPPLIES	\$5,213.14	\$2,172.14
OFFICE SUPPLIES	\$19,736.67	\$8,223.61
TRAINING SUPPLIES	\$11,396.18	\$4,748.41
MAINTENANCE SUPPLIES	\$26,676.53	\$11,115.22
PHARMACY/MED SUPPLIES	\$56,644.62	\$23,601.93
UNIFORMS	\$73,550.30	\$30,645.96
HOSPITALITY	\$854.42	\$356.01
TRANSFER OUT CAPITAL PROJECTS	\$686,000.00	\$500,000.00
Total Operating	\$2,108,592.95	\$2,118,747.06
Personnel		
REGULAR SALARIES	\$8,528,315.50	\$4,553,464.79
HEALTH INSURANCE	\$1,426,550.00	\$594,395.83
DISABILITY INSURANCE	\$115,629.43	\$48,178.93
DENTAL INSURANCE	\$85,920.00	\$35,800.00
VISION INSURANCE	\$102,478.00	\$42,699.17
LIFE INSURANCE	\$11,856.59	\$4,940.25
SOCIAL SECURITY	\$482,754.08	\$201,147.53
MEDICARE	\$113,146.27	\$47,144.28
RETIREE-H/L/V	\$1,180,870.00	\$492,029.17
RETIREMENT 401A	\$52,260.86	\$21,775.36
RETIREMENT-MATCHING	\$474,153.73	\$197,564.05
PENSION	\$25,580.00	\$10,658.33
UNEMPLOYMENT TAX	\$6,320.00	\$2,633.33
WORKERS' COMPENSATION	\$15,252.00	\$6,355.00
Total Personnel	\$12,621,086.46	\$6,258,786.03
Total budget	0	\$14,729,679.41

Positions	
ADMIN COORD I	2
ADMIN COORDII	1
ADMIN MGR, FIRE	1
ADMIN SPEC	1
DEP FIRE CHF	2
DEPT HR GEN	1
FIRE BAT CHF	6
FIRE CAPTAIN	33
FIRE CHIEF	1
FIRE ED OFF	1
FIRE FIGH I	56
FIRE FIGH II	25
FIRE FIGHT III	28
FIRE LT	4
FIRE PREV OF	1
FLEET MGR	1
HVY EQU MECH	1
165	165

Contracts

Georgia Fire and Resue Supply	\$ 2,833.33	\$ 170,000.00
Municipal Emergency Services	\$ 1,333.33	\$ 80,000.00
Emory Clinic	\$ 222.22	\$ 13,333.00

Revenue	City of Atlanta		\$ 250,000.00
		\$ 263,333.00	\$ 250,000.00

Planning & Zoning

	FY 2016	FY 2017
Expenditures	FTE	
Operating		
AUTOMOBILE LIABILITY COVERAGE AND CLAIMS	\$12,285.00	\$ 5,118.75
AUTOMOBILE PHYSICAL DAMAGE COVERAGE	\$9,905.00	\$ 4,127.08
INSURANCE DEDUCTIBLE		\$ -
PROPERTY CLAIMS	\$1,308.00	\$ 545.00
VEHICLE MAINTENANCE	\$118.00	\$ 49.17
COURT AND PUBLIC OFFICIAL BOND	\$1,000.00	\$ 416.67
PROFESSIONAL SERVICES	\$241,973.59	\$ 100,822.33
PROF SERVICES-GVMT SERVICES		\$ -
PROF SERVICES-AUDIT		\$ -
MOTOR VEH/OPERATION SUPPLIES	\$435.95	\$ 181.65
TECHNICAL SERVICES		\$ -
SOFTWARE LICENSE	\$42,567.55	\$ 17,736.48
COMMUNICATIONS		\$ -
GENERAL LIABILITY INSURANCE	\$42,585.00	\$ 17,743.75
POSTAGE	\$1,090.96	\$ 454.57
PHOTOCOPYING	\$11,764.39	\$ 4,901.83
ADVERTISING		\$ -
PRINTING & BINDING	\$324.84	\$ 135.35
TRAVEL		\$ -
DUES & FEES		\$ -
EDUCATION/TRAINING		\$ -
CONTRACTUAL SERVICES		\$ -
MERCHANT SERVICES CHARGES	\$18,104.85	\$ 7,543.69
BANK SERVICE CHARGES		\$ -
EQUIPMENT NON-CAPITALIZED	\$216,849.89	\$ 90,354.12
EQUIPMENT	\$297,043.04	\$ 123,767.93
MOBILE TELEPHONE	\$2,972.47	\$ 1,238.53
GENERAL OPERATING SUPPLIES		\$ -
OFFICE SUPPLIES	\$14,623.55	\$ 6,093.15
TRAINING SUPPLIES	\$3,017.79	\$ 1,257.41
MAINTENANCE SUPPLIES	\$26,676.53	\$ 11,115.22
PHARMACY/MED SUPPLIES	\$56,644.62	\$ 23,601.93
UNIFORMS	\$76,496.07	\$ 31,873.36
HOSPITALITY		\$ -
TRANSFER OUT CAPITAL PROJECTS	\$359,754.00	\$ 194,897.50
Total Operating	\$1,437,541.09	\$ 643,975.45
Personnel		
REGULAR SALARIES	\$743,018.39	\$ 809,591.00
HEALTH INSURANCE	\$72,092.00	\$ 33,943.32
DISABILITY INSURANCE	\$21,642.33	\$ 9,017.64
DENTAL INSURANCE	\$5,142.00	\$ 2,142.50
VISION INSURANCE	\$1,282.00	\$ 534.17
LIFE INSURANCE	\$663.93	\$ 276.64
SOCIAL SECURITY	\$44,366.92	\$ 18,486.22
MEDICARE	\$10,376.35	\$ 4,323.48
RETIREE-H/L/V	\$94,801.00	\$ 39,500.42
RETIREMENT 401A	\$9,348.11	\$ 3,895.05
RETIREMENT-MATCHING	\$48,066.71	\$ 20,027.80
PENSION	\$3,042.00	\$ 1,267.50
UNEMPLOYMENT TAX	\$3,704.00	\$ 1,543.33
WORKERS' COMPENSATION	\$14,634.00	\$ 6,097.50
Total Personnel	\$1,072,179.74	\$ 950,646.55
Total budget	0	\$2,509,720.83 \$ 1,594,622.00

Positions

PLANNER I	1
PLANNER III	1
DEV SVCS MGR	1
PL REV	1
SR ARBORIST	1
ERO SL CONT INS	1
PROF ENG SR	1
R&D COORD	1
SR PLANNER	2
DIR PL & COM SV	1
DEP DIR PLN & D	1
PERMIT SPEC	2
PLANNER II	1
PLANNER II	1
	16

Contracts

Ed Castro Landscape, LLC

\$ 438,383.52

		FY 2016	FY 2017
Expenditures	FTE		
Operating			
AUTOMOBILE LIABILITY COVERAGE AND CLAIMS		\$92,329.00	\$ 38,470.42
AUTOMOBILE PHYSICAL DAMAGE COVERAGE		\$52,278.00	\$ 21,782.50
INSURANCE DEDUCTIBLE		\$17,452.00	\$ 7,271.67
PROPERTY CLAIMS		\$2,243.00	
COURT AND PUBLIC OFFICIAL BOND		\$2,430.00	\$ 1,012.50
RENT/LEASE BUILDINGS		\$195,796.67	\$ 81,581.95
PROFESSIONAL SERVICES		\$58,749.18	\$ 24,478.83
PROF SERVICES-GVMT SERVICES			\$ 1,200,000.00
SECURITY SERVICE		\$59,478.90	
INVESTIGATION EXPENSE		\$1,743.04	\$ 726.27
VEHICLE MAINTENANCE & REPAIRS		\$411,245.76	
OFFICE EQUIPMNT & MAINT		\$703.50	
SOFTWARE LICENSE		\$300,986.55	
MOTOR VEH/OPERATION SUPPLIES		\$68,579.03	\$ 28,574.60
TECHNICAL SERVICES			\$ -
COMMUNICATIONS			\$ -
GENERAL LIABILITY INSURANCE		\$412,870.00	\$ 172,029.17
POSTAGE		\$3,456.55	\$ 1,440.23
PHOTOCOPYING		\$31,243.43	\$ 13,018.10
ADVERTISING		\$1,887.76	\$ 786.57
PRINTING & BINDING		\$4,947.28	\$ 2,061.37
TRAVEL		\$4,973.32	\$ 2,072.22
DUES & FEES		\$2,308.00	\$ 961.67
EDUCATION/TRAINING		\$9,059.91	\$ 3,774.96
CONTRACTUAL SERVICES			\$ -
MERCHANT SERVICES CHARGES			\$ -
BANK SERVICE CHARGES			\$ -
EQUIPMENT NON-CAPITALIZED		\$299,778.34	\$ 124,907.64
EQUIPMENT		\$301,842.04	\$ 125,767.52
GENERAL OPERATING SUPPLIES			\$ -
OFFICE SUPPLIES		\$29,239.60	\$ 12,183.17
OFFICE FURNISHINGS		\$5,927.57	
LAB SUPPLIES		\$6,917.83	
AMMUNITION		\$8,660.23	
RECREATIONAL SUPPLIES		\$11,000.00	
STOCK PAPER		\$3,286.60	
MOBILE PHONE		\$109,380.78	
TELEPHONE INSTALLATION		\$1,700.94	
INVENTORY SUPPLIES		\$3,294.00	
TRAINING SUPPLIES		\$3,017.79	\$ 1,257.41
MAINTENANCE SUPPLIES		\$26,775.53	\$ 11,156.47
PHARMACY/MED SUPPLIES		\$56,644.62	\$ 23,601.93
UNIFORMS		\$103,450.43	\$ 43,104.35
HOSPITALITY		\$491.58	\$ 204.83
TRANSFER OUT CAPITAL PROJECTS		\$1,412,046.00	\$ 588,352.50
Total Operating		\$4,118,214.76	\$ 2,530,578.79
Personnel			
REGULAR SALARIES		\$8,528,477.72	\$ 5,153,532.38
HEALTH INSURANCE		\$1,221,985.00	\$ 575,351.30
DISABILITY INSURANCE		\$41,891.43	\$ 17,454.76
DENTAL INSURANCE		\$71,218.00	\$ 29,674.17
VISION INSURANCE		\$18,482.00	\$ 7,700.83
LIFE INSURANCE		\$9,205.75	\$ 3,835.73
SOCIAL SECURITY		\$481,679.69	\$ 200,699.87
MEDICARE		\$112,837.42	\$ 47,015.59
RETIREE-H/L/V		\$1,209,053.00	\$ 503,772.08
RETIREMENT 401A		\$46,615.24	\$ 19,423.02
RETIREMENT-MATCHING		\$495,452.92	\$ 206,438.72
PENSION		\$116,110.00	\$ 48,379.17
UNEMPLOYMENT TAX		\$59,637.00	\$ 24,848.75
WORKERS' COMPENSATION		\$163,565.00	\$ 68,152.08
Total Personnel		\$12,576,210.17	\$ 6,906,278.45
Total budget	0	\$16,694,424.93	\$ 9,436,857.25

Police

Expenditures	FTE	FY 2016	FY 2017
Operating			

Positions		
ADMIN COORDII		5
ADMIN SPEC		3
ADMIN TECHN		3
CODE ENF MGR		1
CODE ENF OFF I		10
CODE ENF OFF II		3
CODE ENF TM LD		3
CRIM SCENE SUPV		1
DEP POLICE CHIE		1
ENV CT COORD		1
FLEET SV COOR P		1
FORENSIC TECH		2
POL DET		13
POL LT		19
POL OFF I		53
POL OFF II		28
POL OFF III		14
POLICE CAPT.		8
POLICE CHIEF		1
POLICE MAJOR		2
POLICE PILOT		1
POLICE SRGT		2
		175

Contracts		
Parabon Nannolabs, INC	DNA Phenotyping	\$ 6,500.00
CMES, Inc	Breath Alcohol Testing	\$ 16,964.00
Akin Ford, Didge	Police pursuit and special services vehicle	\$ 333,008.50
NC4 Public Sector LLC	NC4 Street Smart	\$ 271,741.80
Law Enforcement Supply	Emergency equipment and installation	\$ 180,000.00
Nextire Group/ Nextire Commercial, Inc	High performance, high speed pursuit and general purpose tires	\$ 60,000.00
Smyrna Police Departments	Uniforms, footwear, and duty gear	\$ 101,000.00
S & W Services of Atlanta, Inc	Wrecker and Towing Services	\$ 76,000.00
Moon's Service Center	Automobile Repair Services	\$ 300,000.00
E. Smith Box, Expedited Transportation	Body Worn and in Camera Implementation	\$ 405,000.00
EU IT Uniformss, Clausell & Associates CPA		
Confidential Security Agency Inc, In Touch		
Telecommunications		
Smyrna Police Departments	Armed and unarmed security	\$ 3,200,000.00
Law Enforcement Supply	Uniforms, footwear, and duty gear(increase spending)	\$ 80,000.00
Norred & Associates	Specialized Emergency Equipment and Installation Service	\$ 180,000.00
Norred & Associates	Armed and unarmed security	\$ 367,700.00
Priority One Security	Armed and unarmed security	\$ 594,500.00
	Armed and unarmed security	\$ 594,500.00

**STATE OF GEORGIA
COUNTY OF FULTON
CITY OF SOUTH FULTON**

RESOLUTION NO. 2017-026

**A RESOLUTION APPROVING A CABLE TELEVISION FRANCHISE
AGREEMENT BETWEEN THE CITY OF SOUTH FULTON AND COMCAST
OF GEORGIA/MICHIGAN, LP**

WHEREAS, the City of South Fulton (“City”) is a municipal corporation duly organized and existing under the laws of the State of Georgia;

WHEREAS, pursuant to Act 421 of the 2016 session of the Georgia General Assembly (the “City Charter”), the City of South Fulton incorporated on May 1, 2017;

WHEREAS, pursuant to Section 7.16(b) of the City Charter, the City provided notice to Fulton County of its intent to collect any tax, fee, assessment, fine or forfeiture, other monies;

WHEREAS, the City considers collecting a franchise fee from a cable provider utilizing the public rights of way as compensation to the public for the use of the rights of way and a means of promoting the public health, safety, welfare and economic development of the City and to protect public works infrastructure,

THEREFORE, IT IS NOW RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOUTH FULTON, GEORGIA, AS FOLLOWS:

1. The aforesaid recitals are not mere recitals, but are material portions of this Resolution.
2. The City of South Fulton City Council authorizes the Mayor to execute, on behalf of the City of South Fulton, a Cable Television Franchise Agreement, a copy of which is attached, with Comcast of Georgia/Michigan, LP.

The foregoing Resolution No. _____ was offered by Councilmember _____, who moved its approval. The motion was seconded by Councilmember _____, and being put to a vote, the result was as follows:

	AYE	NAY
William “Bill” Edwards, Mayor	_____	_____
Catherine Foster Rowell (Mayor Pro Tem)	_____	_____
Carmalitha Lizandra Gumbs	_____	_____
Helen Zenobia Willis	_____	_____
Gertrude Naeema Gilyard	_____	_____
Rosie Jackson	_____	_____
Khalid kamau	_____	_____
Mark Baker	_____	_____

THIS RESOLUTION adopted this _____ day of _____ 2017. CITY OF SOUTH
FULTON, GEORGIA

WILLIAM "BILL" EDWARDS, MAYOR

ATTEST:

_____, CITY CLERK

APPROVED AS TO FORM:

_____, INTERIM CITY ATTORNEY

Franchise Agreement

between the

City of South Fulton, Georgia

and

Comcast of Georgia/Michigan, LP

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AGREEMENT

This **AGREEMENT** is effective as of the ____ day of _____, 2017 (the “Effective Date”), and is between the City of south Fulton, Georgia, an incorporated Georgia city (the “Franchising Authority” or the “City”), and Comcast of Georgia/Michigan, LP (the “Company”). For purposes of this Agreement, unless otherwise defined in this Agreement, the capitalized terms, phrases, words, and their derivations, shall have the meanings set forth in Appendix A.

The Franchising Authority, having determined that the financial, legal, and technical ability of the Company is reasonably sufficient to provide the services, facilities, and equipment necessary to meet the current and future cable-related needs of the community and that, as of the Effective Date, the Company is in material compliance with the terms and conditions of the cable franchise preceding this Agreement, desires to enter into this Agreement with the Company for the construction, operation, and maintenance of a Cable System on the terms and conditions set forth herein. In consideration of the mutual covenants and agreements contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby covenant and agree as follows:

SECTION 1 GRANT OF AUTHORITY

1.1 Grant of Franchise. The Franchising Authority hereby grants under the Cable Act a nonexclusive franchise (the “Franchise”) to occupy and use the Streets within the Franchise Area in order to construct operate, maintain, upgrade, repair, and remove the Cable System, and provide Cable Services through the Cable System, subject to the terms and conditions of this Agreement. This Franchise authorizes Cable Service, and it does not grant or prohibit the right(s) of the Company to provide other services.

1.2 Term of Franchise. This Franchise shall be in effect for a period of ten (10) years commencing on the Effective Date, unless renewed or lawfully terminated in accordance with this Agreement and the Cable Act.

1.3 Renewal. Subject to Section 626 of the Cable Act (47 U.S.C. § 546) and such terms and conditions as may lawfully be established by the Franchising Authority, the Franchising Authority reserves the right to grant or deny renewal of the Franchise.

1.4 Reservation of Authority. Nothing in this Agreement shall (i) abrogate the right of the Franchising Authority to perform any public works or public improvements of any description, (ii) be construed as a waiver of any codes or ordinances of the Franchising Authority or of the Franchising Authority’s right to require the Company or any Person utilizing the Cable System to secure the appropriate permits or authorizations for its use, or (iii) be construed as a waiver or release of the rights of the Franchising Authority in and to the Streets. Notwithstanding the above, in the event of any conflict between this Agreement and any code or ordinance adopted by the Franchising Authority, the terms and conditions of this Agreement shall prevail.

1.5 Competitive Equity and Subsequent Action Provisions.

1.5.1 Purposes. The Company and the Franchising Authority acknowledge that there is increasing competition in the video marketplace among cable operators, direct broadcast satellite providers, telephone companies, broadband content providers, and others; new technologies are emerging that enable the provision of new and advanced services to City residents; and changes in the scope and application of the traditional regulatory framework governing the provision of Video Services are being considered in a variety of federal, state, and local venues. To foster an environment where all Cable Service Providers and Video Service Providers using the Streets can compete on a competitively neutral and nondiscriminatory basis; encourage the provision of new and advanced services to City residents; promote local communications infrastructure investments and economic opportunities in the City; and provide flexibility in the event of subsequent changes in the law, the Company and the Franchising Authority have agreed to the provisions in this Section 1.5, and these provisions should be interpreted and applied with these purposes in mind. The parties agree that the Franchising Authority shall not be required to execute a franchise agreement or authorization with a competitive CSP or VSP that is identical, word-for-word, with this Agreement to avoid triggering the provisions of this Section 1.5, so long as the regulatory and financial burdens on and benefits to each CSP or VSP are materially equivalent to the burdens on and benefits to the Company. “Materially equivalent” provisions include but are not limited to: franchise fees and the definition of Gross Revenues; system build-out requirements; security instruments; public, education and government access channels and support; customer service standards; and audits.

1.5.2 Fair Terms for All Providers. Notwithstanding any other provision of this Agreement or any other provision of law,

(a) If any VSP or CSP enters into any agreement with the Franchising Authority to provide Video Services or Cable Services to Subscribers in the Franchise Area, the Franchising Authority and the Company, upon written request of the Company, will use best efforts in good faith to negotiate the Company’s proposed Franchise modifications, and such negotiation will proceed and conclude within sixty (60) days, unless that period is reduced or extended by mutual agreement of the parties. If the Franchising Authority and the Company agree to Franchise modifications pursuant to such negotiations, then the Franchising Authority shall amend this Agreement to include the modifications.

If there is no written agreement or other authorization between the new VSP or CSP and the Franchising Authority, the Company and the Franchising Authority shall use the sixty (60) day period to develop and enter into an agreement or other appropriate authorization (to the extent the Company determines an agreement or authorization is necessary) that to the maximum extent possible contains provisions that will ensure competitive equity between the Company and other VSPs or CSPs, taking into account the terms and conditions under which the new VSP or CSP is allowed to provide Video Services or Cable Services to Subscribers in the Franchise Area.

(b) Following the Franchise modification negotiations provided for in Section 1.5.2(a), if the Franchising Authority and the Company fail to reach agreement in such negotiations, the Company may, at its option, elect to replace this Agreement by opting in to the same franchise agreement or other lawful authorization that the Franchising Authority has granted to the new VSP or CSP. If the Company so elects, the Franchising Authority shall adopt the Company's replacement agreement at the next regularly scheduled city council meeting.

(c) The Franchising Authority shall at all times enforce the state and federal ban on providing Cable Service without a franchise. The Franchising Authority's enforcement efforts shall be continuous and diligent throughout the term of this Agreement. Should the Franchising Authority not commence enforcement efforts within sixty (60) days of becoming aware of a VSP or CSP providing Video Service or Cable Service within the Franchise Area, the Company shall have the right to petition the Franchising Authority for the relief provided in Section 1.5.2 above.

(d) This Section 1.5.2 shall not apply for VSPs or CSPs providing Video Service or Cable Service in the Franchise Area under the authorization of the Georgia Consumer Choice for Television Act (O.C.G.A. § 36-76-1, *et seq.*).

1.5.3 Subsequent Change in Law. If there is a change in federal, state, or local law that provides for a new or alternative form of authorization, subsequent to the Effective Date, for a VSP or CSP utilizing the Streets to provide Video Services or Cable Services to Subscribers in the Franchise Area, or that otherwise changes the nature or extent of the obligations that the Franchising Authority may request from or impose on a VSP or CSP providing Video Services or Cable Services to Subscribers in the Franchise Area, the Franchising Authority agrees that, notwithstanding any other provision of law, upon the written request and at the option of the Company, the Franchising Authority shall: (i) permit the Company to provide Video Services or Cable Services to Subscribers in the Franchise Area on substantially the same terms and conditions as are applicable to a VSP or CSP under the changed law; (ii) modify this Agreement to comply with the changed law; or (iii) modify this Agreement to ensure competitive equity between the Company and other VSPs or CSPs, taking into account the conditions under which other VSPs or CSPs are permitted to provide Video Services or Cable Services to Subscribers in the Franchise Area. The Franchising Authority and the Company shall implement the provisions of this Section 1.5.3 within sixty (60) days after the Company submits a written request to the Franchising Authority. Should the Franchising Authority fail to implement these provisions within the time specified, this Agreement shall, at the Company's option and upon written notice to the Franchising Authority, be deemed amended as initially requested by the Company under this Section 1.5.3. Notwithstanding any provision of law that imposes a time or other limitation on the Company's ability to take advantage of the changed law's provisions, the Company may exercise its rights under this Section 1.5.3 at any time, but not sooner than thirty (30) days after the changed law goes into effect.

1.5.4 Effect on This Agreement. Any agreement, authorization, right, or determination to provide Cable Services or Video Services to Subscribers in the Franchise Area under this Section 1.5 shall supersede this Agreement.

SECTION 2 THE CABLE SYSTEM

2.1 The System and Its Operations.

2.1.1 Service Area. As of the Effective Date, the Company operates a Cable System within the Franchise Area.

2.1.2 System. As of the Effective Date, the Company maintains and operates a Cable System capable of providing over 250 Channels of Video Programming, which Channels may be delivered by analog, digital, or other transmission technologies, at the sole discretion of the Company.

2.1.3 System Technical Standards. Throughout the term of this Agreement, the Cable System shall be designed, maintained, and operated such that quality and reliability of System Signal will be in compliance with all applicable consumer electronics equipment compatibility standards, including but not limited to Section 624A of the Cable Act (47 U.S.C. § 544a) and 47 C.F.R. § 76.630, as may be amended from time to time.

2.1.4 Testing Procedures; Technical Performance. Throughout the term of this Agreement, the Company shall operate and maintain the Cable System in accordance with the testing procedures and the technical performance standards of the FCC.

2.2 Requirements with Respect to Work on the System.

2.2.1 General Requirements. The Company shall comply with ordinances, rules, and regulations established by the Franchising Authority pursuant to the lawful exercise of its police powers and generally applicable to all users of the Streets. To the extent that local ordinances, rules, or regulations clearly conflict with the terms and conditions of this Agreement, the terms and conditions of this Agreement shall prevail, except where such conflict arises from the Franchising Authority's lawful exercise of its police powers.

2.2.2 Protection of Underground Utilities. Both the Company and the Franchising Authority shall comply with the Georgia Utility Facility Protection Act (O.C.G.A. § 25-9-1, *et seq.*), relating to notification prior to excavation near underground utilities, as may be amended from time to time.

2.3 Permits and General Obligations.

2.3.1 The Company shall be responsible for obtaining all permits, licenses, or other forms of approval or authorization necessary to construct, operate, maintain, or repair the Cable System, or any part thereof, prior to the commencement of any such activity. The Franchising Authority shall not charge the Company, and the Company shall not be required to pay, any fee or charge for the issuance of permits, licenses, or other approvals, as such payments are included in the franchise fees described in Section 4 below. The Franchising Authority shall make all reasonable efforts to issue permits, licenses, or other approvals within ten (10) business days. The Company shall be solely responsible, either through its employees or its authorized contractors, for constructing, installing, and

maintaining the Cable System in a safe, thorough, and reliable manner in accordance with all applicable standards and using materials of good and durable quality. The Company shall assure that any person installing, maintaining, or removing its facilities is fully qualified and familiar with all applicable standards. No third party shall tamper with, relocate, or otherwise interfere with the Company's facilities in the rights-of-way without the Company's approval and supervision; provided, however, that the Company shall make all reasonable efforts to coordinate with other users of the Streets to facilitate the execution of projects and minimize disruption in the public rights-of-way. All transmission and distribution structures, poles, other lines, and equipment installed by the Company for use in the Cable System in accordance with this Agreement shall be located so as to minimize interference with the proper use of the Streets and the rights and reasonable convenience of property owners who own property adjoining the Streets.

2.3.2 Code Compliance. The Company shall comply with all applicable building, safety, and construction codes. The parties agree that at present, Cable Systems are not subject to the low voltage regulations of the National Electric Code, National Electrical Safety Code, or other such codes or regulations. In the event that the applicable codes are revised such that Cable Systems become subject to low voltage regulations without being grandfathered or otherwise exempted, the Company will thereafter be required to comply with those regulations.

2.4 Conditions on Street Occupancy.

2.4.1 New Grades or Lines. If the grades or lines of any Street within the Franchise Area are lawfully changed at any time during the term of this Agreement, then the Company shall, upon at least ninety (90) days' advance written notice from the Franchising Authority and at its own cost and expense, protect or promptly alter or relocate the Cable System, or any part thereof, so as to conform with the new grades or lines. If public funds are available to any Person using the Street for the purpose of defraying the cost of any of the foregoing work, the Franchising Authority shall make application for such funds on behalf of the Company. The Company shall be entitled to reimbursement of its costs should any other utility be so compensated as a result of a required protection, alteration, or relocation of its facilities. Notwithstanding the above, the Company shall not be liable for the cost of protecting, altering, or relocating facilities, aerial or underground, where such work is required to accommodate a streetscape, sidewalk, or private development project.

2.4.2 Relocation at Request of Third Party. The Company shall, upon reasonable prior written request of any Person holding a permit issued by the Franchising Authority to move any structure, temporarily move its wires to permit the moving of such structure; provided (i) the Company may impose a reasonable charge on any Person for the movement of its wires, and such charge may be required to be paid in advance of the movement of its wires; and (ii) the Company agrees to arrange for such temporary relocation to be accomplished as soon as reasonably practicable, not to exceed ninety (90) days without the prior agreement of the Franchising Authority.

2.4.3 Restoration of Streets. If in connection with construction, operation, maintenance, or repair of the Cable System, the Company disturbs, alters, or damages any Street, the

Company agrees that it shall at its own cost and expense restore the Street according to the standards set forth in the Georgia Department of Transportation's Utility Accommodation Policy and Standards Manual. If the Franchising Authority reasonably believes that the Company has not restored the Street appropriately, then the Franchising Authority, after providing ten (10) business days' advance written notice and a reasonable opportunity to cure, may have the Street restored and bill the Company for the cost of restoration.

2.4.4 Trimming of Trees and Shrubbery. The Company shall have the authority to trim trees or other natural growth overhanging any of its Cable System in the Franchise Area so as to prevent contact with the Company's wires, cables, or other equipment, the cost of which trimming shall not be borne by the Franchising Authority.

2.4.5 Aerial and Underground Construction. If at the time of Cable System construction all of the transmission and distribution facilities of all of the respective public or municipal utilities in the construction area are underground, the Company shall place its Cable System's transmission and distribution facilities underground. At the time of Cable System construction, in any place within the Franchise Area where the transmission or distribution facilities of the respective public or municipal utilities are both aerial and underground, the Company shall have the discretion to construct, operate, and maintain all of its transmission and distribution facilities, or any part thereof, aerially or underground; however, at such time as all existing aerial facilities of the respective public or municipal utilities are placed underground, the Company shall likewise place its facilities underground, subject to the provisions of Section 2.4.1. Company facilities placed underground at the property owner's request in any area where any of the transmission or distribution facilities of the respective public or municipal utilities are aerial shall be installed with the additional expense paid by the property owner. Nothing in this Section 2.4.5 shall be construed to require the Company to construct, operate, or maintain underground any ground-mounted appurtenances such as customer taps, line extenders, system passive devices, amplifiers, power supplies, pedestals, or other related equipment.

2.4.6 New Developments. The Franchising Authority shall provide the Company with written notice of the issuance of building or development permits for planned developments within the Franchise Area requiring undergrounding of cable facilities. The Franchising Authority agrees to require the developer to give the Company access to open trenches for deployment of cable facilities and at least thirty (30) days' written notice of the date of availability of open trenches. Notwithstanding the foregoing, the Company shall not be required to utilize any open trench.

2.4.7 Use of Existing Poles. Where possible, the Company shall attach its facilities to existing utility poles and shall use all reasonable efforts to enter into a pole attachment agreement with the owners of such existing utility poles.

2.5 Change in Franchise Area. In the event that the borders of the Franchise Area change, through annexation or otherwise, the Franchising Authority shall provide to the Company written notice of such change, including an updated map and an electronic list of all addresses in the Franchise Area. Franchise fees on gross revenues earned from Subscribers in annexed areas shall not be payable to the Franchising Authority until sixty (60) days after the Company's receipt of

such updated map and electronic list of addresses, and shall not be remitted to the Franchising Authority until the next regularly scheduled quarterly franchise fee payment as provided in Section 4.1.2 below.

SECTION 3 CUSTOMER SERVICE

Customer Service. The Company shall comply in all respects with the requirements set forth in Appendix B. Individual violations of those requirements do not constitute a breach of this Agreement.

SECTION 4 COMPENSATION AND OTHER PAYMENTS

4.1 Compensation to the Franchising Authority. As compensation for the Franchise, the Company shall pay or cause to be paid to the Franchising Authority the amounts set forth in this Section 4.1.

4.1.1 Franchise Fees—Amount. The Company shall pay to the Franchising Authority franchise fees in an amount equal to five percent (5%) of Gross Revenues derived from the operation of the Cable System to provide Cable Services in the Franchise Area.

4.1.2 Franchise Fees—Payment. Payments of franchise fees shall be made on a quarterly basis and shall be remitted not later than thirty (30) days after the last day of March, June, September, and December throughout the term of this Agreement.

4.1.3 Company to Submit Franchise Fee Report. The Company shall submit to the Franchising Authority, not later than thirty (30) days after the last day of March, June, September, and December throughout the term of this Agreement, a report setting forth the basis for the computation of Gross Revenues on which the quarterly payment of franchise fees is being made, which report shall enumerate, at a minimum, the following revenue categories: limited and expanded basic video service, digital video service, premium video service, pay-per-view and video-on-demand, equipment, installation and activation, franchise fees, guide, late fees, ad sales, home shopping commissions, and bad debt.

4.1.4 Franchise Fee Payments Subject to Audit; Remedy for Underpayment. No acceptance of any franchise fee payment by the Franchising Authority shall be construed as an accord and satisfaction that the amount paid is in fact the correct amount or a release of any claim that the Franchising Authority may have for further or additional sums payable under this Agreement. The Franchising Authority may conduct an audit no more than once annually to ensure payments in accordance with this Agreement. The audit of the Company's records shall take place at a location, in the State of Georgia, determined by the Company. The Franchising Authority is prohibited from removing any records, files, spreadsheets, or any other documents from the site of the audit. In the event that the Franchising Authority takes notes of any documents, records, or files of the Company for use in the preparation of an audit report, all notes shall be returned to the Company upon completion of the audit. The audit period shall be limited to three (3) years preceding the end of the quarter of the most recent payment. Once the Company has provided information

for an audit with respect to any period, regardless of whether the audit was completed, that period shall not again be the subject of any audit.

If, as a result of an audit or any other review, the Franchising Authority determines that the Company has underpaid franchise fees in any twelve (12) month period by ten percent (10%) or more, then, in addition to making full payment of the relevant obligation, the Company shall reimburse the Franchising Authority for all of the reasonable costs associated with the audit or review, including all reasonable out-of-pocket costs for attorneys, accountants, and other consultants. The Franchising Authority shall provide the Company with a written notice of audit results and a copy of the final report presented to the Franchising Authority. The Company shall remit any undisputed amounts owed to the Franchising Authority as the result of the audit within forty-five (45) days, or other mutually acceptable timeframe, after the date of an executed settlement and release agreement.

4.2 Payments Not to Be Set Off Against Taxes or Vice Versa. The parties agree that the compensation and other payments to be made pursuant to this Section 4 are not a tax and are not in the nature of a tax. The Company and the Franchising Authority further agree that the provisions of O.C.G.A. § 36-76-6(h) apply to this Agreement. The Franchising Authority and the Company further agree that no additional business license fees, occupational license fees, or permit fees shall be assessed on the Company related to the provision of services or the operation of the Cable System, nor shall the Franchising Authority levy any other tax, license, fee, or assessment on the Company or its Subscribers that is not generally imposed and applicable to a majority of all other businesses.

4.3 Interest on Late Payments. If any payment required by this Agreement is not actually received by the Franchising Authority on or before the applicable date fixed in this Agreement, the Company shall pay interest thereon, from the due date to the date paid, at a rate of one percent (1%) per month.

4.4 Service to Governmental and Institutional Facilities.

4.4.1 Complimentary Installation and Service. The Company shall, within thirty (30) days of receipt of a written request by the Franchising Authority, provide complimentary standard installation and complimentary Basic Service on one outlet for each public primary or secondary school and public library located within the Franchise Area no more than one hundred twenty-five (125) feet from the nearest point of connection to the distribution plant. If a public primary or secondary school or public library within the Franchise Area is located more than one hundred twenty-five (125) feet from the nearest point of connection to the distribution plant, the Company shall, within thirty (30) days of receipt of a written request from the Franchising Authority, provide a written estimate for the cost of extending the distribution plant to the school or library, as well as any necessary interior wiring costs.

4.4.2 Government Discounts. The Company may provide a government discount rate if the Franchising Authority requests additional outlets at a public school or public library or requests Cable Service to any other government facility within the Franchise Area.

SECTION 5 COMPLIANCE REPORTS

5.1 Compliance. The Franchising Authority hereby acknowledges that as of the Effective Date, the Company is in material compliance with the terms and conditions of the cable franchise preceding this Agreement and all material laws, rules, and ordinances of the Franchising Authority.

5.2 Reports. Upon written request by the Franchising Authority and subject to Section 631 of the Cable Act, the Company shall promptly submit to the Franchising Authority such information as may be necessary to reasonably demonstrate the Company's compliance with any term or condition of this Agreement.

5.3 File for Public Inspection. Throughout the term of this Agreement, the Company shall maintain and make available to the public those documents required pursuant to the FCC's rules and regulations.

5.4 Treatment of Proprietary Information. The Franchising Authority agrees to treat as confidential, to the maximum extent allowed under the Georgia Open Records Act (O.C.G.A. § 50-18-70, *et seq.*) or other applicable law, any requested documents submitted by the Company to the Franchising Authority that are labeled as "Confidential" or "Trade Secret" prior to submission. In the event that any documents submitted by the Company to the Franchising Authority are subject to a request for inspection or production, including but not limited to a request under the Georgia Open Records Act, the Franchising Authority shall notify the Company of the request as soon as practicable and in any case prior to the release of such information, by email or facsimile to the addresses provided in Section 9.6 of this Agreement, so that the Company may take appropriate steps to protect its interests in the requested records, including seeking an injunction against the release of the requested records. Upon receipt of said notice, the Company may review the requested records in the Franchising Authority's possession and designate as "Confidential" or "Trade Secret" any additional portions of the requested records that contain confidential or proprietary information.

5.5 Emergency Alert System. Company shall install and maintain an Emergency Alert System in the Franchise Area only as required under applicable federal and state laws. Additionally, the Franchising Authority shall permit only those Persons appropriately trained and authorized in accordance with applicable law to operate the Emergency Alert System equipment and shall take reasonable precautions to prevent any use of the Company's Cable System in any manner that results in inappropriate use thereof, or any loss or damage to the Cable System. Except to the extent expressly prohibited by law, the Franchising Authority shall hold the Company and its employees, officers, and assigns harmless from any claims arising out of use of the Emergency Alert System, including but not limited to reasonable attorneys' fees and costs.

SECTION 6 ENFORCEMENT

6.1 Notice of Violation. If the Franchising Authority believes that the Company has not complied with the terms of this Agreement, the Franchising Authority shall first informally discuss the matter with the Company. If discussions do not lead to a resolution of the problem, the

Franchising Authority shall notify the Company in writing of the nature of the alleged noncompliance (“Violation Notice”).

6.2 Company’s Right to Cure or Respond. The Company shall have thirty (30) days from the receipt of the Violation Notice, or any longer period specified by the Franchising Authority, to respond; cure the alleged noncompliance; or, if the alleged noncompliance, by its nature, cannot be cured within thirty (30) days, initiate reasonable steps to remedy the matter and provide the Franchising Authority a projected resolution date in writing.

6.3 Hearing. If the Company fails to respond to the Violation Notice received from the Franchising Authority, or the alleged noncompliance is not remedied within the cure period set forth above, the Franchising Authority’s governing body shall schedule a hearing if it intends to continue its investigation into the matter. The Franchising Authority shall provide the Company at least thirty (30) days’ prior written notice of the hearing, specifying the time, place, and purpose of the hearing. The Company shall have the right to present evidence and to question witnesses. The Franchising Authority shall determine if the Company has committed a violation and shall make written findings of fact relative to its determination. If a violation is found, the Company may petition for reconsideration before any competent tribunal having jurisdiction over such matters.

6.4 Enforcement. Subject to applicable federal and state law, if after the hearing provided for in Section 6.3, the Franchising Authority determines that the Company is in default of the provisions addressed in the Violation Notice, the Franchising Authority may

- (a) seek specific performance;

- (b) commence an action at law for monetary damages or seek other equitable relief; or

- (c) in the case of a substantial default of a material provision of this Agreement, seek to revoke the Franchise in accordance with subsection 6.5 below.

6.5 Revocation.

6.5.1 After the hearing and determination provided for in Section 6.3 and prior to the revocation or termination of the Franchise, the Franchising Authority shall give written notice to the Company of its intent to revoke the Franchise on the basis of an alleged substantial default of a material provision of this Agreement. The notice shall set forth the exact nature of the alleged default. The Company shall have thirty (30) days from receipt of such notice to submit its written objection to the Franchising Authority or to cure the alleged default. If the Franchising Authority is not satisfied with the Company’s response, the Franchising Authority may seek to revoke the Franchise at a public hearing. The Company shall be given at least thirty (30) days’ prior written notice of the public hearing, specifying the time and place of the hearing and stating the Franchising Authority’s intent to revoke the Franchise.

6.5.2 At the public hearing, the Company shall be permitted to state its position on the matter, present evidence, and question witnesses, after which the Franchising Authority’s governing board shall determine whether or not the Franchise shall be revoked. The public

hearing shall be on the record and a written transcript shall be made available to the Company within ten (10) business days. The decision of the Franchising Authority's governing board shall be made in writing and shall be delivered to the Company. The Company may appeal such decision to an appropriate court, which shall have the power to review the decision of the Franchising Authority's governing board. The Company may continue to operate the Cable System until all legal appeals procedures have been exhausted.

6.5.3 Notwithstanding the provisions of this Section 6, the Company does not waive any of its rights under federal law or regulation.

6.6 Technical Violations. The parties hereby agree that it is not the Franchising Authority's intention to subject the Company to penalties, fines, forfeiture, or revocation of the Agreement for so-called "technical" breach(es) or violation(s) of the Agreement, where the violation was a good faith error that resulted in no or minimal negative impact on the Subscribers within the Franchise Area or where strict performance would result in practical difficulties and hardship to the Company which outweigh the benefit to be derived by the Franchising Authority or Subscribers.

SECTION 7 ASSIGNMENTS AND OTHER TRANSFERS

The Franchise shall be fully transferable to any successor in interest to the Company. A notice of transfer shall be filed by the Company to the Franchising Authority within forty-five (45) days of such transfer. The transfer notification shall consist of an affidavit signed by an officer or general partner of the transferee that contains the following:

- (a) an affirmative declaration that the transferee shall comply with the terms and conditions of this Agreement, all applicable federal, state, and local laws, regulations, and ordinances regarding the placement and maintenance of facilities in any public right-of-way that are generally applicable to users of the public right-of-way and specifically including the Georgia Utility Facility Protection Act (O.C.G.A. § 25-9-1, *et seq.*);
- (b) a description of the transferee's service area; and
- (c) the location of the transferee's principal place of business and the name or names of the principal executive officer or officers of the transferee.

No affidavit shall be required, however, for (i) a transfer in trust, by mortgage, hypothecation, or by assignment of any rights, title, or interest of the Company in the Franchise or in the Cable System in order to secure indebtedness, or (ii) a transfer to an entity directly or indirectly owned or controlled by Comcast Corporation.

SECTION 8 INSURANCE AND INDEMNITY

8.1 Insurance.

8.1.1 Liability Insurance. Throughout the term of this Agreement, the Company shall, at its sole expense, maintain comprehensive general liability insurance, issued by a company licensed to do business in the State of Georgia with a rating of not less than “A minus,” and provide the Franchising Authority certificates of insurance demonstrating that the Company has obtained the insurance required in this Section 8.1.1. This liability insurance policy or policies shall be in the minimum amount of One Million Dollars (\$1,000,000.00) for bodily injury or death of any one person, One Million Dollars (\$1,000,000.00) for bodily injury or death of any two or more persons resulting from one occurrence, and One Million Dollars (\$1,000,000.00) for property damage resulting from any one accident. The policy or policies shall not be canceled except upon thirty (30) days’ prior written notice of cancellation to the Franchising Authority.

8.1.2 Workers’ Compensation. The Company shall ensure its compliance with the Georgia Workers’ Compensation Act.

8.2 Indemnification. The Company shall indemnify, defend, and hold harmless the Franchising Authority, its officers, employees, and agents acting in their official capacities from and against any liability or claims resulting from property damage or bodily injury (including accidental death) that arise out of the Company’s construction, operation, maintenance, or removal of the Cable System, including but not limited to reasonable attorneys’ fees and costs, provided that the Franchising Authority shall give the Company written notice of its obligation to indemnify and defend the Franchising Authority within ten (10) business days of receipt of a claim or action pursuant to this Section 8.2. If the Franchising Authority determines that it is necessary for it to employ separate counsel, the costs for such separate counsel shall be the responsibility of the Franchising Authority. Notwithstanding the foregoing, the Company shall not be obligated to indemnify the Franchising Authority for any damages, liability, or claims resulting from the willful misconduct or negligence of the Franchising Authority or for the Franchising Authority’s use of the Cable System.

8.3 Liability and Indemnity. In accordance with Section 635A of the Cable Act, the Franchising Authority, its officials, employees, members, or agents shall have no liability to the Company arising from the regulation of Cable Service or from a decision of approval or disapproval with respect to a grant, renewal, transfer, or amendment of this Franchise. Any relief, to the extent such relief is required by any other provision of federal, state, or local law, shall be limited to injunctive relief and declaratory relief.

SECTION 9 MISCELLANEOUS

9.1 Controlling Authorities. This Agreement is made with the understanding that its provisions are controlled by the Cable Act, other federal laws, state laws, and all applicable local laws, ordinances, and regulations. To the extent such local laws, ordinances, or regulations clearly

conflict with the terms and conditions of this Agreement, the terms and conditions of this Agreement shall prevail, except where such conflict arises from the Franchising Authority's lawful exercise of its police powers.

9.2 Appendices. The Appendices to this Agreement and all portions thereof are, except as otherwise specified in this Agreement, incorporated by reference in and expressly made a part of this Agreement.

9.3 Enforceability of Agreement; No Opposition. By execution of this Agreement, the Company and the Franchising Authority acknowledge the validity of the terms and conditions of this Agreement under applicable law in existence on the Effective Date and pledge that they will not assert in any manner at any time or in any forum that this Agreement, the Franchise, or the processes and procedures pursuant to which this Agreement was entered into and the Franchise was granted are not consistent with the applicable law in existence on the Effective Date.

9.4 Governmental Powers. The Franchising Authority expressly reserves the right to exercise the full scope of its powers, including both its police power and contracting authority, to promote the public interest and to protect the health, safety, and welfare of the citizens of the City of South Fulton, Georgia.

9.5 Entire Agreement. This Agreement, including all Appendices, embodies the entire understanding and agreement of the Franchising Authority and the Company with respect to the subject matter hereof and merges and supersedes all prior representations, agreements, and understandings, whether oral or written, between the Franchising Authority and the Company with respect to the subject matter hereof, including without limitation all prior drafts of this Agreement and any Appendix to this Agreement, and any and all written or oral statements or representations by any official, employee, agent, attorney, consultant, or independent contractor of the Franchising Authority or the Company. All ordinances or parts of ordinances or other agreements between the Company and the Franchising Authority that are in conflict with the provisions of this Agreement are hereby declared invalid and superseded.

9.6 Notices. All notices shall be in writing and shall be sufficiently given and served upon the other party by first class mail, registered or certified, return receipt requested, postage prepaid; by third-party commercial carrier; or via facsimile (with confirmation of transmission) and addressed as follows:

THE FRANCHISING AUTHORITY:
City of South Fulton
Attn: City Manager
5440 Fulton Industrial Boulevard
Atlanta, Georgia 30336

COMPANY:
Comcast of Georgia/Michigan, LP
Attn: Vice President, External Affairs
6200 The Corners Parkway, Suite 200
Norcross, Georgia 30092

With a copy to: Comcast Cable Communications, LLC
Attn: Vice President, Government Affairs
600 Galleria Parkway, Suite 1100
Atlanta, Georgia 30339

And: Comcast Cable Communications, LLC
Attn: Legal Dept.
One Comcast Center
Philadelphia, Pennsylvania 19103

9.7 Additional Representations and Warranties. In addition to the representations, warranties, and covenants of the Company to the Franchising Authority set forth elsewhere in this Agreement, the Company represents and warrants to the Franchising Authority and covenants and agrees (which representations, warranties, covenants and agreements shall not be affected or waived by any inspection or examination made by or on behalf of the Franchising Authority) that, as of the Effective Date:

9.7.1 Organization, Standing, and Authorization. The Company is a limited partnership validly existing and in good standing under the laws of the State of California and is duly authorized to do business in the State of Georgia and in the Franchise Area.

9.7.2 Compliance with Law. The Company, to the best of its knowledge, has obtained all government licenses, permits, and authorizations necessary for the operation and maintenance of the Cable System.

9.8 Maintenance of System in Good Working Order. Until the termination of this Agreement and the satisfaction in full by the Company of its obligations under this Agreement, in consideration of the Franchise, the Company agrees that it will maintain all of the material properties, assets, and equipment of the Cable System, and all such items added in connection with any upgrade, in good repair and proper working order and condition throughout the term of this Agreement.

9.9 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, permitted transferees, and assigns. All of the provisions of this Agreement apply to the Company, its successors, and assigns.

9.10 No Waiver; Cumulative Remedies. No failure on the part of the Franchising Authority or the Company to exercise, and no delay in exercising, any right or remedy hereunder including without limitation the rights and remedies set forth in this Agreement, shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or remedy preclude any other right or remedy, all subject to the conditions and limitations established in this Agreement. The rights and remedies provided in this Agreement including without limitation the rights and remedies set forth in Section 6 of this Agreement, are cumulative and not exclusive of any remedies provided by law, and nothing contained in this Agreement shall impair any of the rights or remedies of the Franchising Authority or Company under applicable law, subject in each case to the terms and conditions of this Agreement.

9.11 Severability. If any section, subsection, sentence, clause, phrase, or other portion of this Agreement is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body, or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion. Such declaration shall not affect the validity of the remaining portions of this Agreement, which shall continue in full force and effect.

9.12 No Agency. The Company shall conduct the work to be performed pursuant to this Agreement as an independent entity and not as an agent of the Franchising Authority.

9.13 Governing Law. This Agreement shall be deemed to be executed in the City of South Fulton, Georgia, and shall be governed in all respects, including validity, interpretation, and effect, by and construed in accordance with the laws of the State of Georgia, as applicable to contracts entered into and to be performed entirely within that state.

9.14 Claims Under Agreement. The Franchising Authority and the Company, agree that, except to the extent inconsistent with Section 635 of the Cable Act (47 U.S.C. § 555), any and all claims asserted by or against the Franchising Authority arising under this Agreement or related thereto shall be heard and determined either in a court of the United States located in Georgia (“Federal Court”) or in a court of the State of Georgia of appropriate jurisdiction (“Georgia State Court”). To effectuate this Agreement and intent, the Company agrees that if the Franchising Authority initiates any action against the Company in Federal Court or in Georgia State Court, service of process may be made on the Company either in person or by registered mail addressed to the Company at its offices as defined in Section 9.6, or to such other address as the Company may provide to the Franchising Authority in writing.

9.15 Modification. The Company and Franchising Authority may at any time during the term of this Agreement seek a modification, amendment, or waiver of any term or condition of this Agreement. No provision of this Agreement nor any Appendix to this Agreement shall be amended or otherwise modified, in whole or in part, except by an instrument, in writing, duly executed by the Franchising Authority and the Company, which amendment shall be authorized on behalf of the Franchising Authority through the adoption of an appropriate resolution, letter of agreement, or order by the Franchising Authority, as required by applicable law.

9.16 Delays and Failures Beyond Control of Company. Notwithstanding any other provision of this Agreement, the Company shall not be liable for delay in performance of, or failure to perform, in whole or in part, its obligations pursuant to this Agreement due to strike, war or act of war (whether an actual declaration of war is made or not), insurrection, riot, act of public enemy, accident, fire, flood or other act of God, technical failure, sabotage, or other events, where the Company has exercised all due care in the prevention thereof, to the extent that such causes or other events are beyond the control of the Company and such causes or events are without the fault or negligence of the Company. In the event that any such delay in performance or failure to perform affects only part of the Company’s capacity to perform, the Company shall perform to the maximum extent it is able to do so and shall take all steps within its power to correct such cause(s). The Company agrees that in correcting such cause(s), it shall take all reasonable steps to do so in as expeditious a manner as possible. The Company shall promptly notify the Franchising Authority in writing of the occurrence of an event covered by this Section 9.16.

9.17 Duty to Act Reasonably and in Good Faith. The Company and the Franchising Authority shall fulfill their obligations and exercise their rights under this Agreement in a reasonable manner and in good faith. Notwithstanding the omission of the words “reasonable,” “good faith,” or similar terms in the provisions of this Agreement, every provision of this Agreement is subject to this section.

9.18 Contractual Rights Retained. Nothing in this Agreement is intended to impair the contractual rights of the Franchising Authority or the Company under this Agreement.

9.19 No Third-Party Beneficiaries. Nothing in this Agreement, or any prior agreement, is or was intended to confer third-party beneficiary status on any member of the public to enforce the terms of such agreements or Franchise.

IN WITNESS WHEREOF, the party of the first part, by its Mayor, thereunto duly authorized by the City Council of said Franchising Authority, has caused the corporate name of said Franchising Authority to be hereunto signed and the corporate seal of said Franchising Authority to be hereunto affixed, and the Company, the party of the second part, by its officers thereunto duly authorized, has caused its name to be hereunto signed and its seal to be hereunto affixed as of the date and year first above written.

City of South Fulton, Georgia

By: _____

Name: _____

Title: Mayor
(Seal)

Attest: _____

Date: _____

Comcast of Georgia/Michigan, LP

By: _____

Name: Douglas R. Guthrie

Title: Regional Senior Vice President

Attest: _____

Date: _____

APPENDIX A DEFINED TERMS

For purposes of the Agreement to which this Appendix A is appended, the following terms, phrases, words, and their derivations shall have the meanings set forth herein, unless the context clearly indicates that another meaning is intended.

“Agreement” means the Agreement to which this Appendix A is appended, together with all Appendices attached thereto and all amendments or modifications thereto.

“Basic Service” means any service tier that includes the retransmission of local television broadcast Signals and any equipment or installation used in connection with Basic Service.

“Cable Act” means Title VI of the Communications Act of 1934 as amended, 47 U.S.C. § 521, *et seq.*

“Cable Service” means the one-way transmission to Subscribers of Video Programming or other programming service and Subscriber interaction, if any, which is required for the selection or use of such Video Programming or other programming service. “Cable Service” does not include any Video Programming provided by a commercial mobile service provider as defined in 47 U.S.C. §332(d).

“Cable Service Provider” or **“CSP”** means any person or group of persons (A) who provides Cable Service over a Cable System and directly or through one or more affiliates owns a significant interest in such Cable System, or (B) who otherwise controls or is responsible for, through any arrangement, the management and operation of such a Cable System.

“Cable System” means a facility, consisting of a set of closed transmission paths and associated Signal generation, reception, and control equipment, that is designed to provide Cable Service, which includes Video Programming and which is provided to multiple Subscribers within a community, but “Cable System” does not include:

(A) a facility that serves only to retransmit the television Signals of one (1) or more television broadcast stations;

(B) a facility that serves Subscribers without using any public right-of-way as defined herein;

(C) a facility of a common carrier which is subject, in whole or in part, to the provisions of 47 U.S.C. §§201–276, except that such facility shall be considered a Cable System, other than for purposes of 47 U.S.C. § 541(c), to the extent such facility is used in the transmission of Video Programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services;

(D) an open video system that complies with 47 U.S.C. § 573; or

(E) any facilities of any electric utility used solely for operating its electric utility system.

“Channel” means a “cable channel” or “channel” as defined in 47 U.S.C. § 522(4).

“Company” means Comcast of Georgia/Michigan, LP, a limited partnership validly existing under the laws of the State of California, or lawful successor, transferee, designee, or assignee thereof.

“FCC” means the Federal Communications Commission, its designee, or any successor thereto.

“Franchise Area” means the incorporated areas of the City of South Fulton, Georgia, including any areas annexed by the Franchising Authority during the term of the Franchise.

“Franchising Authority” means the City of South Fulton, Georgia, or lawful successor, transferee, designee, or assignee thereof.

“Gross Revenues” means all revenues received from Subscribers for the provision of Cable Service or Video Service, including franchise fees for Cable Service Providers and Video Service Providers and advertising and home shopping services, and shall be determined in accordance with Generally Accepted Accounting Principles (“GAAP”). Gross Revenues shall not include:

(A) amounts billed and collected as a line item on the Subscriber’s bill to recover any taxes, surcharges, or governmental fees that are imposed on or with respect to the services provided or measured by the charges, receipts, or payments therefore; provided, however, that for purposes of this definition of “Gross Revenue,” such tax, surcharge, or governmental fee shall not include any ad valorem taxes, net income taxes, or generally applicable business or occupation taxes not measured exclusively as a percentage of the charges, receipts, or payments for services to the extent such charges are passed through as a separate line item on Subscriber’s bills;

(B) any revenue not actually received, even if billed, such as bad debt;

(C) any revenue received by any affiliate or any other person in exchange for supplying goods or services used by the provider to provide Cable or Video Programming;

(D) any amounts attributable to refunds, rebates, or discounts;

(E) any revenue from services provided over the network that are associated with or classified as non-Cable or non-Video Services under federal law, including without limitation revenues received from telecommunications services, information services other than Cable or Video Services, Internet access services, directory or Internet advertising revenue including without limitation yellow pages, white pages, banner advertisements, and electronic publishing advertising. Where the sale of any such non-Cable or non-Video Service is bundled with the sale of

one or more Cable or Video Services and sold for a single non-itemized price, the term “Gross Revenues” shall include only those revenues that are attributable to Cable or Video Services based on the provider’s books and records, such revenues to be allocated in a manner consistent with generally accepted accounting principles;

(F) any revenue from late fees not initially booked as revenues, returned check fees or interest;

(G) any revenue from sales or rental of property, except such property as the Subscriber is required to buy or rent exclusively from the Cable or Video Service Provider to receive Cable or Video Service;

(H) any revenue received from providing or maintaining inside wiring;

(I) any revenue from sales for resale with respect to which the purchaser is required to pay a franchise fee, provided the purchaser certifies in writing that it will resell the service and pay a franchise fee with respect thereto; or

(J) any amounts attributable to a reimbursement of costs including but not limited to the reimbursements by programmers of marketing costs incurred for the promotion or introduction of Video Programming.

“Person” means any natural person or any association, firm, partnership, joint venture, corporation, or other legally recognized entity, whether for-profit or not-for-profit, but shall not mean the Franchising Authority.

“Signal” means any transmission of radio frequency energy or of optical information.

“Streets” means the surface of, and the space above and below, any and all streets, avenues, highways, boulevards, concourses, driveways, bridges, tunnels, parks, parkways, waterways, docks, bulkheads, wharves, piers, public grounds, and public places or waters within and belonging to the Franchising Authority and any other property within the Franchise Area to the extent to which there exist public easements or public rights-of-way.

“Subscriber” means any Person lawfully receiving Video Service from a Video Service Provider or Cable Service from a Cable Service Provider.

“Video Programming” means programming provided by or generally considered comparable to programming provided by a television broadcast station, as set forth in 47 U.S.C. § 522(20).

“Video Service” means the provision of Video Programming through wireline facilities located at least in part in the public rights-of-way without regard to delivery technology, including Internet protocol technology. This definition does not include any Video Programming provided by a commercial mobile service provider as defined in 47 U.S.C. § 332(d) or Video Programming provided as part of, and via, a service that enables users

to access content, information, electronic mail, or other services offered over the public Internet.

“Video Service Provider” or **“VSP”** means an entity providing Video Service as defined herein, but does not include a Cable Service Provider.

APPENDIX B

CUSTOMER SERVICE STANDARDS

Code of Federal Regulations

Title 47, Volume 4, Parts 70 to 79

Revised as of October 1, 1998

From the U.S. Government Printing Office via GPO Access

47 C.F.R. § 76.309

Page 561–63

TITLE 47—TELECOMMUNICATION

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 76—CABLE TELEVISION SERVICE

Subpart H—General Operating Requirements

§ 76.309 Customer service obligations.

(a) A cable franchise authority may enforce the customer service standards set forth in paragraph (c) of this section against cable operators. The franchise authority must provide affected cable operators ninety (90) days written notice of its intent to enforce the standards.

(b) Nothing in this rule should be construed to prevent or prohibit:

- (1) A franchising authority and a cable operator from agreeing to customer service requirements that exceed the standards set forth in paragraph (c) of this section;
- (2) A franchising authority from enforcing, through the end of the franchise term, pre-existing customer service requirements that exceed the standards set forth in paragraph (c) of this section and are contained in current franchise agreements;
- (3) Any State or any franchising authority from enacting or enforcing any consumer protection law, to the extent not specifically preempted herein; or
- (4) The establishment or enforcement of any State or municipal law or regulation concerning customer service that imposes customer service requirements that exceed, or address matters not addressed by the standards set forth in paragraph (c) of this section.

(c) Effective July 1, 1993, a cable operator shall be subject to the following customer service standards:

(1) Cable system office hours and telephone availability—

(i) The cable operator will maintain a local, toll-free or collect call telephone access line which will be available to its subscribers 24 hours a day, seven days a week.

(A) Trained company representatives will be available to respond to customer telephone inquiries during normal business hours.

(B) After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained company representative on the next business day.

(ii) Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety (90) percent of the time under normal operating conditions, measured on a quarterly basis.

(iii) The operator will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.

(iv) Under normal operating conditions, the customer will receive a busy signal less than three (3) percent of the time.

(v) Customer service center and bill payment locations will be open at least during normal business hours and will be conveniently located.

(2) Installations, outages and service calls. Under normal operating conditions, each of the following four standards will be met no less than ninety five (95) percent of the time measured on a quarterly basis:

(i) Standard installations will be performed within seven (7) business days after an order has been placed. "Standard" installations are those that are located up to 125 feet from the existing distribution system.

(ii) Excluding conditions beyond the control of the operator, the cable operator will begin working on "service interruptions" promptly and in no event later than 24 hours after the interruption becomes known. The cable operator must begin actions to correct other service problems the next business day after notification of the service problem.

(iii) The "appointment window" alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. (The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.)

(iv) An operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

(v) If a cable operator representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

(3) Communications between cable operators and cable subscribers—

(i) Notifications to subscribers—

(A) The cable operator shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request:

- (1) Products and services offered;
- (2) Prices and options for programming services and conditions of subscription to programming and other services;
- (3) Installation and service maintenance policies;
- (4) Instructions on how to use the cable service;
- (5) Channel positions programming carried on the system; and,
- (6) Billing and complaint procedures, including the address and telephone number of the local franchise authority's cable office.

(B) Customers will be notified of any changes in rates, programming services or channel positions as soon as possible in writing. Notice must be given to subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the cable operator. In addition, the cable operator shall notify subscribers thirty (30) days in advance of any significant changes in the other information required by paragraph (c)(3)(i)(A) of this section. Notwithstanding any other provision of Part 76, a cable operator shall not be required to provide prior notice of any rate change that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment, or charge of any kind imposed by any Federal agency, State, or franchising authority on the transaction between the operator and the subscriber.

(ii) Billing—

(A) Bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.

(B) In case of a billing dispute, the cable operator must respond to a written complaint from a subscriber within 30 days.

(iii) Refunds—Refund checks will be issued promptly, but no later than either—

(A) The customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or

(B) The return of the equipment supplied by the cable operator if service is terminated.

(iv) Credits—Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

(4) Definitions—

(i) Normal business hours—The term “normal business hours” means those hours during which most similar businesses in the community are open to serve customers. In all cases, “normal business hours” must include some evening hours at least one night per week and/or some weekend hours.

(ii) Normal operating conditions—The term “normal operating conditions” means those service conditions which are within the control of the cable operator. Those conditions which are not within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the cable operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

(iii) Service interruption—The term “service interruption” means the loss of picture or sound on one or more cable channels.

[58 FR 21109, Apr. 19, 1993, as amended at 61 FR 18977, Apr. 30, 1996]

**STATE OF GEORGIA
COUNTY OF FULTON
CITY OF SOUTH
FULTON**

RESOLUTION NO. 2017-0027

**A RESOLUTION AUTHORIZING THE CITY TO REQUEST
AND ACCEPT DUE COMPENSATION FROM TELEPHONE
COMPANIES OPERATING WITHIN CITY LIMITS**

WHEREAS, the City of South Fulton (“City”) is a municipal corporation duly organized and existing under the laws of the State of Georgia;

WHEREAS, pursuant to Act 421 of the 2016 session of the Georgia General Assembly (the “City Charter”), the City of South Fulton incorporated on May 1, 2017;

WHEREAS, pursuant to Section 7.16(b) of the City Charter, the City provided notice to Fulton County of its intent to collect any tax, fee, assessment, fine or forfeiture, other monies;

WHEREAS, the City considers collecting due compensation from a telephone company utilizing the public rights of way as compensation to the public for the use of the rights of way and a means of promoting the public health, safety, welfare and economic development of the City and to protect public works infrastructure.

THEREFORE, IT IS NOW RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOUTH FULTON, GEORGIA, AS FOLLOWS:

1. Telephone companies operating within City limits pursuant to O.C.G.A. § 46-5-1 shall collect and remit due compensation to the City in an amount and on terms specified by Georgia law; and

2. The Mayor or the Mayor's designated representative is hereby authorized to take any and all actions required to be taken by the City to collect and receive due compensation pursuant to Georgia law.

The foregoing Resolution No. _____ was offered by Councilmember _____, who moved its approval. The motion was seconded by Councilmember _____, and being put to a vote, the result was as follows:

	AYE	NAY
William “Bill” Edwards, Mayor	_____	_____
Catherine Foster Rowell (Mayor Pro Tem)	_____	_____
Carmalitha Lizandra Gumbs	_____	_____
Helen Zenobia Willis	_____	_____
Gertrude Naeema Gilyard	_____	_____
Rosie Jackson	_____	_____
khalid kamau	_____	_____
Mark Baker	_____	_____

THIS RESOLUTION adopted this _____ day of
_____ 2017. **CITY OF SOUTH FULTON, GEORGIA**

WILLIAM “BILL” EDWARDS, MAYOR

ATTEST:

_____, CITY CLERK

APPROVED AS TO FORM:

_____, INTERIM CITY ATTORNEY

**STATE OF GEORGIA
COUNTY OF FULTON
CITY OF SOUTH FULTON**

ORDINANCE NO. 2017-004

AN ORDINANCE GRANTING PERMISSION AND CONSENT TO GEORGIA POWER COMPANY, A GEORGIA CORPORATION, AND ITS SUCCESSORS, LESSEES, AND ASSIGNS (HEREINAFTER REFERRED TO COLLECTIVELY AS THE "COMPANY") TO OCCUPY THE STREETS AND PUBLIC PLACES OF THE CITY OF SOUTH FULTON, GEORGIA, A MUNICIPALITY AND POLITICAL SUBDIVISION OF THE STATE OF GEORGIA (HEREINAFTER REFERRED TO AS THE "CITY"), IN CONSTRUCTING, MAINTAINING, OPERATING, AND EXTENDING POLES, LINES, CABLES, EQUIPMENT, AND OTHER APPARATUS FOR TRANSMITTING AND DISTRIBUTING ELECTRICITY AND FOR OTHER PURPOSES.

WHEREAS, the City of South Fulton ("City") is a municipal corporation duly organized and existing under the laws of the State of Georgia;

WHEREAS, pursuant to Act 421 of the 2016 session of the Georgia General Assembly (the "City Charter"), the City of South Fulton incorporated on May 1, 2017;

WHEREAS, pursuant to Section 7.16(b) of the City Charter, the City provided notice to Fulton County of its intent to collect any tax, fee, assessment, fine or forfeiture, other monies;

WHEREAS, the City considers collecting a franchise fee from an electric power company utilizing the public rights of way as compensation to the public for the use of the rights of way and a means of promoting the public health, safety, welfare and economic development of the City and to protect public works infrastructure,

WHEREAS, the City of South Fulton City Council finds it in the best interest of the City to adopt and enter into an Electricity Franchise Agreement as set forth herein with Georgia Power Company

THE COUNCIL OF THE CITY OF SOUTH FULTON HEREBY ORDAINS as follows:

SECTION I. Be it ordained by the governing authority of the City that the authority, right, permission, and consent are hereby granted to the Company, for a period of thirty-five (35) years from the date of the Company's acceptance hereof, to occupy and use the streets, alleys, and public places of the City within the present and future corporate limits of the City as from time to time the Company may deem proper or necessary for the overhead or underground construction, maintenance, operation, and extension of poles, towers, lines, wires, cables, conduits, insulators, transformers, appliances, equipment, connections, and other apparatus (hereinafter referred to collectively as the "Company's Facilities") for the business and purpose of transmitting, conveying, conducting, using, supplying, and distributing electricity for light, heat, power, and other purposes for which electric current may be or become useful or practicable for public or private use, and to re-enter upon such streets, alleys, and public places from time to time as the Company may deem proper or necessary to perform these functions, and to cut and trim trees and shrubbery when and where necessary, in the judgment of the Company, to insure safe and efficient service.

SECTION II. Be it further ordained that the rights, permission, and consents herein contained are granted for the following considerations and upon the following terms and conditions:

1. The Company shall pay into the treasury of the City (a) on or before the first day of March in each year following the granting of this franchise, a sum of money equal to four percent (4%) of the gross sales of electric energy to customers served under residential and commercial rate schedules (as prescribed by the Georgia Public Service Commission) within the corporate limits of the City during the preceding calendar year and four percent (4%) of the gross sales of electric energy to customers served under industrial rate schedules (as so prescribed) within the corporate limits of the City during the period beginning on the first day of the month following the granting of this franchise and ending on December 31 thereafter and (b) on or before the first day of March of each year thereafter during the term of this franchise, a sum of money equal to four percent (4%) of the gross sales of electric energy to customers served under residential, commercial, and industrial rate schedules (as so prescribed) within the corporate limits of the City during the preceding calendar year, on condition that in the event the City shall grant to any other entity the right to use and occupy the City's streets for like purposes, such use and occupancy shall be upon the same terms and conditions as those herein contained, including the payment provisions hereof.

2. The amount, if any, of any tax, fee, charge, or imposition of any kind required, demanded, or exacted by the City on any account, other than ad valorem taxes on property, shall operate to reduce to that extent the amount due from the percentage of gross sales provided for in paragraph 1 of this Section II.

3. The Company shall fully protect, indemnify, and save harmless the City from all damages to persons or property caused by the construction, maintenance, operation, or extension of the Company's Facilities, or conditions of streets, alleys, or public places resulting therefrom, for which the City would otherwise be liable.

4. The Company shall, in constructing, maintaining, operating, and extending the Company's Facilities, submit and be subject to all reasonable exercises of the police power by the City. Nothing contained herein, however, shall require the Company to surrender or limit its property rights created hereby without due process of law, including adequate compensation, for any other purpose at the instance of the City or for any purpose at the instance of any other entity, private or governmental.

5. For purposes of paragraph 6 of this Section II, the term "Distribution Facilities" means poles, lines, wires, cables, conductors, insulators, transformers, appliances, equipment, connections, and other apparatus installed by or on behalf of the Company (whether before or after the adoption of this ordinance) in the streets, alleys, or public places of the City for the purpose of distributing electricity within

the present and future corporate limits of the City. Distribution Facilities do not include any of the following: (i) electric transmission lines with a design operating voltage of 46 kilovolts or greater (hereinafter referred to as "Transmission Lines"); (ii) poles, towers, frames, or other supporting structures for Transmission Lines (hereinafter referred to as "Transmission Structures"); (iii) Transmission Lines and related wires, cables, conductors, insulators, or other apparatus attached to Transmission Structures; (iv) lines, wires, cables, or conductors installed in concrete-encased ductwork; or (v) network underground facilities.

6. In the event that the City or any other entity acting on behalf of the City requests or demands that the Company relocate any Distribution Facilities from their then-current locations within the streets, alleys, and public places of the City in connection with a public project or improvement, then the Company shall relocate, at its expense, the Distribution Facilities affected by such project or improvement. The Company's obligations under this paragraph 6 shall apply without regard to whether the Company has acquired, or claims to have acquired, an easement or other property right with respect to such Distribution Facilities and shall not affect the amounts paid or to be paid to the City under the provisions of paragraph 1 of this Section II. Notwithstanding the foregoing provisions of this paragraph 6, the Company shall not be obligated to relocate, at its expense, any of the following: (i) Distribution Facilities that are located on private property at the time relocation is requested or demanded; (ii) Distribution Facilities that are relocated in connection with sidewalk improvements (unless such sidewalk improvements are related to or associated with road widenings, the creation of new turn lanes, or the addition of acceleration/deceleration lanes); (iii) streetscape projects or other projects undertaken primarily for aesthetic purposes; or (iv) Distribution Facilities that are converted from an overhead configuration or installation to an underground configuration or installation.

7. The City and the Company recognize that both parties benefit from economic development within the City. Accordingly, when it is necessary to relocate any of the Company's Facilities (whether Distribution Facilities, Transmission Lines, Transmission Structures, or other facilities) within the City, the City and the Company shall work cooperatively to minimize costs, delays, and inconvenience to both parties while ensuring compliance with applicable laws and regulations. In addition, the City and the Company shall communicate in a timely fashion to coordinate projects included in the City's five-year capital improvement plan, the City's short-term work program, or the City's annual budget in an effort to minimize relocation of the Company's Facilities. Such communication may include, but is not limited to, (i) both parties' participation in the Georgia Utilities Coordinating Council, Inc. (or any successor organization) or a local utilities coordinating council (or any successor organization) and (ii) both parties' use of the National Joint Utility Notification System (or any successor to such system mutually acceptable to both parties).

8. With regard to each streetscape project undertaken by or on behalf of the City, the City shall pay the Company in advance for the Company's estimated cost to relocate any of the Company's Facilities (whether Distribution Facilities, Transmission Lines, Transmission Structures, or other facilities) in connection with such project. For each streetscape project, the Company shall estimate in good faith the amount of incremental base revenue, if any, that the Company will realize as a result of new customer load or expansion of existing customer load attributable to such project; and such estimate shall be based on tariffs in effect at the time that construction of such project begins and shall not include fuel recovery charges, non-electric service billings, or taxes. If such estimate indicates that the Company will realize incremental base revenue, the Company shall do one of the following, whichever results in greater cost savings to the City: (i) reduce the City's advance payment to the Company for relocation costs by ten percent (10%); or (ii) where the City has developed a bona fide marketing plan within twelve (12) months after construction of such project begins, either refund the amount of the Company's incremental base revenue during such twelve-month period to the City or credit such amount against any future payment due from the City to the Company. The City and the Company acknowledge and agree that the amount of any

refund or credit calculated pursuant to clause (ii) of the foregoing sentence of this paragraph 8 shall not exceed the amount of the City's advance payment to the Company for relocation costs associated with such project.

SECTION III. Be it further ordained that nothing contained in this ordinance shall limit or restrict the right of customers within the corporate limits of the City to select an electric supplier as may hereafter be provided by law.

SECTION IV. Be it further ordained that from time to time after the approval of this ordinance, the Company and the City may enter into such additional agreements as the Company and the City deem reasonable and appropriate; provided, however, that such agreements shall not be inconsistent with the terms and conditions of the franchise granted in this ordinance, shall not extend beyond the term of the franchise, and shall be enforceable separate and apart from the franchise.

SECTION V. Be it further ordained that the Company shall, within ninety (90) days from the approval of this ordinance, file the Company's written acceptance of the franchise granted in this ordinance with the Clerk of the City, so as to form a contract between the Company and the City.

SECTION VI. Be it further ordained that upon such acceptance all laws and ordinances, and all agreements between the Company and the City with respect to the Company's use of the City's streets, alleys, and public places, in actual conflict herewith be and the same shall thereupon stand repealed and terminated, respectively.

The foregoing Ordinance No. _____ was offered by Councilmember _____, who moved its approval. The motion was seconded by Councilmember _____, and being put to a vote, the result was as follows:

	AYE	NAY
William “Bill” Edwards, Mayor	_____	_____
Catherine Foster Rowell (Mayor Pro Tem)	_____	_____
Carmalitha Lizandra Gumbs	_____	_____
Helen Zenobia Willis	_____	_____
Gertrude Naeema Gilyard	_____	_____
Rosie Jackson	_____	_____
khalid kamau	_____	_____
Mark Baker	_____	_____

The foregoing franchise accepted on

_____, 2017.

GEORGIA POWER COMPANY

By: _____
President

THIS ORDINANCE adopted this _____ day of _____ 2017. **CITY OF SOUTH
FULTON, GEORGIA**

WILLIAM “BILL” EDWARDS, MAYOR

ATTEST:

_____, CITY CLERK

APPROVED AS TO FORM:

_____, INTERIM CITY ATTORNEY

**STATE OF GEORGIA
COUNTY OF FULTON
CITY OF SOUTH FULTON**

ORDINANCE NO. 2017-005

AN ORDINANCE GRANTING PERMISSION AND CONSENT TO GREYSTONE POWER CORPORATION, A GEORGIA NON-PROFIT ELECTRIC MEMBERSHIP CORPORATION, AND ITS SUCCESSORS, LESSEES, AND ASSIGNS (HEREINAFTER REFERRED TO COLLECTIVELY AS THE "COMPANY") TO OCCUPY THE STREETS AND PUBLIC PLACES OF THE CITY OF SOUTH FULTON, A MUNICIPALITY AND POLITICAL SUBDIVISION OF THE STATE OF GEORGIA (HEREINAFTER REFERRED TO AS THE "CITY"), IN CONSTRUCTING, MAINTAINING, OPERATING, AND EXTENDING POLES, LINES, CABLES, EQUIPMENT, AND OTHER APPARATUS FOR TRANSMITTING AND DISTRIBUTING ELECTRICITY AND FOR OTHER PURPOSES.

WHEREAS, the City of South Fulton ("City") is a municipal corporation duly organized and existing under the laws of the State of Georgia;

WHEREAS, pursuant to Act 421 of the 2016 session of the Georgia General Assembly (the "City Charter"), the City of South Fulton incorporated on May 1, 2017;

WHEREAS, pursuant to Section 7.16(b) of the City Charter, the City provided notice to Fulton County of its intent to collect any tax, fee, assessment, fine or forfeiture, other monies;

WHEREAS, the City considers collecting a franchise fee from an electric power company utilizing the public rights of way as compensation to the public for the use of the rights of way and a means of promoting the public health, safety, welfare and economic development of the City and to protect public works infrastructure,

WHEREAS, the City of South Fulton City Council finds it in the best interest of the City to adopt and enter into an Electricity Franchise Agreement as set forth herein with GreyStone Power Corporation

THE COUNCIL OF THE CITY OF SOUTH FULTON HEREBY ORDAINS as follows:

SECTION I. Be it ordained by the governing authority of the City that the authority, right, permission, and consent are hereby granted to the Company, for a period of thirty-five (35) years from the granting of this franchise, to occupy and use the streets, alleys, and public places of the City within the present and future corporate limits of the City as from time to time the Company may deem proper or necessary for the overhead or underground construction, maintenance, operation, and extension of poles, towers, lines, wires, cables, conduits, insulators, transformers, appliances, equipment, connections, and other apparatus (hereinafter referred to collectively as the "Company's Facilities") for use in various businesses and purposes, including transmitting, conveying, conducting, using, supplying, and distributing electricity for light, heat, power, and other purposes for which electric current may be or become useful or practicable for public or private use, and to re-enter upon such streets, alleys, and public places from time to time as the Company may deem proper or necessary to perform these functions, and to cut and trim trees and shrubbery when and where necessary, in the judgment of the Company, to insure safe and efficient service.

SECTION II. Be it further ordained that the rights, permission, and consents herein contained are granted for the following considerations and upon the following terms and conditions:

1. The Company shall pay into the treasury of the City on or before the first day of March in each year following the granting of this franchise, a sum of money equal to four percent (4%) of the gross sales of electric energy to customers served under residential, commercial, and industrial rate schedules within the corporate limits of the City during the preceding calendar year.

2. The amount, if any, of any tax, fee, charge, or imposition of any kind required, demanded, or exacted by the City on any account, other than ad valorem taxes on property, shall operate to reduce to that extent the amount due from the percentage of gross sales provided for in paragraph 1 of this Section II.

3. The Company shall fully protect, indemnify, and save harmless the City from all damages to persons or property caused by the construction, maintenance, operation, or extension of the Company's Facilities, or conditions of streets, alleys, or public places resulting therefrom, for which the City would otherwise be liable.

4. The Company shall, in constructing, maintaining, operating, and extending the Company's Facilities, submit and be subject to all reasonable exercises of the police power by the City. Nothing contained herein, however, shall require the Company to surrender or limit its property rights created hereby without due process of law, including adequate compensation, for any other purpose at the instance of the City or for any purpose at the instance of any other entity, private or governmental.

5. For purposes of paragraph 6 of this Section II, the term "Distribution Facilities" means poles, lines, wires, cables, conductors, insulators, transformers, appliances, equipment, connections, and other apparatus installed by or on behalf of the Company (whether before or after

the adoption of this ordinance) in the streets, alleys, or public places of the City for the purpose of distributing electricity within the present and future corporate limits of the City. Distribution Facilities do not include any of the following: (i) electric transmission lines with a design operating voltage of 46 kilovolts or greater (hereinafter referred to as "Transmission Lines"); (ii) poles, towers, frames, or other supporting structures for Transmission Lines (hereinafter referred to as "Transmission Structures"); (iii) Transmission Lines and related wires, cables, conductors, insulators, or other apparatus attached to Transmission Structures; (iv) lines, wires, cables, or conductors installed in concrete-encased ductwork; or (v) network underground facilities.

6. In the event that the City or any other entity acting on behalf of the City requests or demands that the Company relocate any Distribution Facilities from their then-current locations within the streets, alleys, and public places of the City in connection with a public project or improvement, then the Company shall relocate, at its expense, the Distribution Facilities affected by such project or improvement. The Company's obligations under this paragraph 6 shall not affect the amounts paid or to be paid to the City under the provisions of paragraph 1 of this Section II. Notwithstanding the foregoing provisions of this paragraph 6, the Company shall not be obligated to relocate, at its expense, any of the following: (i) Distribution Facilities that are located on private property (which shall include those located on easements acquired by the Company from persons or entities other than the City) at the time relocation is requested or demanded; (ii) Distribution Facilities that are relocated in connection with sidewalk improvements (unless such sidewalk improvements are related to or associated with road widenings, the creation of new turn lanes, or the addition of acceleration/deceleration lanes); (iii) streetscape projects or other projects undertaken primarily for aesthetic purposes; (iv) Distribution Facilities that are converted from an overhead configuration or installation to an underground configuration or installation; (v) Distribution Facilities that do not obstruct or interfere with the safe use of the City's streets or public places, and that do not obstruct or interfere with plans for road widening, the creation of new turn lanes, or acceleration /deceleration lanes.

7. The City and the Company recognize that both parties benefit from economic development within the City. Accordingly, when it is necessary to relocate any of the Company's Facilities (whether Distribution Facilities, Transmission Lines, Transmission Structures, or other facilities) within the City, the City and the Company shall work cooperatively to minimize costs, delays, and inconvenience to both parties while ensuring compliance with applicable laws and regulations. In addition, the City and the Company shall communicate in a timely fashion to coordinate projects included in the City's five-year capital improvement plan, the City's short-term work program, or the City's annual budget in an effort to minimize relocation of the Company's Facilities. Such communication may include, but is not limited to, (i) both parties' participation in the Georgia Utilities Coordinating Council, Inc. (or any successor organization) or a local utilities coordinating council (or any successor organization) and (ii) both parties' use of the National Joint Utility Notification System (or any successor to such system mutually acceptable to both parties).

8. With regard to each project undertaken by or on behalf of the City for which the Company is not obligated, in accordance with paragraph 6, to pay the cost of relocation, the City shall pay the Company in advance for the Company's estimated cost to relocate any of the Company's Facilities (whether Distribution Facilities, Transmission Lines, Transmission Structures, or other facilities) in connection with such project.

SECTION III. Be it further ordained that nothing contained in this ordinance shall limit or restrict the right of customers within the corporate limits of the City to select an electric supplier as may hereafter be provided by law.

SECTION IV. Be it further ordained that, notwithstanding anything herein to the contrary, the Company shall not be obligated to pay to the City the fee provided for herein, or any portion thereof, on the gross sales of electric energy to customers living within areas that, on the effective date of this franchise, are not both: (i) within the City limits on the effective date, and (ii) depicted as being within the City limits on the maps provided to Company and attached hereto as Exhibit A.

SECTION V. Be it further ordained that, notwithstanding anything herein to the contrary, the Company shall not be obligated to pay to the City the fee provided for herein, or any portion thereof, on the gross sales of electric energy to customers living within areas that, after the effective date of this franchise, are annexed to the corporate limits of the City before ninety (90) days after the Company receives written notice from the City that the City intends to annex (or has already annexed) the territory in which said customers are located. To be effective, any such notice must include an electronic map of the annexed areas in a format reasonably acceptable to Company.

SECTION VI. Be it further ordained that all notices under this ordinance shall be made in writing and shall be delivered or sent by (a) first class, registered or certified mail, postage prepaid, return receipt requested; (b) guaranteed overnight delivery (such as Federal Express or United Parcel Service Next Day Air); or (c) hand delivery addressed to the address of the party in question as set forth below or to such other addresses as either party may designate by notice given pursuant to this Section. Notices shall be effective upon receipt by the notified party.

To the Franchising Authority:

Mayor of City of South Fulton
5440 Fulton Industrial Boulevard
Atlanta, Georgia 30336

City of South Fulton, GA 30213

To the Grantee:

GreyStone Power Corporation
Attn: Office of the President and CEO
P. O. Box 897
Douglasville, Georgia 30133-0897

SECTION VII. Be it further ordained that the Company shall, within ninety (90) days from the approval of this ordinance, file the Company's written acceptance of the franchise granted

in this ordinance with the Clerk of the City.

SECTION VIII. Be it further ordained that upon such acceptance all laws and ordinances, and all agreements between the Company and the City with respect to the Company's use of the City's streets, alleys, and public places, in actual conflict herewith be and the same shall thereupon stand repealed and terminated, respectively.

The foregoing Ordinance No. _____ was offered by Councilmember _____, who moved its approval. The motion was seconded by Councilmember _____, and being put to a vote, the result was as follows:

	AYE	NAY
William “Bill” Edwards, Mayor	_____	_____
Catherine Foster Rowell (Mayor Pro Tem)	_____	_____
Carmalitha Lizandra Gumbs	_____	_____
Helen Zenobia Willis	_____	_____
Gertrude Naeema Gilyard	_____	_____
Rosie Jackson	_____	_____
khalid kamau	_____	_____
Mark Baker	_____	_____

The foregoing franchise accepted on

GREYSTONE POWER CORPORATION

By: _____
President / CEO

THIS ORDINANCE adopted this _____ day of _____ 2017. **CITY OF SOUTH
FULTON, GEORGIA**

WILLIAM “BILL” EDWARDS, MAYOR

ATTEST:

_____, CITY CLERK

APPROVED AS TO FORM:

_____, INTERIM CITY ATTORNEY

EXHIBIT A
<MAPS DEPICTING CITY LIMITS>

**STATE OF GEORGIA
COUNTY OF FULTON
CITY OF SOUTH FULTON**

ORDINANCE NO. 2017-006

**AN ORDINANCE TO ESTABLISH COLLECTION OF FRANCHISE FEES
APPLICABLE TO HOLDERS OF CABLE AND VIDEO FRANCHISES
ISSUED BY THE STATE OF GEORGIA**

WHEREAS, the City of South Fulton (“City”) is a municipal corporation duly organized and existing under the laws of the State of Georgia;

WHEREAS, pursuant to Act 421 of the 2016 session of the Georgia General Assembly (the “City Charter”), the City of South Fulton incorporated on May 1, 2017;

WHEREAS, pursuant to Section 7.16(b) of the City Charter, the City provided notice to Fulton County of its intent to collect any tax, fee, assessment, fine or forfeiture, and other monies;

WHEREAS, the City is authorized to collect a franchise fee of up to five percent (5%) of gross revenues, the maximum amount established by federal and state law, of each cable or video service provider’s gross revenues generated within the City, pursuant to franchises issued by the State of Georgia pursuant to the Consumer Choice for Television Act of 2007, O.C.G.A. § 36-76-1, *et seq.* (the “Act”);

WHEREAS, the City considers collecting a franchise fee from a cable or video provider utilizing the public rights of way as compensation to the public for the use of the rights of way and a means of promoting the public health, safety, welfare and economic development of the City and to protect public works infrastructure;

THE COUNCIL OF THE CITY OF SOUTH FULTON HEREBY ORDAINS as follows:

1. The Mayor and City Council do hereby require a franchise fee of five percent (5%) of gross revenues for any cable or video state franchise issued within its corporate boundaries by the State of Georgia pursuant to the Act; and
2. The Mayor or the Mayor's designated representative is hereby authorized to take any and all actions required to be taken by the City pursuant to the provisions of the Act; and
3. The Mayor or the Mayor's designated representative is hereby authorized to collect and receive franchise fees pursuant to the provisions of the Act.

The foregoing Ordinance No. _____ was offered by Councilmember _____, who moved its approval. The motion was seconded by Councilmember _____, and being put to a vote, the result was as follows:

AYE	NAY
William “Bill” Edwards, Mayor	
Catherine Foster Rowell (Mayor Pro Tem)	
Carmalitha Lizandra Gumbs	
Helen Zenobia Willis	
Gertrude Naeema Gilyard	
Rosie Jackson	
khalid kamau	
Mark Baker	

THIS ORDINANCE adopted this _____ day of _____ 2017. **CITY OF SOUTH
FULTON, GEORGIA**

WILLIAM "BILL" EDWARDS, MAYOR

ATTEST:

_____, CITY CLERK

APPROVED AS TO FORM:

_____, INTERIM CITY ATTORNEY

**STATE OF GEORGIA
COUNTY OF FULTON
CITY OF SOUTH FULTON**

ORDINANCE No. 2017-007

ADOPTION OF TAXATION ORDINANCE

WHEREAS, the City of South Fulton (“City”) is a municipal corporation duly organized and existing under the laws of the State of Georgia;

WHEREAS, the City Council is authorized by O.C.G.A. § 36-35-3 to adopt ordinances relating to its property, affairs, and local government;

WHEREAS, the duly elected governing authority of the City is the Mayor and City Council;

WHEREAS, Section 1.12(b)(40) of the City Charter authorizes the City Council to impose ad valorem taxes at a rate of 13.469 unless the City Council and voters of the City approve of a resolution authorizing a greater millage rate;

WHEREAS, Section 1.12(b)(41) of the City Charter authorizes the City Council to impose all other taxes that may be allowed by law;

WHEREAS, Chapter 5 of Title 48 of the Official Code of Georgia Annotated authorizes municipalities to impose ad valorem taxes on property;

WHEREAS, Chapter 8 of Title 33 of the Official Code of Georgia Annotated authorizes municipalities to impose premium taxes of life insurance policies;

WHEREAS, Chapter 6 of Title 48 of the Official Code of Georgia Annotated authorizes municipalities to impose business license taxes on depository financial institutions operating within city limits;

WHEREAS, the City requires revenue to operate and provide municipal services to City residents;

THE COUNCIL OF THE CITY OF SOUTH FULTON HEREBY ORDAINS
as follows:

Section 1: The City of South Fulton Code of Ordinances, Title 2, Taxation, is hereby established and enacted as follows:

Title 2: TAXATION

CHAPTER 1. – GENERAL (Reserved).

CHAPTER 2. – AD VALOREM TAXES

Sec. 2-2001. – Annually Set.

On or before June 30 of each year, the City Council shall set the millage rate and ad valorem taxes for all real property within the City for ad valorem purposes.

Sec. 2-2002. – Due Date

The ad valorem taxes due the City shall become due and payable between July 1 and October 15 of each year, any said taxes not paid in full by the last day specified shall, notwithstanding any existing law, be in default, and shall bear interest and penalties, now or hereafter, as provided by law for taxes which are delinquent or in default, and executions issued therefor, after December 31 of the year in which such taxes become delinquent.

Sec. 2-2003. – Fines for Delinquent Payment.

Any person failing to return his real property, for tax purposes, on or before April 1 of each year is assessed a penalty of ten percent of the amount of taxes due the City. Said penalty is in addition to the amount of ad valorem taxes due the City and also in addition to any costs and interest and interest permitted by law. Partial payments shall not be accepted.

Sec. 2-2004. – Collection of Delinquent Taxes

(a) The duty to collect by levy and sale, or otherwise, for delinquent taxes is hereby imposed upon the City Treasurer as the City Tax Collector or his designee as issuing officer, and the county sheriff as execution officer. All levies of execution for delinquent taxes are in the name of the City. This duty may be contracted, by the City Council, to a third party.

(b) It is the duty of the City Tax Collector or his designee to comply with all provisions of state law applicable to the provision for issuing, sale and transfer of tax executions and laws governing judicial sales and to:

- (1) Keep a file of all newspapers in which an official advertisement appears;
- (2) Keep an execution docket in which is entered a full description of all executions;
- (3) Maintain a book of all sales;
- (4) Maintain an index to the sales and executions.

(c) The City Tax Collector shall sign all levies, notices, advertisements, and the like in his name for the City.

(d) Execution in the name of the City for delinquent ad valorem taxes are directed and delivered to the county sheriff, who shall enter the execution upon the docket to be kept in his office and he shall proceed to enforce the collection of the execution in the manner prescribed by law.

(e) The City Tax Collector will issue all fieri facias (fi. fas.) for delinquent taxes and the county sheriff shall execute such fi. fas. Under the same procedures provided by law

governing execution of such process from the superior court, or by the use of any other available legal process and remedies.

Sec. 2-2005. – Assessment of Property

(a) The Fulton County Board of Tax Assessors is hereby designated to have the responsibility for assessment and valuation of property within the City limits. The City Council shall adopt the assessment and valuations made by the Fulton County Board of Tax Assessors for all property located within the City limits as may be established from year to year by the Fulton County Board of Tax Assessors.

(b) The City Council does authorize the Tax Commissioner of Fulton County to make such adjustments in the collection of individual items of tax, and to make such refunds as may be proper and necessary, by addition to or deducting from the distribution due the City at the next period of accounting, along with stated explanation of the correction.

CHAPTER 3 – HOTEL AND MOTEL TAXES

Sec. 2-3001. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) *Guestroom* means a room, lodging, or accommodation occupied or intended for occupancy by one or more occupants but does not mean a meeting room that is intended, designed, or used for meetings.

(b) *Hotel* means a structure or any portion of a structure, including, but not limited to, rooming or lodging houses, inns, motels, motor hotels and courts, hotels, cabins, public or private clubs, and tourist camps, which contain guestrooms which are regularly furnished for value to the public.

(c) *Occupancy* means the use or possession or the right to the use or possession of any guestroom in a hotel or the right to the use or possession of the furnishing of services or accommodations that accompany the use or possession of a guestroom in a hotel.

(d) *Occupant* means any person who, for a consideration, uses or possesses or has the right to use or possess a guestroom in a hotel under any lease, concession, contract, permit, right of access, license, or other agreement.

(e) *Operator* means any person operating a hotel in the city, including the owner, proprietor, lessee, sublessee, licensee, or other entity operating the premises.

(f) *Rent* means the consideration received for the occupancy of a guestroom in a hotel whether received in money, property, services, or credits.

(g) *Tax* means the tax imposed by this chapter.

Sec. 2-3002. - Tax imposed; exceptions.

(a) Pursuant to O.C.G.A. § 48-13-51(a)(5), there is imposed, assessed, and levied, and there is paid an excise tax of seven percent (7%) of the rent for every occupancy of a guestroom in a hotel in the city. The tax is paid on any occupancy after July 1, 2017, within the city limits.

(b) The tax imposed by this chapter shall not apply to charges or transactions excluded or exempted from the tax by state law.

(c) Operators collecting the hotel-motel tax imposed by this chapter shall be allowed a reimbursement, in the form of a deduction, for collecting, submitting, reporting, and paying the amount due. The rate of the deduction shall be three percent of the amount due, but only if the amount due is not delinquent at the time of payment.

Sec. 2-3003. - Operator registration; certificate of authority.

(a) Every person engaged in or about to engage in the operating as an operator of a hotel in the city shall register at city hall on a form provided by the city. The failure to register shall not relieve any person from the obligation of payment or collection of the tax.

(b) The registration shall set forth the name under which the person transacts business or intends to transact business, the location of his place or places or business, and other information that would facilitate the collection of the tax as the city may require. The registration is signed by the owner if a natural person; in case of ownership by an association or partnership, by a member or a partner; in the case of ownership by a corporation, by an executive officer or some person specifically authorized by the corporation to sign the registration.

(c) The city shall, after the registration, issue without charge a certificate of authority to each operator to collect the tax from the occupant. A separate registration is required for each place of business of an operator. Each certificate shall state the name and location of the business to which it is applicable and is prominently displayed therein so as to be seen and to come readily to the notice of all occupants and persons seeking occupancy.

(d) The certificates are nonassignable and nontransferable and are returned immediately to the city manager or his or her designee, upon the cessation of business at the location named or upon the sale or transfer of the business at that location.

Sec. 2-3004. - Delinquent penalty.

Any operator who fails to pay the tax to the city on or before the due date shall pay a penalty of ten percent of the tax not paid plus interest on the unpaid tax at the rate of one percent per month.

Sec. 2-3005. - Enforcement and administration.

(a) The City Finance Officer, acting as the City Tax Collector, shall administer and enforce the provisions of this chapter.

(b) The City Tax Collector, in conjunction with the City Manager, shall have the power and authority to make reasonable rules and regulations not inconsistent with this chapter or other laws or ordinances for the administration and enforcement of the provisions of the article and the collection of the tax.

(c) Every operator renting guestrooms in a hotel in the city shall keep such records, receipts, invoices, and other pertinent papers in such form as the city manager or his designee, may require.

(d) The City Tax Collector or any person authorized in writing by the City Manager may examine the books, papers, records, financial reports, and facilities of any operator renting guestrooms and any operator liable for the tax in order to verify the accuracy of and return made or to ascertain and determine the amount of tax which should be paid.

(e) In administering this chapter, the City Tax Collector may require the filing by operators of reports relating to the rental of guestrooms.

(f) If the City Tax Collector is not satisfied with the return of the tax or the amount of the tax required to be paid to the City by any person under this article, the City Treasurer may compute and determine the amount required to be paid upon the basis of any information within the City Treasurer's possession or that may come into the City Treasurer's possession. One or more deficiency determinations may be made of the amount due for one or more monthly periods.

(1) The amount of the determination, exclusive of penalties, shall bear interest at the rate of one percent per month or any fraction of a month from the 20th day after the close of the monthly period for which the amount or any portion thereof should have been returned until the date of payment.

(2) In making a determination, the City Treasurer may offset overpayments for a period against underpayments for another period against penalties and against the interest on underpayments.

(3) Penalties.

(A) If any part of the deficiency for which a deficiency determination has been made is due to negligence or disregard of rules and regulations, a penalty of 15 percent of the amount of the deficiency shall be added thereto.

(B) If any part of the deficiency for which a deficiency determination is made is due to fraud or an intent to evade any section of this article or other authorized rules and regulations, a penalty of 25 percent of the deficiency shall be added thereto.

(4) Notice.

(A) The City Treasurer or his or her designee shall give to the operator written notice of the City Treasurer's determination.

(B) The notice may be served personally or by mail; if by mail the service shall be addressed to the operator at the operator's address as it appears in the records of the City Treasurer. For service by mail of any notice required by this article, the service is complete at the time of deposit in the United States post office.

(5) Limitations. Time limit for mailing notice of deficiency determination. Except for fraud, intent to evade this article or authorized rules or regulations or failure to make a return, every notice of a deficiency determination shall be mailed within three years after the 20th day of the calendar month following the monthly period for which the amount is proposed to be determined or within three years after the return is filed, whichever period should last expire.

Sec. 2-3006. - Penalties.

Any operator or person who violates any provision of this chapter shall be guilty of a misdemeanor.

Section 2-3007. – Exceptions.

No tax pursuant to this chapter shall be imposed upon the following:

- (a) Permanent residents.
- (b) Georgia state or local government officials or employees while traveling on official business and using guest rooms furnished for a period of one or more days.
- (c) Persons who certify they are staying in a guest room as a result of the destruction of their home or residence by fire or other casualty.
- (d) Persons using meeting rooms and other such facilities or any rooms, lodgings, or accommodations provided without charge.

CHAPTER 4 – RENTAL MOTOR VEHICLE EXCISE TAX (Reserved)

Sec. 2-4001. – Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) *Rental charge* means the total value received by a rental motor vehicle concern for the rental or lease for 31 or fewer consecutive days of a rental motor vehicle, including the total cash and nonmonetary consideration for the rental or lease including, but not limited to, charges based on time or mileage and charges for insurance coverage or collision damage waiver but excluding all charges for motor fuel taxes or sales taxes.

(b) *Rental motor vehicle* means a motor vehicle designed to carry ten or fewer passengers and used primarily for the transportation of persons that is rented or leased without a driver regardless of whether such vehicle is licensed in this state.

(c) *Rental motor vehicle concern* means a person or legal entity which owns or leases five or more rental motor vehicles and which regularly rents or leases such vehicles to the public for value.

Sec. 2-4002. – Authority and Administration.

(a) The Finance Officer shall administer and enforce this chapter for the levy and collection of the tax.

(b) Rules and regulations. The Finance Officer shall have the power and authority to make and publish reasonable rules and regulations not inconsistent with this chapter, or other laws of the City and the State of Georgia, or the Constitution of the State of Georgia or the United States for the administration and enforcement of this article and the collection of the tax under this chapter.

(c) Records required. Every rental motor vehicle concern subject to this article shall keep such records, receipts, invoices and other pertinent papers in such form as the Finance Officer may require. Such records shall include, but not be limited to, rental charges for rental motor vehicles and taxes collected which are related thereto. Said record is open for inspection and copying by the city manager, or his designee, during business hours.

Sec. 2-4003. – Excise Tax Levied; Exceptions.

(a) There is hereby assessed and levied an excise tax upon each rental charge collected by any rental motor vehicle concern when such charge constitutes a taxable event for the purposes of the sales and use tax as provided for under O.C.G.A. title 48, ch. 8, art. 1 (O.C.G.A. § 48-8-1 et seq.), on any motor vehicle rental charge made in the city. The tax levied pursuant to this article is in the amount of three percent of the rental charge.

(b) The Council declares that the proceeds received from the excise tax levied by this chapter are to be expedited for use in public safety facilities, including pedestrian sidewalks, installation of traffic lights, street lighting for public safety purposes, and for the maintenance of such systems of traffic lights and streetlights within the territorial city limits. Proceeds received from the excise tax imposed by this chapter may also be used for promoting industry, trade, commerce, and tourism; for the provision of convention, trade, sports, and recreational facilities.

(c) The excise tax imposed by this chapter shall not apply to the rental charge associated with the rental or lease of a rental motor vehicle if either:

(1) The customer picks up the rental motor vehicle outside the State of Georgia and returns it within the State of Georgia; or

(2) The customer picks up the rental motor vehicle in the State of Georgia and returns it outside the State of Georgia.

Sec. 2-4004. – Collection Fees.

Each person collecting the excise tax authorized by this chapter shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting, and paying the amount due if the amount due is not delinquent at the time of payment. The rate of deduction shall be 3 percent of the amount due but only if the amount due was not delinquent at the time of payment.

Sec. 2-4005. – Statements Required.

(a) On or before the 20th day of each month, the motor vehicle concern liable for the tax provided for herein shall transmit to the city a statement showing the gross rental charges and gross taxes collected authority of this article for each preceding calendar month. Along with said statement, the motor vehicle concern shall submit the net taxes due for each particular month.

(b) Failure to remit taxes by the due date shall subject the rental motor vehicle concern to a penalty of five percent of the tax then due and in addition to such penalty, interest thereon the unpaid principal amount due, computed at the rate of one percent per month.

Sec. 2-4006. – Deficiency Determinations.

(a) Determination. If it appears that a return for excise tax or the amount of tax remitted is inaccurate or incomplete, the City Treasurer or his or her designee may compute and determine the amount required to be paid based on any information within his possession or that may come into his possession. One deficiency determination may be made for the amount due for one or more monthly periods.

(b) Interest. The amount of the determination made by the City Treasurer or his or her designee shall bear interest the rate of one percent per month or fraction thereof from the due date of the taxes found due by him or her.

(c) Notice.

(1) The City Treasurer or his or her designee shall give to the rental vehicle concern a written notice of any such determination. The notice may be made personally or by mail and if by mail the service is addressed to the operator or the of the rental motor vehicle concern at the address as the same appears in the records of the city manager or designee as provided to him by each rental motor vehicle concern.

(2) Service is complete when delivered by certified mail with a receipt signed by an addressee or agent addressee.

(d) Limitations. Except in cases of failure to make a return, every notice of a deficiency determination shall be mailed within three years after the 20th day of the calendar month following the period in which the amount proposed to be determined or within three years after the return was filed, whichever period shall expire last.

Sec. 2-4007. - Withholding Tax on Sale of Business.

(a) If any rental motor vehicle concern liable for any amount under this chapter transfers or sells its business or quits the business, its successors or assigns shall withhold sufficient amounts from the purchase price to cover the amount required to be paid pursuant to this article until the former owner or operator of the rental motor vehicle concern produces a receipt from the city manager or designee showing that the indebtedness has been paid or a certificate stating that no amount is due.

(b) If the purchaser of a business or rental motor vehicle concern fails to withhold from the purchase price as required herein such purchaser is personally liable for the payment of the amount of the outstanding tax required to be withheld by him to the extent of such purchase price.

Sec. 2-4008. - Penalty; expiration of tax.

(a) In addition to the interest charges and delinquent penalties specified in this article any person violating any provision of this article shall be deemed guilty of a violation of this Code, which shall be punishable as a misdemeanor.

(b) The tax levied by this article is effective on January 1, 2006, and shall continue until its permissible existence shall expire as provided by law.

CHAPTER 5 – BUSINESS AND OCCUPATION TAXES (Reserved)

CHAPTER 6 - INSURANCE PREMIUM TAXES

Sec. 2-6001. - Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) *Gross direct premiums* means gross direct premiums as used in O.C.G.A. § 33-8-4.

(b) *Insurer* means a company that is authorized to transact business in any classes of insurance designated in O.C.G.A. § 33-3-5.

Sec. 2-6002. – Insurers License Fees

There is hereby levied for the year 2017 and for each year thereafter an annual license fee upon each insurer doing business within the City of South Fulton, Georgia in the amount of one hundred and fifty dollars (\$150.00). For each separate business location in excess of one not covered by Section 2, which is operating on behalf of such insurers within the City of South Fulton, Georgia, there is hereby levied a license fee in the amount of one hundred and fifty dollars (\$150.00).

Sec. 2-6003. - License Fees for Insurers Insuring Certain Risks at Additional Business Locations

For each separate business location, not otherwise subject to a license fee hereunder, operated and maintained by a business organization which is engaged in the business of lending money or transacting sales involving term financing and in connection with such loans or sales offers, solicits or takes application for insurance through a licensed agent of an insurer for insurance said insurer shall pay an additional license fee in the maximum amount permitted pursuant to O.C.G.A. § 33-8-8(b)(2) on each insurance company.

Sec. 2-6004. – Gross Premiums Tax Imposed on Life Insurers

There is hereby levied for the year 2017 and for each year thereafter an annual tax based solely upon gross direct premiums upon each insurer writing life, accident and sickness insurance within the State of Georgia in an amount equal to one percent (1%) of the gross direct premiums received during the preceding calendar year in accordance with O.C.G.A. § 33-8-8.1. Gross direct premiums as used in this section shall mean gross direct premiums as used in O.C.G.A. § 33-8-4. The premium tax levied by this section is in addition to the license fees imposed by Section 1 of this ordinance.

Sec. 2-6005. – Gross Premiums Tax, All Other Insurers

There is hereby levied for the year 2017 and for each year thereafter an annual tax based solely upon gross direct premiums upon each insurer, other than an insurer transacting business in the class of insurance designated in subsection 1 of O.C.G.A. § 33-3-5, doing business within the State of Georgia in an amount equal to two and one-half percent (2.5%) of the gross direct premiums received during the preceding calendar year in accordance with O.C.G.A. § 33-8-8.2. Gross direct premiums as used in the section shall mean gross direct premiums as used in O.C.G.A. § 33-8-4. The premium tax levied by this section is in addition to the license fees imposed by Section 2-3002 of this Code of Ordinances.

Sec. 2-6006. – Due Date for License Fees

License fees imposed in Sections 2-3002 and 2-3003 of this Code of Ordinances shall be due and payable on the first day of January and on the first date of each subsequent year.

Section 2-6007. – Administrative Provisions

The City Clerk is hereby directed to forward a duly certified copy of this ordinance to the Insurance Commissioner of the State of Georgia within 45 days of its enactment.

CHAPTER 7 – FINANCIAL INSTITUTION TAXES

Sec. 2-7001. – Definitions

The definitions in O.C.G.A. §§ 48-6-90 and 48-6-93 apply to this chapter.

Sec. 2-7002. – Tax Levied; Rate.

In accordance with O.C.G.A. § 48-6-93, there is hereby levied an annual business license tax upon all depository financial institutions located within the City at a rate of 0.25 percent of the gross receipts of said depository financial institutions.

Sec. 2-7003. – Minimum Business License Tax.

The minimum annual amount of business license tax due from any depository financial institution pursuant to O.C.G.A. § 48-6-93(a) is \$1,000.00.

Sec. 2-7004. – Due Date of Taxes.

Taxes levied pursuant to this article are paid to the city manager or designee at the time of filing the return.

Sec. 2-7005. – Relation of Tax To Other Business Licenses.

The tax imposed by this article is in lieu of any other business license upon depository financial institutions.

Section 2: Severability

In the event any portion of this ordinance shall be declared or adjudged invalid or unconstitutional, it is the intention of the City Council of the City of South Fulton, Georgia, that such adjudication shall in no manner affect the other sections, sentences, clauses or phrases of this ordinance which shall remain in full force and effect, as if the invalid or unconstitutional section, sentence, clause or phrase were not originally a part of the ordinance.

Section 3: Repealer

All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

Section 4: Effective Date

Unless specifically specified elsewhere in this Ordinance, the effective date of this Ordinance shall be June 20, 2017.

The foregoing Resolution No. _____ was offered by Councilmember _____, who moved its approval. The motion was seconded by Councilmember _____, and being put to a vote, the result was as follows:

	AYE	NAY
William “Bill” Edwards, Mayor	_____	_____
Catherine Foster Rowell,	_____	_____
Mayor Pro Tem		
Carmalitha Lizandra Gumbs	_____	_____
Helen Zenobia Willis	_____	_____
Gertrude Naeema Gilyard	_____	_____
Rosie Jackson	_____	_____
khalid kamau	_____	_____
Mark Baker	_____	_____

THIS RESOLUTION adopted this _____ day of _____ 2017. **CITY OF
SOUTH FULTON, GEORGIA**

WILLIAM "BILL" EDWARDS, MAYOR

ATTEST:

_____, CITY CLERK

APPROVED AS TO FORM:

_____, INTERIM CITY ATTORNEY

**STATE OF GEORGIA
COUNTY OF FULTON
CITY OF SOUTH FULTON**

ORDINANCE No. 2017-008

ADOPTION OF BUSINESS AND OCCUPATION TAXATION ORDINANCE

WHEREAS, the City of South Fulton ("City") is a municipal corporation duly organized and existing under the laws of the State of Georgia;

WHEREAS, the City Council is authorized by O.C.G.A. § 36-35-3 to adopt ordinances relating to its property, affairs, and local government;

WHEREAS, the duly elected governing authority of the City is the Mayor and City Council;

WHEREAS, Section 1.12(b)(41) of the City Charter authorizes the City Council to impose all other taxes that may be allowed by law;

WHEREAS, Chapter 13 of Title 48 of the Official Code of Georgia Annotated authorizes municipalities to impose business occupation taxes and fees;

WHEREAS, the City requires revenue to operate and provide municipal services to City residents;

THE COUNCIL OF THE CITY OF SOUTH FULTON HEREBY ORDAINS
as follows:

CHAPTER 5 – BUSINESS AND OCCUPATION TAXES (Reserved)

Sec. 2-5001. – Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) *Administrative fee* means a component of an occupation tax that approximates the reasonable cost of handling and processing the occupation tax. Employee means an individual whose work is performed under the direction and supervision of the employer and whose employer withholds FICA, federal income tax, or state income tax from such individual's compensation or whose employer issues to such individual for purposes of documenting compensation a form W-2, but not a form I.R.S. 1099. An individual who performs work under the direction and supervision of one business or practitioner in accordance with the terms of a contract or agreement with another business that recruits such individual is an

employee of the business or practitioner that issues to such individual for purposes of documenting compensation a form I.R.S. W-2.

(b) *Gross receipts.*

(1) The term “*gross receipts*” means total revenue of the business or practitioner for the period, including, without being limited to, the following:

(A) Total income without deduction for the cost of goods sold or expenses incurred;

(B) Gain from trading in stocks, bonds, capital assets, or instruments of indebtedness;

(C) Proceeds from commissions on the sale of property, goods, or services;

(D) Proceeds from fees charged for services rendered; and

(E) Proceeds from rent, interest, royalty, or dividend income.

(2) The term “*gross receipts*” shall not include the following:

(A) Sales, use, or excise taxes;

(B) Sales returns, allowances, and discounts;

(C) Interorganizational sales or transfers between or among the units of a parent-subsidiary controlled group of corporations, as defined by 26 USC 1563(a)(1), between or among the units of a brother-sister controlled group of corporations, as defined by 26 USC 1563(a)(2), between or among a parent corporation, wholly owned subsidiaries of such parent corporation, and any corporation in which such parent corporation or one or more of its wholly owned subsidiaries owns stock possessing at least 30 percent of the total value of shares of all classes of stock of such partially owned corporation, or between or among wholly owned partnerships or other wholly owned entities;

(D) Payments made to a subcontractor or an independent agent for services that contributed to the gross receipts in issue;

(E) Governmental and foundation grants, charitable contributions or the interest income derived from such funds, received by a nonprofit organization which employs salaried practitioners

otherwise covered by this article, if such funds constitute 80 percent or more of the organization's receipts; and

(F) Proceeds from sales of goods or services that are delivered to or received by customers who are outside the state at the time of delivery or receipt.

(c) *License* means a permit or certificate issued by the city that allows an entity to operate lawfully in the city. A license does not create any rights to operate in violation of any provision of this Code, and it may be revoked by the city council at any time. This definition applies to any license issued pursuant to this chapter.

(d) *Location or office* includes any structure or vehicle where a business, profession, or occupation is conducted, but shall not include a temporary or construction work site which serves a single customer or project or a vehicle used for sales or delivery by a business or practitioner of a profession or occupation which has a location or office. The renter's or lessee's location that is the site of personal property that is rented or leased from another does not constitute a location or office for the personal property's owner, lessor, or the agent of the owner or lessor. The site of real property which is rented or leased to another does not constitute a location or office for the real property's owner, lessor, or the agent of the owner or lessor unless the real property's owner, lessor, or the agent of the owner or lessor, in addition to showing the property to prospective lessees or tenants and performing maintenance or repair of the property, otherwise conducts the business of renting or leasing the real property at such site or otherwise conducts any other business, profession, or occupation at such site.

(e) *Occupation tax* means a tax levied on persons, partnerships, corporations, or other entities for engaging in an occupation, profession, or business.

(f) *Practitioner of professions and occupants* shall not include a practitioner who is an employee of a business, if the business pays an occupation tax.

(g) *Regulatory fees* means payments, whether designated as license fees, permit fees, or by another name, which are required by city as an exercise of its municipal power and as a part of or as an aid to regulation of an occupation, profession, or business. The amount of a regulatory fee shall approximate the reasonable cost of the actual regulatory activity performed by the city. A regulatory fee does not include an administrative or registration fee.. Regulatory fees do not include development impact fees as defined by O.C.G.A. § 36-71-2(8) or other costs or conditions of zoning or land development.

Sec. 2-5002. – Occupation Certificate Required

(a) All persons, firms, companies, or corporations, including limited liability companies and professional corporations, now or hereafter operating a business in the city, are hereby required to register their business or office, obtain an occupation

tax certificate for their business or office, and pay the amount now or hereafter fixed as taxes and fees thereon. The owners of multifamily rental dwellings or multifamily rental units within the City that receive income for use of four or more such dwellings or units and meet the requirements of O.C.G.A. § 48-13-5 for having a location or office within the City are subject to an occupation tax as provided in this chapter. For the initial year of construction, this section shall not apply to new construction or rehabilitation of a multifamily rental dwelling provided proper permits are obtained from the city.

(b) The occupation tax certificate shall serve as a business license. Additional business licenses may be required as established in this chapter.

(c) Stock or manufacturing companies or other companies, subsidiaries, agencies, district offices, branch offices, corporations or individuals, having either their business proper or their general branch offices located within the city, and either represented by the officers of the company, or any agent, for the purpose of soliciting patronage for the same, or for the transaction of any business pertaining thereto, is required to obtain an occupation tax certificate.

(d) All licenses granted under this article shall expire on April 1 of each year. Licensees are required to make a new application in each year. Such application is treated as an initial application and the applicant is required to comply with all rules and regulations for the granting of licenses as if no previous license had been held.

Sec. 2-5003. – Fee, Basis.

(a) Except as otherwise provided in this article, every business and practitioner subject to this article shall pay a tax based on the gross receipts of such business (the “occupation tax”).

(b) The gross receipts tax shall include a flat rate of \$50.00 for the first \$20,000.00 of gross revenue, and \$13.00 per employee. Gross revenues above \$20,000.00 are taxed using a fee class table based on profitability. The fee class table ranges from \$0.50 to \$2.20 per \$1,000.00 of gross revenue based on the NAICS Code of the business.

Sec. 2-5004. – Application for Certificate

(a) It shall be the duty of each person, firm or corporation subject to this article to file with the department of finance on or before March 31 of each calendar year an application for registration under this article setting forth all activities of each business, its Standard Industrial Classification Code and/or its North American Industry Classification System Code, its estimated gross receipts for the calendar year of the registration, computation of the amount of tax due including the administrative fee and per employee tax, a copy of the profit and loss statement, a copy of its Georgia Income Tax Return, and such other information as may be required by the director of finance to properly administer this chapter, which may include all or any of the

information specified in this chapter. Any new business or practitioner shall apply and register for a new certificate within 30 days after the commencement of business.

(b) For businesses or practitioners with more than one type of service or product, including businesses or practitioners listed under and subject to O.C.G.A. § 48-13-16, the entire gross receipts shall be classified according to the dominant service or product based upon the information provided under subsection (a) hereof.

(c) For each business or practitioner with a location or office situated in more than one jurisdiction, including businesses or practitioners with one or more locations or offices in Georgia and one or more locations outside the state, the City shall allocate the gross receipts as follows for occupation tax purposes in accordance with the following:

(1) Where the business or practitioner can reasonably allocate the dollar amount of gross receipts of the business or practitioner to one or more of the locations or offices on the basis of product manufactured in that location or office or the sales or other services provided in that location or office, the county shall tax the gross receipts generated by the location or office within the City; or

(2) Where the business or practitioner cannot reasonably allocate the dollar amount of gross receipts among multiple locations or offices, the business or practitioner shall divide the gross receipts reported to all local governments in this state by the number of locations or offices of the business or practitioner which contributed to the gross receipts reported to any local government in this state, and shall allocate an equal percentage of such gross receipts of the business or practitioner to each location or office.

(3) In no instance shall the sum of the portions of the total gross receipts of a business or practitioner taxed by all local governments exceed 100 percent of the total gross receipts of the business or practitioner.

(4) In the event of a dispute between the business or practitioner and the county as to the allocation under this section, the business or practitioner shall have the burden of proof as to the reasonableness of the allocation.

(5) Upon request, businesses or practitioners with a location or office situated in more than one jurisdiction shall provide to the City the following:

(A) Financial information necessary to allocate the gross receipts of the business or practitioner; and

(B) Information relating to the allocation of the business's or practitioner's gross receipts by other local governments.

(6) When the City levies an occupation tax on a business or practitioner which has locations encompassed by other jurisdictions and the other jurisdictions use

different criteria for taxation, the county shall not tax any greater proportion of the gross receipts than authorized by law.

(d) This chapter applies to each business and practitioner with no location or office within the State of Georgia, which:

(1) Has one or more employees or agents who exert substantial efforts within the unincorporated part of the county for the purpose of soliciting business or serving customers or clients; or

(2) Owns personal or real property which generates income and which is located in the unincorporated part of the county. Gross receipts of such business or practitioner for purposes of this section shall include only those gross receipts reasonably attributable to sales or services in the State of Georgia. If such business or practitioner provides to the director of finance proof of payment of a local business or occupation tax in another state which purports to tax the business's or practitioner's sales or services in the State of Georgia, the business or practitioner shall be exempt from this article.

(e) Real estate brokers transacting business within the unincorporated area of the county are subject to this article. Real estate brokers shall be liable for tax only on gross receipts arising from transactions involving real estate located within the City. Real estate brokers shall be liable for such taxes without regard to their having a location or office in the county.

(f) The provisions of this section may be amended from time to time by resolution of the board of commissioners for the purpose of providing for exceptions to business and occupation taxes as provided under O.C.G.A. § 48-13-10(f).

Sec. 2-5006. – Payment of Fees, Penalties, Refunds.

(a) Following the filing of the application as provided for in Section 2-5005 of this chapter, each business or professional practitioner subject to this article shall remit payment in full for all taxes and fees due not later than March 31 of the year in which the application is filed. Each person, firm or corporation operating under various trade names must secure a separate occupation tax certificate for each trade name issued. In addition, a separate occupation tax certificate must be secured for each business location. If the business or practice was not in operation on January 1, the occupation tax with its associated administrative fees shall be due and payable 30 days following the commencement of business pursuant to section 18-38.

(1) The Finance Officer or his designee shall assess penalties in the amount of the percent of the amount owed for each calendar year or portion thereof for:

(A) Failure to pay occupation taxes and administrative fees when due;

(B) Failure to file an application by March 31 of any calendar year, when the business or practitioner was in operation on January 1 of such calendar year; and/or

(C) Failure to register and obtain an occupation tax certificate within 30 days of the commencement of a new business.

(2) Delinquent taxes and fees are subject to interest at a rate of one and one-half percent per month. Payments required by this chapter may be collected in any suit at law or in equity, or the City may cause executions to issue against the person, firm or corporation liable for the payment. Executions may be levied and sold together with all costs thereof, by the City Finance Officer.

(3) Any person whose duty it is to register any business or practice and obtain any occupation tax certificate required under this article and falls to do so, or who fails to pay the occupation tax or administrative fee required by this chapter, or who makes any deliberate or substantial and material false statement on an application or provides materially false information in support of an application, shall be denied an occupation tax certificate, shall be required to surrender any existing such occupation tax certificate and shall be deemed to have no such occupation tax certificate for purposes hereof, and shall be subject to a civil fine as provided by the law of this state.

- (b) Certificate applicants for trade names and for separate business locations shall pay the nonrefundable administrative fee imposed hereby, in addition to the tax imposed by Section 2-5003 of this chapter. In the event a business ceases to operate after the issuance of an occupation tax certificate, no refund of the fee or tax shall be granted.
- (c) No business or practitioner subject to this article shall collect any gross receipts as defined herein unless such business or practitioner shall have applied for an occupation tax certificate and/or license as required hereunder. Upon application for an occupation tax certificate, any such business or practitioner may thereupon collect gross receipts, including those incurred but not collected during the period prior to the application, but such business or practitioner shall be subject to the penalties of subsection (a) of this section. If the taxes and fees remain unpaid after the due date, the business or practitioner shall not collect any gross receipts as defined herein. The provisions of this ordinance may be enforced by appropriate injunctive or other relief upon the application of the Finance Officer to the Superior Court of Fulton County.
- (d) Practitioners of law may collect gross receipts as defined herein without applying for and obtaining an occupation tax certificate. However, practitioners of law must pay the occupation tax levied herein. Delinquent taxes and fees are subject to interest at a rate of one and one-half percent per month. Any occupation tax with its associated administrative fees hereunder, shall be due and payable by March 31 of each calendar year. If the business or practice was not in operation on January

1, the occupation tax with its associated administrative fees shall be due and payable 30 days following the commencement of business pursuant to this ordinance. The Finance Officer shall assess a penalty in the amount of ten percent of the amount owed for each calendar year or portion thereof for failure to pay occupation taxes and administrative fees when due. In the event of failure to pay the occupation tax required by this chapter, the tax may be collected in any suit at law or in equity. In addition, failure to pay the occupation tax required by this article shall subject the person, firm or corporation to a civil fine as provided by the law of this state.

- (e) Except as provided in subsection (b), the refund of the occupation tax levied herein is governed by O.C.G.A. § 48-5-380.

Sec. 2-5007. - Termination of business.

It shall be the duty of each business and practitioner subject to fees and occupation taxes under this chapter, when it shall cease to do business or practice, to return its current occupation tax certificate, together with a statement as to the date of termination of doing business or practice, to the Finance Officer.

Sec. 2-5008. – Professional occupation tax.

(a) Notwithstanding any other provision of this chapter, there is hereby imposed upon practitioners of law, medicine, osteopathy, chiropractic, podiatry, dentistry, optometry, applied psychology, veterinary, landscape architecture, land surveying, massage therapy and physiotherapy, public accounting, embalming, funeral directing, civil, mechanical, hydraulic and electrical engineering, architecture, marriage and family therapists, social workers, and professional counselors, as their entire occupation tax one of the following, at the practitioner's election:

(1) The occupation tax based on gross receipts resulting from application of the other provisions of this chapter; or

(2) \$400.00 each year, but a practitioner paying accordingly shall not be required to provide information relating to the gross receipts of such practitioner. For the purposes of this section, a "practitioner" shall include any individual holding license to practice any of the professions specified herein regardless of whether such individual shall practice as a professional corporation or professional association.

(b) In addition to any other documentation that may be requested or required by the City Finance Officer, an practitioner electing to make a payment pursuant to subsection (a)(2) of this ordinance may be required to demonstrate proof of licensure, if applicable.

Sec. 2-5009. - Transfer; suspension; revocation.

(a) No certificate issued hereunder may be transferred.

(b) Each certificate granted hereunder shall be subject to suspension or revocation for violation of any rule or regulation of the county now in force or hereafter adopted.

(c) Whenever the director of City Finance Officer there is cause to suspend or revoke the occupation tax certificate issued hereunder:

(1) The Finance Officer must give the certificate holder ten-day written notice of intention to suspend or revoke the occupation tax certificate. The ten-day written notice must include the time, place, and purpose of such hearing, and a statement of the charges upon which such hearing shall be held.

(2) A hearing will be scheduled wherein the certificate holder may present a defense to the suspension or revocation before the City Council or its designee. After the hearing, the City Council or its designee may suspend, sanction, or revoke the occupation tax certificate issued hereunder if any of the grounds set forth below exist. An occupation tax certificate may be suspended, sanctioned, or revoked upon one or more of the following grounds:

(A) The certificate holder is guilty of fraud in the operation of the business or occupation he/she practices, or fraud or deceit in being licensed to practice in that area;

(B) The certificate holder is engaged in the business or occupation under a false or assumed name, or is impersonating another practitioner of a like or different name;

(C) The certificate holder is addicted to the habitual use of intoxicating liquors, narcotics, or stimulants to such an extent he/she is unable to perform his or her duties under the business or occupation;

(D) The certificate holder is guilty of fraudulent, false, misleading, or deceptive advertising or practices;

(E) The certificate holder has been convicted of or has pled guilty or nolo contendere to any sexual offense as set out in Title 16, Chapter

6 of the Official Code of Georgia Annotated, or to any offense involving the lottery, illegal possession or sale of narcotics or alcoholic beverages or possession or receiving of stolen property, for a period of five years immediately prior to the filing of the application. If after having been granted a certificate, the applicant is found not to be of good moral character, or pleads guilty or enters a plea of nolo contendere to any of the above offenses, said certificate shall be subject to suspension and/or revocation;

(F) The original application or renewal thereof contains materially false information, or the applicant has deliberately sought to falsify information contained therein;

(G) The establishment is a threat or nuisance to public health, safety or welfare; or

(H) Any other violation of this article.

(3) After the Finance Director makes a recommendation to the City Council to suspend or revoke an occupation tax certificate issued hereunder, the City Council or its designee shall conduct a hearing to hear evidence relevant to the alleged violation.

(A) At the hearing, the Finance Director or his designee first and presents all evidence and argument in support of the recommendation to suspend or revoke the occupation tax certificate issued hereunder. The Finance Director may be represented by the City Attorney or his or her designee. The certificate holder may be represented by counsel.

(B) After the Finance Director makes his/her presentation, the certificate holder or the certificate holder's legal counsel, will present evidence and argument as to why the occupation tax certificate issued hereunder should not be suspended, sanctioned or revoked.

(C) City Council members will have the right to ask questions at any time during the hearing. If the City Council designates the City Court to hear the matter, the rules of procedure applicable to magistrate courts shall apply.

(D) After hearing all of the evidence and arguments of the parties, the City Council or its designee shall render a decision. The suspension, sanction, or revocation decision is final unless the

certificate holder files a petition for writ of certiorari to the Superior Court of Fulton County within 30 days of the date of the decision.

Sec. 2-5010. - Display of Occupation Tax Certificate; Penalties.

The certificate holder is required to display the occupation tax certificate issued hereunder in a conspicuous location. Failure to display the occupation tax certificate in a conspicuous location may result in a fine of \$100.00. This section does not apply to practitioners of law.

Sec. 2-5011. - Proration of fee.

When any person or business commences business on or after July 1 in any year, the occupation tax authorized hereby shall be levied at the customary rate on the gross receipts of the business or practitioner from the commencement of the business, but the attendant administrative fee shall not be reduced.

Section 2: Severability

In the event any portion of this ordinance shall be declared or adjudged invalid or unconstitutional, it is the intention of the City Council of the City of South Fulton, Georgia, that such adjudication shall in no manner affect the other sections, sentences, clauses or phrases of this ordinance which shall remain in full force and effect, as if the invalid or unconstitutional section, sentence, clause or phrase were not originally a part of the ordinance.

Section 3: Repealer

All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

Section 4: Effective Date

Unless specifically specified elsewhere in this Ordinance, the effective date of this Ordinance shall be June 27, 2017.

The foregoing Resolution No. _____ was offered by Councilmember _____, who moved its approval. The motion was seconded by Councilmember _____, and being put to a vote, the result was as follows:

	AYE	NAY
William “Bill” Edwards, Mayor	_____	_____
Catherine Foster Rowell,	_____	_____
Mayor Pro Tem		
Carmalitha Lizandra Gumbs	_____	_____
Helen Zenobia Willis	_____	_____
Gertrude Naeema Gilyard	_____	_____
Rosie Jackson	_____	_____
khalid kamau	_____	_____
Mark Baker	_____	_____

THIS RESOLUTION adopted this _____ day of _____ 2017. **CITY OF
SOUTH FULTON, GEORGIA**

WILLIAM "BILL" EDWARDS, MAYOR

ATTEST:

_____, CITY CLERK

APPROVED AS TO FORM:

_____, INTERIM CITY ATTORNEY