

**CITY OF CALHOUN  
REGULAR CITY COUNCIL MEETING  
DEPOT COMMUNITY ROOM  
109 SOUTH KING STREET  
CALHOUN, GA  
OCTOBER 27, 2008 7:00 P.M.**

**MINUTES**

**PRESENT: James F. Palmer, Mayor  
George Crowley, Mayor Pro Tem  
Ray Denmon, Councilman  
Al Edwards, Councilman  
David Hammond, Councilman**

**ALSO: Eddie Peterson, City Administrator  
Kelly Cornwell, Director of Utilities  
William P. Bailey, City Attorney**

1. Mayor Palmer called the meeting to order and welcomed everyone in attendance. Mayor Pro Tem Crowley gave the invocation.
2. Mayor Palmer led the group in the Pledge of Allegiance to the United States Flag.
3. Councilman Edwards made a motion to approve the proposed agenda. The motion was seconded by Mayor Pro Tem Crowley with all voting affirmatively, motion carried.
4. Councilman Hammond made a motion to approve the minutes of the October 13, 2008 regular City Council Meeting as written. The motion was seconded by Councilman Denmon with all voting affirmatively, motion carried.
5. Mayors Comments:
  - A. Mayor Palmer reminded everyone to be especially cautious while driving Friday October 31 from 5 until 9 pm due to Halloween for children ages 12 and under.
  - B. Mayor Palmer reminded everyone of early voting at the Courthouse Annex from September 22 until October 31, 2008.
  - C. Mayor Palmer recognized Harold Franklin as he was named Georgia Golf Course Superintendent Associations Superintendent of the year 2008. This prestigious award is given to one Superintendent each year in Georgia by the GGCSAS. This award signifies the highest level of achievement one can attain among golf course superintendents.
  - D. Mayor Palmer congratulated those responsible for the ground breaking for Bentley Dye which occurred on October 27, 2008 at 4:00 pm. William R. Thompson, attorney for the Gordon County Development Authority, presented the Mayor and Council with an overview of the Bentley Dye Services, Inc. and JBBS Holdings, LLC.
    - Mayor Pro Tem Crowley made a motion to approve the Pilot Agreement between the Development Authority of Gordon County, JBBS Holdings, LLC, Bentley Dye Services, Inc., the City of Calhoun, Georgia, the Gordon County Board of Tax Assessors, and the Tax Commissioner of Gordon County. The motion was seconded by Councilman Edwards.

- C. Mayor Palmer asked Councilman Edwards to review the upcoming scheduled zoning hearings
- Councilman Edwards stated the following item has a public hearing date of November 10, 2008 at 7:00 pm with a Zoning Advisory Board Meeting on November 6, 2008 at 4:30 pm.
    1. A 16' height variance request by Gordon County Development Authority for approximately 42 acres on McDaniel Station Road.
  - Councilman Edwards stated the following items have a public hearing date of December 8, 2008 at 7:00 pm with a Zoning Advisory Board Meeting on December 4, 2008 at 4:30 pm.
    1. A 5' sign variance request by Cassie Dixon for a location of 100 Trammell Street.
    2. A 50' sign height variance request by Nimish Patel for a hotel location on Lovers Lane.
    3. A zoning change request by Terry Brumlow from R-1 to C-N for a location of 812 East Line Street.
  - Councilman Edwards stated the following items have a public hearing date of January 12, 2008 at 7:00 pm with a Zoning Advisory Board Meeting on January 8, 2008 at 4:30 pm.
    1. A 15' variance request by CGA Global LLC for a set-back of 4.18 acres located on Thomas Street to build a 4500 sq foot office addition.
6. Public Hearings and Comments:
- A. Mayor Palmer opened the public hearing on a beer-wine-liquor pouring license request by El Napol Restaurant with Juan Leon Escamilla as authorized agent for a location of 179 Golden Circle.
- Mayor Palmer asked if there were any questions. There were none.
  - Councilman Hammond made a motion to approve the beer-wine-liquor pouring license request by El Napol Restaurant with Juan Leon Escamilla as authorized agent for a location of 179 Golden Circle. The motion was seconded by Councilman Edwards with all voting affirmatively, motion carried.
7. Old Business:
- A. Mayor Palmer gave a 2<sup>nd</sup> reading of a beer-wine-liquor package license request by Jaimin Patel for a location of 41 East Hwy 53.
- Mayor Palmer stated the public hearing is set for November 10, 2008.
- B. Mayor Palmer gave a 2<sup>nd</sup> reading of a beer package license request by ABC Convenience Store with Devin Desai as authorized agent for a location of 703 Oothcalooga Street.
- Mayor Palmer stated the public hearing is set for November 10, 2008.
- C. Mayor Palmer gave a 2<sup>nd</sup> reading of the ID Theft Ordinance.
- Attorney Bailey reviewed an ordinance to amend the code of ordinances to add an identity theft prevention program to comply with Federal Trade Regulations. Attorney Bailey stated that Calhoun Utilities has taken appropriate measures in the past to secure personal customer information, but the FTC is looking for a local ordinance to comply with certain identity theft prevention guidelines.
  - Mayor Palmer read the Ordinance heading.

- Councilman Denmon made a motion to approve the ID Theft Ordinance. The motion was seconded by Mayor Pro Tem Crowley with all voting affirmatively, motion carried.

8. New Business:

- A. Patrick Dobson addressed the Mayor and Council of the need for additional Police presence in the Victory Drive area. Mr. Dobson felt that more police car patrol would help make the area safer.
- Mayor Palmer explained that Victory Drive was in a Police zone and had regular patrol, traffic road stops, and the radar speed indicator sign was placed on Victory Drive periodically. Mayor Palmer thanked Mr. Dobson and assured him that Chief Moss would look into his request and provide a solution.
- B. Mayor Palmer read a manager change request for Mukhi, Inc. d/b/a Calhoun Liquor from Mukesh Patel to Kamlesh R. Patel.
- Mayor Pro Tem Crowley made a motion to approve the manager change request for Mukhi, Inc. d/b/a Calhoun Liquor from Mukesh Patel to Kamlesh R. Patel. The motion was seconded by Councilman Edwards with all voting affirmatively, motion carried.
- C. Mayor Palmer gave a 1st reading of a taxi license request by Olga M. Moss Deleon d/b/a Los Buenos Amigos Taxi with a business address of 408 Court Street # 1 Calhoun, GA 30701.
- Mayor Palmer stated the earliest date for a public hearing would be November 24, 2008.
  - Councilman Hammond made a motion to set the public hearing to November 24, 2008. The motion was seconded by Councilman Denmon with all voting affirmatively, motion carried.
- D. Mayor Palmer read a request by The Calhoun Police Department to declare a 2000 Ford Taurus as surplus property for sale on GovDeals VIN# 1FAFP55U7YA255268.
- Councilman Hammond made a motion to declare the vehicle as surplus and to sale on GovDeals. The motion was seconded by Mayor Pro Tem Crowley with all voting affirmatively, motion carried.
- E. Mayor Palmer read a resolution as required to submit an application to the Georgia parks and recreational trails Grant.
- Mayor Palmer stated this grant will be for the multi-purpose trail improvements off of Kirby Road.
  - Councilman Hammond made a motion to approve the Resolution as written. The motion was seconded by Councilman Denmon with all voting affirmatively, motion carried.

9. Work Reports:

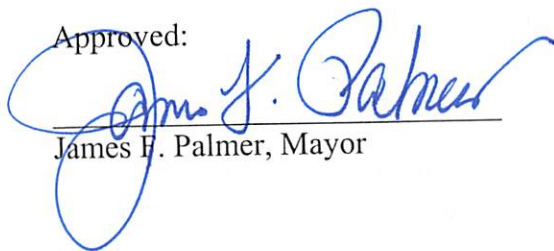
- A. Kelly Cornwell, Director of Utilities, reported on the Second Amendment to the Declaration of Trust the Municipal Competitive Trust.
- Councilman Hammond made a motion to approve the Resolution of the City of Calhoun as pertained to Calhoun's beneficiary of the Municipal competitive Trust. The motion was seconded by Councilman Denmon with all voting affirmatively, motion carried.

10. Other Items Not on the Agenda:

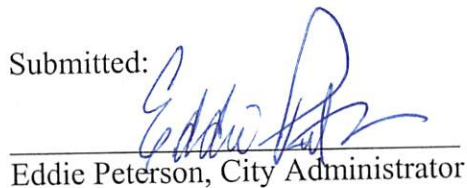
- A. Eddie Peterson, City Administrator, request that the Mayor and Council authorize a \$20,000 transfer from the Police Account #1, asset seizure, to pay for the Police Departments obligation on the training tower at Coosa Valley Technical College. The partners involved with the training tower are CVTC, Calhoun PD, Calhoun Fire, Gordon County Sheriff, and Gordon County Fire.
- Councilman Edwards made a motion to approve the request. The motion was seconded by Councilman Hammond with all voting affirmatively, motion carried.
- B. Mayor Palmer explained that three public hearings have been held pertaining to the 2008 City millage rate. One meeting was held on October 16, 2008 at 11:00 am at the depot. A second hearing was held on October 16, 2008 at 6:30 pm at the Depot. A third and final hearing was held on October 27, 2008 at 6:30 pm at the Depot. The City of Calhoun's proposed millage rate for 2008 is 1.615 and the proposed millage rate for the Calhoun School System is 14.080 for a total millage rate of 15.695.
- Mayor Pro Tem Crowley made a motion to adopt the proposed millage rate of 1.615 and 14.080. The motion was seconded by Councilman Denmon with all voting affirmatively, motion carried.
- C. Councilman Denmon expressed his congratulations to the Calhoun High School girls softball team who finished second in State competition.

11. Councilman Hammond made a motion to adjourn. The motion was seconded by Mayor Pro Tem Crowley with all voting affirmatively, motion carried.

Approved:

  
James F. Palmer, Mayor

Submitted:

  
Eddie Peterson, City Administrator

ORDINANCE NO.: \_\_\_\_\_

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF CALHOUN, GEORGIA TO AMEND CHAPTER 94 ARTICLE II TO ADD AN IDENTITY THEFT PREVENTION PROGRAM; TO COMPLY WITH FEDERAL REGULATIONS RELATING TO ADDRESS DISCREPANCIES; TO COMPLY WITH FEDERAL REGULATIONS RELATING TO RED FLAGS AND IDENTITY THEFT; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR AN ADOPTION DATE; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES ALLOWED BY LAW.**

**WHEREAS** pursuant to federal law the Federal Trade Commission adopted Identity Theft Rules requiring the creation of certain policies relating to the use of consumer reports, address discrepancy and the detection, prevention and mitigation of identity theft;

**WHEREAS** the Federal Trade Commission regulations, adopted as 16 CFR § 681.2 require creditors, as defined by 15 U.S.C. § 1681 a(r)(5) to adopt red flag policies to prevent and mitigate identity theft with respect to covered accounts;

**WHEREAS** 15 U.S.C. § 1681 a(r)(5) cites 15 U.S.C. § 1691a, which defines a creditor as a person that extends, renews or continues credit, and defines 'credit' in part as the right to purchase property or services and defer payment therefore;

**WHEREAS** the Federal Trade Commission regulations include utility companies in the definition of creditor;

**WHEREAS** the City of Calhoun is a creditor with respect to 16 CFR § 681.2 by virtue of providing utility services or by otherwise accepting payment for municipal services in arrears.

**WHEREAS** the Federal Trade Commission regulations define 'covered account' in part as an account that a creditor provides for personal, family or household purposes that is designed to allow multiple payments or transactions and specifies that a utility account is a covered account;

**WHEREAS** the Federal Trade Commission regulations require each creditor to adopt an Identity Theft Prevention Program which will use red flags to detect, prevent and mitigate identity theft related to information used in covered accounts;

**WHEREAS** the City provides water, sewer, electricity, waste service, and telecommunication services for which payment is made after the product is consumed or the service has otherwise been provided which by virtue of being utility accounts are covered accounts;

**WHEREAS** the duly elected governing authority of the City of Calhoun is the Mayor and

Council thereof;

Now therefore the Mayor and Council of the City of Calhoun ordains that the following Identity Theft Prevention Program be adopted to amend Chapter 94, Article II of the Code of Ordinances of the City of Calhoun to read as follows:

**Section 1**

“Chapter 94, Article II

Identity Theft Prevention Program

Section 94-40. Short Title.

This article shall be known as the Identity Theft Prevention Program.

Section 94-41. Purpose.

The purpose of this Article is to comply with 16 CFR § 681.2 in order to detect, prevent and mitigate identity theft by identifying and detecting identity theft red flags and by responding to such red flags in a manner that will prevent identity theft.

Section 94-42: Definitions.

For purposes of this Article, the following definitions apply<sup>2</sup>:

- (a) ‘City’ means the City of Calhoun, Georgia.
- (b) ‘Covered account’ means (i) An account that a financial institution or creditor offers or maintains, primarily for personal, family, or household purposes, that involves or is designed to permit multiple payments or transactions, such as a credit card account, mortgage loan, automobile loan, margin account, cell phone account, utility account, checking account, or savings account; and (ii) Any other account that the financial institution or creditor offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the financial institution or creditor from identity theft, including financial, operational, compliance, reputation, or litigation risks.
- (c) ‘Credit’ means the right granted by a creditor to a debtor to defer payment of debt or to incur debts and defer its payment or to purchase property or services and defer payment therefore.
- (d) ‘Creditor’ means any person who regularly extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit and includes utility companies and telecommunications

companies.

- (e) 'Customer' means a person that has a covered account with a creditor.
- (f) 'Identity theft' means a fraud committed or attempted using identifying information of another person without authority.
- (g) 'Person' means a natural person, a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.
- (h) 'Personal Identifying Information' means a person's credit card account information, debit card information, bank account information, and drivers' license information and for a natural person includes their social security number, mother's birth name, and date of birth.
- (I) 'Red flag' means a pattern, practice, or specific activity that indicates the possible existence of identity theft.
- (j) 'Service provider' means a person that provides a service directly to the city.

#### Section 94-43. Findings.

- (1) The city is a creditor pursuant to 16 CFR § 681.2 due to its provision or maintenance of covered accounts for which payment is made in arrears.
- (2) Covered accounts offered to customers for the provision of city services include water sewer, electricity, waste services, and telecommunications.
- (3) The city's previous experience with identity theft related to covered accounts is as follows:  
  
An applicant using another's social security number.
- (4) The processes of opening a new covered account, restoring an existing covered account, making payments on such accounts, have been identified as potential processes in which identity theft could occur.
- (5) The city limits access to personal identifying information to those employees responsible for or otherwise involved in opening or restoring covered accounts or accepting payment for use of covered accounts. Information provided to such employees is entered directly into the city's computer system and is not otherwise recorded.
- (6) The city determines that there is a low risk of identity theft occurring in the following ways (*if any*):

- a. Use by an applicant of another person's personal identifying information to establish a new covered account;
- b. Use of a previous customer's personal identifying information by another person in an effort to have service restored in the previous customer's name;
- c. Use of another person's credit card, bank account, or other method of payment by a customer to pay such customer's covered account or accounts;
- d. Use by a customer desiring to restore such customer's covered account of another person's credit card, bank account, or other method of payment; and

Section 94-44. Process of Establishing a Covered Account.

- (1) As a precondition to opening a covered account in the city, each applicant shall provide the city with personal identifying information of the customer consisting of a photo identification card or driver's license with photo and a social security card. If a social security card is not available, a second legal document containing applicant's name and social security number such as a printed payroll stub, health insurance card, medicare card, W-2 form or like documents may be substituted. In lieu of a social security card, a passport or military identification card will be accepted. Such information shall be entered directly into the city's computer system and shall not otherwise be recorded.
- (2) Each account shall be assigned an account number and personal identification number (PIN) which shall be unique to that account. The city may utilize computer software to randomly generate assigned PINs and to encrypt account numbers and PINs.

Section 94-45. Access to Covered Account Information.

- (1) Access to customer accounts shall be password protected and shall be limited to authorized city personnel.
- (2) Such password(s) shall expire on a regular basis, shall be at least 8 characters in length and shall contain letters, numbers and symbols.
- (3) Any unauthorized access to or other breach of customer accounts is to be reported immediately to the Utilities Administrator and the password changed immediately.
- (4) Personal identifying information included in customer accounts is considered confidential and any request or demand for such information shall be immediately forwarded to the Utilities Administrator and the City Attorney.

#### Section 94-46. Credit Card Payments.

- (1) In the event that credit card payments that are made over the Internet are processed through a third party service provider, such third party service provider shall certify that it has an adequate identity theft prevention program in place that is applicable to such payments.
- (2) All credit card payments made over the telephone or the city's website shall be entered directly into the customer's account information in the computer data base.
- (3) Account statements and receipts for covered accounts shall include only the last four digits of the credit or debit card or the bank account used for payment of the covered account.

#### Section 94-47. Sources and Types of Red Flags.

All employees responsible for or involved in the process of opening a covered account, restoring a covered account or accepting payment for a covered account shall check for red flags as indicators of possible identity theft and such red flags may include:

- (1) Suspicious documents. Examples of suspicious documents include:
  - a. Documents provided for identification that appear to be altered or forged;
  - b. Identification on which the photograph or physical description is inconsistent with the appearance of the applicant or customer;
  - c. Identification on which the information is inconsistent with information provided by the applicant or customer.
  - d. Identification on which the information is inconsistent with readily accessible information that is on file with the financial institution or creditor, such as a signature card or a recent check; or
  - e. An application that appears to have been altered or forged, or appears to have been destroyed and reassembled.
- (2) Suspicious personal identification, such as suspicious address change. Examples of suspicious identifying information include:
  - a. Personal identifying information provided by the customer is not consistent with other personal identifying information provided by the customer, such as a lack of correlation between the SSN range and date of birth.
  - b. Personal identifying information or a phone number or address, is associated with known fraudulent applications or activities as indicated by internal or third-party sources used by the financial institution or creditor.
  - c. Other information provided, such as fictitious mailing address, mail drop addresses, jail addresses, invalid phone numbers, pager numbers or answering services, is associated with fraudulent activity.

- d. The SSN provided is the same as that submitted by other applicants or customers.
  - e. The address or telephone number provided is the same as or similar to the account number or telephone number submitted by an usually large number of applicants or customers.
  - f. The applicant or customer fails to provide all required personal identifying information on an application or in response to notification that the application is incomplete.
  - g. Personal identifying information is not consistent with personal identifying information that is on file with the financial institution or creditor.
  - h. The applicant or customer cannot provide authenticating information beyond that which generally would be available from a wallet or consumer report.
- (3) Unusual use of or suspicious activity relating to a covered account.
  - (4) Notice from customers, law enforcement, victims or other reliable sources regarding possible identity theft or phishing relating to covered accounts.

Section 94-48. Prevention and Mitigation of Identity Theft.

- (1) In the event that any city employee responsible for or involved in restoring an existing covered account or accepting payment for a covered account becomes aware of red flags indicating possible identity theft with respect to existing covered accounts, such employee shall use his or her discretion to determine whether such red flag or combination of red flags suggests a threat of identify theft. If, in his or her discretion, such employee determines that identity theft or attempted identity theft is likely or probable, such employee shall immediately report such red flags to the Customer Service Supervisor. If, in his or her discretion, such employee deems that identity theft is unlikely or that reliable information is available to reconcile red flags, the employee shall convey this information to the Utilities Administrator, who may in his or her discretion determine that no further action is necessary. If the Utilities Administrator in his or her discretion determines that further action is necessary, a city employee shall perform one or more of the following responses, as determined to be appropriate within five (5) business days:
  - a. Contact the customer;
  - b. Notify law enforcement, in the event that someone other than the customer has accessed the customer's account causing additional charges to accrue or accessing personal identifying information; or
  - c. Take other appropriate action to prevent or mitigate identity theft.
- (2) In the event that any city employee responsible for or involved in opening a new covered account becomes aware of red flags indicating possible identity theft with respect an application for a new account, such employee shall use his or her discretion to determine whether such red flag or combination of red flags suggests a threat of identity theft. If, in his or her discretion, such employee determines that

identity theft or attempted identity theft is likely or probable, such employee shall immediately report such red flags to the Customer Service Supervisor. If, in his or her discretion, such employee deems that identity theft is unlikely or that reliable information is available to reconcile red flags, the employee shall convey this information to the Utilities Administrator, who may in his or her discretion determine that no further action is necessary. If the Utilities Administrator in his or her discretion determines that further action is necessary, a city employee shall perform one or more of the following responses, as determined to be appropriate within five (5) business days.

- a. Request additional identifying information from the applicant;
- b. Deny the application for the new account;
- c. Notify law enforcement of possible identity theft; or
- d. Take other appropriate action to prevent or mitigate identity theft.

#### Section 94-49. Updating the Program.

The city council shall annually review and, as deemed necessary by the council, update the Identity Theft Prevention Program along with any relevant red flags in order to reflect changes in risks to customers or to the safety and soundness of the city and its covered accounts from identity theft. In so doing, the city council shall consider the following factors and exercise its discretion in amending the program:

- (1) The city's experiences with identity theft;
- (2) Updates in methods of identity theft;
- (3) Updates in customary methods used to detect, prevent, and mitigate identity theft;
- (4) Updates in the types of accounts that the city offers or maintains; and
- (5) Updates in service provider arrangements.

#### Section 94-50. Program Administration.

The Director of Utilities is responsible for oversight of the program and for program implementation. The Utilities Administrator is responsible for reviewing reports prepared by staff regarding compliance with red flag requirements and with recommending material changes to the program, as necessary in the opinion of the Utilities Administrator to address changing identity theft risks and to identify new or discontinued types of covered accounts. Any recommended material changes to the program shall be submitted to the city council for consideration by the council.

- (1) The Utilities Administrator will report to the Director of Utilities at least annually, on compliance with the red flag requirements. The report will address material matters related to the program and evaluate issues such as:
  - a. The effectiveness of the policies and procedures of city in addressing the risk of identity theft in connection with the opening of covered accounts and with respect to existing covered accounts;

- b. Service provider arrangements;
  - c. Significant incidents involving identity theft and management's response; and
  - d. Recommendations for material changes to the Program.
- (2) The Utilities Administrator is responsible for providing training to all employees responsible for or involved in opening a new covered account, restoring an existing covered account or accepting payment for a covered account with respect to the implementation and requirements of the Identity Theft Prevention Program. The Utilities Administrator shall exercise his or her discretion in determining the amount and substance of training necessary.

Section 94-51. Outside Service Providers.

In the event that the city engages a service provider to perform an activity in connection with one or more covered accounts the Utilities Administrator shall exercise his or her discretion in reviewing such arrangements in order to ensure, to the best of his or her ability, that the service provider's activities are conducted in accordance with policies and procedures, agreed upon by contract, that are designed to detect any red flags that may arise in the performance of the service provider's activities and take appropriate steps to prevent or mitigate identity theft."

Section 2

All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Section 3

The adoption date of this ordinance is October 27, 2008.

Section 6

The effective date of this ordinance is October 27, 2008.

ORDAINED by the Mayor and Council of the City of Calhoun this the 27<sup>th</sup> day of October, 2008.

CITY OF CALHOUN, GEORGIA

BY: \_\_\_\_\_

JAMES F. PALMER, MAYOR

ATTEST: \_\_\_\_\_

EDDIE PETERSON, CITY CLERK/ADMINISTRATOR

**City of Calhoun, Georgia  
Authorizing Resolution**

**WHEREAS**, the City of Calhoun provides recreational services, facilities and opportunities for Calhoun and Gordon County; and

**WHEREAS**, the population of Calhoun increased by 50 percent from 1990 to 2000, and continued to increase at five percent per year from 2000 to 2007; and

**WHEREAS**, the Gordon County, Georgia Comprehensive Plan 2007-2027, recommends the expansion of trails by addressing the needs of walkers, runners, and bicyclist; and

**WHEREAS**, the City of Calhoun has acquired 30 acres adjoining the Oostanaula River greenway for the purpose of recreational trail opportunities; and

**WHEREAS**, the Georgia Department of Natural Resources is the authorized administrative agency for the implementation of the Recreational Trails Program; and

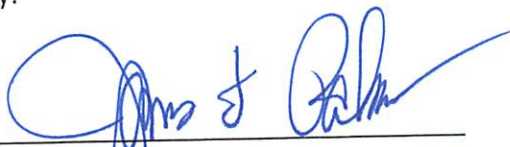
**WHEREAS**, the City of Calhoun is aware that the 2008 Recreational Trails Program is currently available in an 80/20 grant format for project sponsors; and

**WHEREAS**, the City of Calhoun understands and is fully aware the criteria, timetable, requirements, permitting guidelines, obligations for submission, possible awarding, and implementation of the Recreational Trails Program application;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the City of Calhoun Georgia that a Recreational Trails Program application be submitted to the Georgia Department of Natural Resources for the purpose of construction, installation and equipment of approximately two miles of multi-use trails abutting the Oothcalooga creek greenway which will be utilized for walking, running, and mountain biking purposes.

**ADOPTED, this 27<sup>th</sup> day of October 2008.  
CITY OF CALHOUN, GEORGIA**

By:

  
\_\_\_\_\_  
James F. Palmer, Mayor

Attest:

  
\_\_\_\_\_  
Eddie Peterson, City Administrator

SECOND AMENDMENT TO THE DECLARATION OF TRUST  
THE MUNICIPAL COMPETITIVE TRUST

This Second Amendment to the Declaration of Trust The Municipal Competitive Trust ("Second Amendment") is made and entered into as of this 27<sup>th</sup> day of October, 2008.

WHEREAS, the Municipal Electric Authority of Georgia ("MEAG") created and established for the Beneficiaries (as that term is defined in the Municipal Competitive Trust) as of January 1, 1999, a trust referred to as the Municipal Competitive Trust;

WHEREAS, the original purpose of the Municipal Competitive Trust was to provide a means for MEAG and the Beneficiaries to accumulate funds for the purpose of mitigating the effect of anticipated changes in the electric industry involving competition for retail electric power supply;

WHEREAS, the First Amendment to the Municipal Competitive Trust was made and entered into on the first day of June, 2006, to provide additional flexibility to the Beneficiaries pertaining to the withdrawal of funds accumulated in certain of the accounts created by the Municipal Competitive Trust for the purpose of lowering the Beneficiaries' annual generation charges from MEAG over the period of January 1, 2009 through December 31, 2018, regardless of whether deregulation of the retail electric power supply occurs within the stated time frame;

WHEREAS, an additional purpose of the First Amendment was the creation of a Generation Construction Trust Account for the purpose of funding all or a portion of a Beneficiaries' entitlement share of the Costs of Acquisition and Construction of any

future generation project created by MEAG as to which a Beneficiary elects to be a participant;

WHEREAS, MEAG and the Beneficiaries desire to modify the provisions relating to the Generation Construction Trust Account to provide additional flexibility pertaining to the funding of new generation projects by MEAG;

WHEREAS, MEAG and the Beneficiaries desire to confirm the authority and identity of the individuals authorized by the Beneficiaries to make decisions concerning deposits and withdrawals involving the Subaccounts established under the Municipal Competitive Trust;

NOW, THEREFORE, for and in consideration of the premises and mutual covenants and agreements hereinafter set forth, the receipt and sufficiency of which is hereby acknowledged, it is agreed by and between the parties hereto as follows:

SECTION 1. The Municipal Competitive Trust, as amended, is hereby further amended by deleting from Article 3 the definition of "Generation Construction Trust Account" in its entirety and substituting in lieu thereof the following:

"New Generation Funding Account" – defined in Clause (f) of Article 4.

SECTION 2. The Municipal Competitive Trust, as amended, is hereby further amended by deleting Clause (f) of Article 4 in its entirety and substituting in lieu thereof the following:

(f) New Generation Funding Account. This type of Sub-Account may be funded from contributions by a Beneficiary from any of its own funds that it has available for such purposes,

including funds contained within said Beneficiary's Flexible Operating Trust Account.

SECTION 3. By deleting the last paragraph at the end of Article 5 in its entirety and substituting in lieu thereof the following:

If so directed by a Beneficiary, the Trustee shall pay all or any portion of the amounts contained in the Beneficiary's New Generation Funding Account to MEAG for the purpose of applying said amounts as a credit against said Beneficiary's obligation share (or entitlement share) of either Costs of Acquisition and Construction or Project Annual Costs of any future generation project created by MEAG after the effective date of this Amendment as to which the Beneficiary elects to be a participant, including the Plant Vogtle Additional Units Non-PPA Project, the Plant Vogtle Additional Units PPA Project and the Plant Vogtle Additional Units PPA-2 Project. Additionally, if MEAG provides the Beneficiary with the option of paying interest expense incurred in connection with the construction of a future generation project prior to commercial operation (rather than financing interest expense through the proceeds of a bond issuance), the Beneficiary may direct the Trustee to pay all or any portion of the amounts contained in said Beneficiary's New Generation Funding Account to MEAG for the purpose of applying such amounts as a credit against any capital contributions

committed to by such Beneficiary in lieu of interest expenses related to the future generation project.

SECTION 4. By deleting Clause (c) of Article 6 in its entirety and substituting in lieu thereof the following:

(c) Each Beneficiary shall have the right to withdraw part or all funds from the New Generation Funding Account after January 1, 2037.

SECTION 5. By adding a new Article 12 (A) to the Municipal Competitive Trust, as amended, as follows:

#### ARTICLE 12 (A)

Each Beneficiary shall be required to adopt a resolution substantially in the form attached hereto as Exhibit A, which authorizes two individuals by position or name identified in the resolution to make decisions on behalf of the Beneficiary concerning both deposits into and withdrawals from the Beneficiary's Subaccounts created by the Municipal Competitive Trust, as amended. Any decisions pertaining to deposits into or withdrawals from such Subaccounts must be communicated by the Beneficiary, through its authorized signatories, pursuant to the notice provision set forth in Article 12 hereof and such notice must be jointly signed by such authorized signatories.

SECTION 6. The Municipal Competitive Trust as amended hereby shall continue in full force and effect. Terms not defined herein or in the Municipal Competitive Trust, as amended, are to be defined as in the existing project power sales contracts.

IN WITNESS WHEREOF, MEAG has caused this Second Amendment to be executed by its duly authorized officers and its official seal to be hereunto affixed and attested as of the date first above written.

MUNICIPAL ELECTRIC AUTHORITY  
OF GEORGIA

By: \_\_\_\_\_  
Chairman

ATTESTED

By: \_\_\_\_\_  
Secretary-Treasurer

ACCEPTANCE BY TRUSTEE:

U.S. BANK NATIONAL ASSOCIATION

By: \_\_\_\_\_  
Title: \_\_\_\_\_

The undersigned Beneficiary hereby approves and executes the Second Amendment to the Municipal Competitive Trust.


BENEFICIARY

**THE CITY OF CALHOUN**

By: 

Its: Mayor

Attested:

By: 

GEORGIA, GORDON COUNTY:  
I certify that the foregoing is a true and exact copy of  
the original which appears on record in this office.  
In witness whereof, I have this day \_\_\_\_\_ of  
[SEAL] affixed the city seal

and my signature.

Eddie Peterson, City Clerk, City of Calhoun

RESOLUTION OF THE CITY OF CALHOUN

WHEREAS, the City of Calhoun is a Beneficiary of the Municipal Competitive Trust, as amended (the "Trust"); and

WHEREAS, MEAG Power has requested that the City of Calhoun reconfirm the authority and position of the individuals authorized by the City of Calhoun to communicate to MEAG Power the decisions of the City of Calhoun concerning both deposits into and withdrawals from any of the City of Calhoun's Subaccounts created by the Municipal Competitive Trust, as amended; and

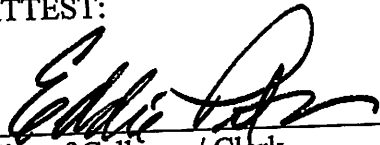
WHEREAS, the City of Calhoun after due consideration, has determined that the requested confirmation as to the authority and identity of the authorized individuals is in the best interest of the City of Calhoun.

NOW, THEREFORE, BE IT RESOLVED that henceforth James F. Palmer, Mayor and Kelly E. Cornwell, General Manager/Utilities (together, the "Authorized Officials") are authorized to communicate the decisions of the City of Calhoun to MEAG Power with respect to any deposits into or withdrawals from any of the City of Calhoun Subaccounts established by the Municipal Competitive Trust, as amended, consistent with the term of the Municipal Competitive Trust, as amended; and

FURTHER RESOLVED that the City of Calhoun hereby authorizes the Authorized Officials to execute, and the Clerk of the City of Calhoun to attest and deliver, certificates specifying the names, titles, term of office and specimen signatures of the Authorized Officials and other certificates and documents that MEAG Power may require from time to time to effect the purposes of the Trust and this Resolution.

This the \_\_\_\_\_ day of \_\_\_\_\_, 2008.

ATTEST:

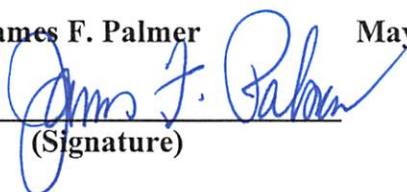
  
\_\_\_\_\_  
City of Calhoun / Clerk

[SEAL]

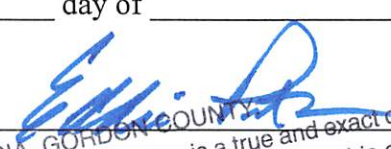
EXHIBIT A

INCUMBENCY AND SIGNATORY CERTIFICATE

I, the undersigned, Eddie Peterson, DO HEREBY CERTIFY that I am the duly appointed and acting Clerk of the City of Calhoun, Gordon County, Georgia. I HEREBY FURTHER CERTIFY that the below named persons have been duly appointed or elected, as applicable, have been qualified, are duly holding the offices set opposite their names on this day and the signatures set opposite their names are their genuine signatures:

<u>Name</u>	<u>Office</u>	<u>Term Expires</u>
James F. Palmer  _____ (Signature)	Mayor	January 1, 2012
Kelly E. Cornwell _____ (Signature)	Gen Mgr/Utilities	At the pleasure of the Council

IN WITNESS WHEREOF, I have hereunder subscribed my name and affixed the official seal of the City of Calhoun this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

By:   
\_\_\_\_\_  
GEORGIA, GORDON COUNTY,  
I certify that the foregoing is a true and exact copy of  
the original which appears on record in this office.  
In witness whereof, I have this day \_\_\_\_\_ of  
\_\_\_\_\_, 2008 affixed the city seal  
and my signature.  
Eddie Peterson, City Clerk, City of Calhoun

[SEAL]