



City of Stonecrest

Department of Purchasing and Contracting

August 24, 2021

Request For Proposal (RFP) No. 2021-22

For

American Rescue Plan Act Consultant Services

Proposal will be received up to 2:00 p.m., ET on September 21, 2021.

Questions regarding the Request for Proposal process should be directed to <https://www.bidnetdirect.com/georgia/cityofstonecrest> . **Only questions received prior to 5:00 p.m., ET on September 8, 2021, will be considered.**

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Request for Proposal for

American Rescue Plan Act Consultant Services

1.0 BACKGROUND

The City of Stonecrest, Georgia has been advised by the Treasury Department that it will receive an allocation of \$9.7M from the American Rescue Plan Act (ARPA), to be spread over two years. The funds are intended to help the City recover from the pandemic and address conditions that have caused COVID-19 to have a disproportionately severe impact in our community. The City is seeking a professional consulting firm to provide expertise to augment staff's capabilities to set priorities and ensure compliance with federal regulations while maximizing the recovery of and beneficial uses of Rescue Plan dollars in the local community.

- 1.1 The City is committed to a transparent, objective process that will ensure ARPA funds – and future City resources – are applied in service of a clear, shared set of goals.
- 1.2 The City wishes to procure consultant services to identify and prioritize permissible uses for these funds, and to develop guidelines and recommendations relative to the proper administration of funds including disbursement, tracking, and reporting. This engagement should also set the stage for further strategic planning relative to the City's economic development approach.

2.0 SCOPE OF WORK

- 2.1 The selected consultant will be expected to complete the following scope of work at the direction of the City.
 - a. Provide expert guidance and advisory services regarding all applicable legislation, regulation, policies, and rules related to ARPA funds. This should include review and understanding of Treasury's final rules, once released.
 - b. Assist the City with establishing a comprehensive recovery portfolio by reviewing multiple funding streams from various federal, state, and local programs, particularly those identified in COVID-19 related legislation. Assist with program identification, partner/stakeholder mapping, and community messaging related to these programs.
 - c. Pursuant to engagement with key staff, elected officials, and community members, employ an objective methodology to identify, prioritize, and assign funds to discrete programs or categories. The allocation should reflect the community's unmet needs with an eye toward maximizing long-term impact and achieving program objectives.
 - d. Articulate the desired and expected benefits of each program or category, including both qualitative and quantitative benefits.
 - e. For any proposed programs that involve competitive applications for funds (i.e., small business grants), provide an objective methodology for reviewing/scoring applications and making funding decisions.

- f. Relate the proposed programs to longer-term priorities that fall outside of the ARPA allocation timeline and funding level.
- g. Propose a review process that allows the City to make adjustments in response to program performance and community feedback, particularly with respect to the Year 2 allocation.
- h. Identify best practices for the administration of funds, and, in close coordination with the City's Finance Director, develop processes and procedures to ensure transparency, comply with all legal requirements, and communicate results/benefits of the program both to the community and as required by the Treasury Department
- i. Communicate with staff and city council on a regular basis to provide status updates, collect feedback, and document progress of the strategy development and implementation approach.

2.2 Auditing, Compliance, and Other:

- a. Assistance/guidance in how ARPA funds will be distributed.
- b. Assistance/guidance in how to tap into other ARPA funding streams and programs.
- c. Assistance/guidance in calculating "revenue loss."
- d. Identify allowable costs, reporting requirements, and other requirements that might be issued by federal awarding agencies.
- e. Identify tracking mechanisms that the city will need to put in place to support allowable costs.
- f. Assist the City with developing a process to oversee grants distributed to outside organizations, including communicating the terms and conditions of funding to relevant vendors and sub-recipients.
- h. Identify other policies or procedures that the city will need to have in place in relation to managing ARPA dollars.

3.0 DELIVERABLES

3.1 The result of this engagement should be a series of deliverables:

- 1. Action Plan, including project phases, major tasks, responsibilities to be undertaken by City of Stonecrest, the Consultant, and milestone objectives;
- 2. Weekly or bi-weekly project conference calls to be held throughout the project, with meeting agendas and minutes provided by the Consultant;
- 3. An unmet needs matrix and fund distribution approach with program goals and parameters;

4. The consultant will provide a template and procedure for formal reporting of issues by the customer;
5. Final Report that summarizes the engagement within the outlined section.
6. **This process should be complete and presented to Council within 90 days of project initiation.**

4.0 PROPOSAL SUBMISSION REQUIREMENTS

- 4.1 To be entitled to consideration, bids must be submitted electronically at <https://www.biddirect.com/georgia/cityofstonecrest>
- 4.2 The Offeror must submit the following information, preferably in the following order.

Section 1 - Qualifications and Experience

1. Description of your firm and its experience with the evaluation, prioritization, and tracking of grant funds, capital improvement plans, or similar exercises;
2. The offeror is required to state its organizational resources, which the offeror considers to be advantageous to the successful completion of the project. Items to be considered include the capabilities and experience of the offeror, identification of the principal participants including resumes, certifications and licenses, and office locations.
3. Resumes/experience of the project team and identification of the project manager/single point of contact;

Section 2 - Methodology

1. Provide a detailed approach to the scope of work, including your initial engagement strategy. Any deviations from or additions to the Scope of Work should be explained;
2. Provide your understanding of the project and the City's needs;
3. Explain the firm's work plan with detailed specific tasks as noted in the Scope of the Proposed Project section of this RFP. Proposal must consist of all tasks and the responsible parties including the City and sub-consultants.
4. Up to 3 profiles of similar projects;

Section 3 – Cost

1. Provide the monthly cost for project management, financial advisory, communications, audit, cost tracking, accounting, and report services on requested on the Cost Proposal Form for year 1 and year 2.

Cost Descriptions Detail

- Project Management Services – project oversight, compliance with project requirements and compliance with federal, state, and local guidelines, regulations policies and related to administrative expenses, accountability, and transparency. Review and understanding of Treasury’s final rules, once released.
- Financial Advisory Services – review multiple funding streams from various federal, state, and local programs.
- Communications – Weekly or bi-weekly conference calls throughout the project; create presentations and communications. Provide monthly status update.
- Audit Services – Assist with auditing identified in the proposal.
- Cost Tracking - Accounting and Reporting Services.

5.0 SUBMISSION INSTRUCTIONS

5.1 To be considered responsive to this RFP and to facilitate evaluations, proposals should be organized in the order of the outline given below and include the following information.

5.2 Please include a title on each page of your proposal and number pages to ensure proper identification.

1. Cover Letter
2. Qualifications and Experience
3. Methodology / Operations
4. Cost Proposal
5. References

6.0 TENTATIVE TIMELINE

6.1 The proposal shall follow the below time period:

August 24, 2021	Release of RFP
September 8, 2021	Deadline for Questions at 5:00 p.m.
September 21, 2021	Submission of Bids Due by 2:00 p.m.
TBD	Conduct Interviews, if necessary
TBD	Award at Council Meeting
TBD	Anticipated Notice to Proceed

7.0 EVALUATION OF PROPOSALS

7.1 To be eligible for consideration, proposals shall be presented in accordance with the instructions of this solicitation and within the timeframe specified. It shall be the responsibility of the awarded banking institution to meet all specifications and guidelines set forth herein.

7.2 The City evaluation committee will evaluate each proposal properly submitted. The City, at its sole discretion, determines the criteria and process whereby proposals are evaluated and awarded. No damages shall be recoverable by any challenger as a result of the determinations or decision by the City.

8.0 EVALUATION

8.1 Evaluations will be based on criteria outlined herein. All proposals will be evaluated using the same criteria. The criteria used will be:

- Understanding Scope of Work and City needs – 250 points
 - Project Approach – 350 points
 - Team/Project Manager Capabilities – 250 points
 - Team Experience – 150 points
 - Fee – 150 points
- 1) The evaluation will consider all materials submitted to determine whether the vendor's offering is in compliance with the RFP requirements.
 - 2) The ability and capacity of the proposer and the skills, experience, and availability of the specific individuals to be assigned to the City to perform the services required.
 - 3) The quality of performances by the proposer of previous and similar contracts and such other information as may be secured and considered relevant by the City;
 - 4) The ability of the proposer to present professional and innovative work to similar organizations; the skill of the proposer as demonstrated by sample of similar work and reference by similar organizations;
 - 5) The proposed fees and charges will be considered.
 - 6) Relevance and quality of references.
 - 7) City staff may conduct in-person interviews and site visits as part of the final selection process. Additional information may be requested from the financial institution prior to scheduling an interview.
 - 8) The City reserves the right to negotiate price and/or non-price terms and conditions with selected banking institution.
 - 9) The City reserves the right to negotiate price and/or scope of work terms and conditions with selected financial institution.
 - 10) The City reserves the right to negotiate terms and conditions, which may be necessary or appropriate to meet the needs of the City.

9.0 AWARD

9.1 The following bid shall be awarded to one “responsive” offeror on a total lump sum price basis. Unit prices and extensions will be verified and total checked. Unit price extension and net total must be shown.

9.2 The City, at its discretion, may award the Contract to the responsible and responsive consultant submitting the proposal which is deemed to be the most advantageous to the city. The following is the evaluation criteria the city will consider in determining which proposal is most advantageous to the city.

10.0 CONTRACT PERIOD

10.1 This contract shall be for one (1) base term (of one year or less) with one (1) one-year available option to renew at the sole discretion of the City of Stonecrest. This contract will be conditional upon the offeror’s ability to comply with requirements set forth in the solicitation documents.

11.0 NON-DISCRIMINATION

11.1 The City does not discriminate on the basis of race, age, sex, national origin, religion, or disabilities and is an equal opportunity employer. Minority and women-owned businesses are encouraged to apply.

12.0 BUSINESS ENTERPRISES

The City strongly encourages Small Business firms to participate in this RFP.

13.0 PERMITS, TAXES, LICENSES, BONDS, ORDINANCES, AND AGREEMENTS

13.1 All Corporations should provide corporate seal, a copy of the Secretary of State’s Certificate of Incorporation, and a listing of the principals of the corporation with the proposal.

14.0 INSURANCE

14.1 Within 10 days of execution of this Agreement, and at all times that this Contract is in force, the Contractor shall obtain, maintain, and furnish the City Certificates of Insurance from licensed companies doing business in the State of Georgia with an A.M. Best Rating A-6 or higher and acceptable to the City covering:

- a. Statutory Workers’ Compensation Insurance
 - a. Employers Liability:
 - Bodily Injury by Accident - \$1,000,000 each accident
 - Bodily Injury by Disease - \$1,000,000 policy limit
 - Bodily Injury by Disease - \$1,000,000 each employee
 - b. Comprehensive General Liability Insurance

- a. \$1,000,000 limit of liability per occurrence for bodily injury and property damage Owner's and Contractor's Protective
- b. Blanket Contractual Liability
- c. Blanket "X", "C", and "U"
- d. Products/Completed Operations Insurance
- e. Broad Form Property Damage
- f. Personal Injury Coverage
- c. Automobile Liability
 - a. \$ 500,000 limit of liability
 - b. Comprehensive form covering all owned, non-owned and hired vehicles
- d. Umbrella Liability Insurance
 - a. \$1,000,000 limit of liability
 - b. Coverage at least as broad as primary coverage as outlined under Items 1, 2 and 3 above

e. The City of Stonecrest, Georgia, and its subcontractors and affiliated companies, their officers, directors, employees shall be named on the Certificates of Insurance as additional insured and endorsed onto the policies for Comprehensive General Liability, Automobile Liability and Umbrella Liability insurance maintained pursuant to this Contract in connection with liability of the City of Stonecrest and their affiliated companies and their officers, directors and employees arising out of Contractor's operations. Copies of the endorsements shall be furnished to the City upon execution of this Agreement. Such insurance is primary insurance and shall contain a Severability of Interest clause as respects each insured. Such policies shall be non-cancelable except on thirty (30) days written notice to the City. Any separate insurance maintained in force by the additional insured named above shall not contribute to the insurance extended by Contractor's insurer(s) under this additional insured provision.

15.0 GENERAL TERMS AND CONDITIONS

- a. If there is any question whatsoever regarding any portion of the instructions or specifications, it shall be the bidding company's responsibility to seek clarification immediately from the City of Stonecrest Purchasing Department during the question period stated herein. **It shall be the bidder's responsibility to check <https://www.biddirect.com/georgia/cityofstonecrest> for any/all addendum(s).** Answer(s) to all questions will be given after the deadline for questions has expired and posted to the City of Stonecrest Bidnet portal.
- b. The apparent silence of the specifications and any supplement specifications as to any details or the omission from it of a detailed description concerning any point shall be regarded as meaning that only the best commercial practices are to prevail and that only materials of first quality and correct type, size and design are to be used. All workmanship is to be of the best quality. All interpretations of specifications shall be made upon the basis of this statement.
- c. No reimbursement will be made by the City for any costs incurred prior to a formal notice to proceed should an award of contract result from this solicitation. The proposal must be signed by an official authorized to bind the offeror.

- d. The City of Stonecrest desires delivery of the material or services specified at the earliest possible time after the date of award. An unreasonable delivery proposal may be cause for disqualification of a bid. Each bidder shall state a definite time and avoid using the terms ASAP or approximately so many days.
- e. The City reserves the right to accept or reject any and all responses and to waive technicalities as deemed to be in the best interest of the City. The City reserves the right to request additional information from a respondent(s) as deemed necessary to analyze responses.
- f. Any variation from the specifications must be clearly stated by the bidding company in writing and submitted with the proposal.
- g. The City does not discriminate on the basis of race, age, sex, national origin, religion, or disabilities and is an equal opportunity employer. Minority and women-owned businesses are encouraged to apply.
- h. The City strongly encourages Small Business firms to participate in this RFP.
- i. Permits, Taxes, Licenses, Bonds, Ordinances, and Agreements:
All Corporations should provide corporate seal, a copy of the Secretary of State's Certificate of Incorporation, and a listing of the principals of the corporation with the proposal.
- j. All materials submitted in response to this RFP become the property of the City and will be returned only at the option of the City. The City reserves the right to use any or all ideas presented in any response to the RFP, and selection or rejection of the proposal does not affect this right.
- k. After the initial review of proposals, the City may invite representatives of firms responding to this RFP to discuss the proposal with key personnel who would be engaged in the provision of services. Such interviews will be conducted for fact finding and explanation purposes and will not include negotiation. The City will not be liable for expenses incurred for any such interview.
- l. Until the City acts formally to approve a contract, and until such contract is signed by both parties, the City is not legally obligated in any respect.
- m. The successful responder must maintain all licenses, permits, certifications, and other authorizations necessary to provide the needed services as required by federal, state, or local laws.
- n. The successful responder will be required to indemnify, defend, and hold the City, its officers, and employees harmless from and against all losses, claims, suits, or judgments, including payment of attorneys' fees and costs, incurred, or asserted against the City as a result of or arising from the firm's negligent acts or omissions. This provision of a contract resulting from this RFP will survive the expiration or termination of the contract.

- o. During the Selection Process, the City reserves the right for any reason deemed appropriate by the City: to waive portions of the RFP; to waive any minor informality in the proposal; to request "best and final" offers; to reject any and all Proposals; to terminate the RFP; and to issue a new RFP.
- p. Termination of Contract: It is understood that the City retains the option to terminate this Agreement for any reason at the end of each contract year without pecuniary risk or penalty or at any point during the contract term with evidence of just cause. The termination will become effective, and this Agreement shall terminate sixty (30) days prior to the end of the contract year or for just cause. The termination will become effective, and this Agreement shall terminate thirty (30) days following written notification of intent.
- q. Force Majeure - The City shall not be responsible for any delay or failure of any other obligations hereunder due to any occurrences commonly known as force majeure, including but not limited to, acts of God, war, acts of terror, labor disputes, strikes, lockouts, civil commotion, pandemic, epidemic, international trade disputes, or acts of government or government agency or officers.

16.0 PROFESSIONAL SERVICES AGREEMENT

- 16.1 The selected Contractor is expected to enter into the standard City agreement as per Exhibit C. Responding organizations are able to propose their own agreement. The City reserves the right to reject any proposed agreement that does not conform to the specifications contained in this RFP and which is not approved by the City Attorney's office.

17.0 CAUSES FOR TERMINATION

- 17.1 Causes for termination of the agreement may include any of the following: Failure to promptly and faithfully provide the services required at the prices indicated in the proposal; violation of any law governing services provided to the City; failure to cooperate upon receiving any reasonable request for information or service; or improper actions of the officers or employees which, in the opinion of the City, would adversely affect its interest, or endanger the structure of the City such as a spin off or merger which materially affects the terms of this agreement. The City may terminate the agreement without penalty on 90 days' notice.

18.0 AWARD OF CONTRACT

- 18.1 The Purchasing Department will open the Proposals and prepare a register of those responders submitting proposals. All proposals shall remain firm for forty-five (45) calendar days after the Proposal opening.
- 18.2 Before awarding the RFP, the City may request additional information from Responders.

- 18.3 The City reserves the right to reject any and all Proposals if it determines that the criteria set forth has not been met or for any other reason in its sole discretion.
- 18.4 The RFP contract will not necessarily be awarded to the Responder submitting the Proposal that receives the highest rankings or submits the highest financial proposal. The City will award the contract to only one responsive and responsible Responder submitting the most advantageous proposal taking into consideration the evaluation criteria, responsiveness of the proposal to the RFP Requirements, program goals and objectives, benefits to the community, and overall costs to the City.

The selected proposal will be presented to the City of Stonecrest Mayor and City Council for formal acceptance and authorization of an Agreement.

19.0 PROPOSALS REJECTIONS

- 19.1 The City reserves the right to accept or reject any and all responses and to waive technicalities as deemed to be in the best interest of the City.
- 19.2 Proposals will be rejected from any party (as an individual or as part of a partnership or entity) who:
- Is delinquent in the payment of property or other taxes with Stonecrest;
 - Is delinquent in the payment of a loan(s) with the City;
 - Has had property acquired through foreclosure or a judgment within the past ten (10) years;
 - Has outstanding judgments or debts owed to the City;
 - Has been convicted of a felony that affects property or neighborhood stability, health safety, or welfare.
- 19.3 Public records and tax and court records will also be checked prior to award of contract. If these conditions exist, the City may terminate the Contract.

20.0 DISCLAIMER/RESERVATION OF RIGHTS

- 20.1 The City does not make representations or warranties, express or implied, as to the accuracy and/or completeness of the information provided in this RFP.
- 20.2 The City reserves the right to extend the deadline for submission of Proposals, to request supplementary information, to conduct interviews with any or all of the developers submitting proposals, to waive minor informalities, and to reject any or all proposals, in whole or in part, if in its sole judgment the best interests of the City would be served in doing so. The City will reject any and all proposals when required to do so by applicable law.

21.0 DUE DILIGENCE

- 21.1 The Responder shall be responsible for conducting due diligence in responding to this RFP. If, after the RFP is issued but prior to the receipt of Proposals, the RFP must be amended or clarified, the purchasing agent may issue an Addendum.

Should you have any questions, contact Joyce Carter, Procurement Manager, at (470)727-0068 or <https://www.bidnetdirect.com/georgia/cityofstonecrest>.

**CERTIFICATION OF SPONSOR
DRUG-FREE WORKPLACE**

I hereby certify that I am a principle and duly authorized representative of _____, (“Contractor”), whose address is _____, _____, _____, and I further certify that:

- (1) The provisions of Section 50-24-1 through 50-24-6 of the Official Code of Georgia Annotated, relating to the “Drug-Free Workplace Act” have been complied with in full; and
- (2) A drug-free workplace will be provided for Contractor’s employees during the performance of the Agreement; and
- (3) Each Subcontractor hired by Contractor shall be required to ensure that the subcontractor’s employees are provided a drug-free workplace. Contractor shall secure from that subcontractor the following written certification: “As part of the subcontracting agreement with Contractor, _____ certifies to Contractor that a drug-free workplace will be provided for the Subcontractor’s employees during the performance of this Agreement pursuant to paragraph (7) of subsection (b) of the Official Code of Georgia Annotated, Section 50-24-3”; and
- (4) The undersigned will not engage in unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of the Agreement.

CONTRACTOR: _____

Date: _____ Signature: _____

Title: _____

REQUEST FOR PROPOSAL APPLICATION

This form must be completed by Responders of this RFP. Attach additional information as needed or as required. If you attach confidential material, clearly identify if the attachments are proprietary.

Applicant Name _____

Applicant Address _____

Applicant Phone _____ Email _____

The _____ (that will be responsible for management of the contract associated with this RFP) is a Legal Entity:

- Individual(s) If multiple, identify
- Corporation
- LLC
- Joint Tenants
- Tenants in Common
- Partnership
- Other (Identify Other) _____

If not a Georgia corporation/partnership, state where organized: _____

(Attach current corporation documentation.)

Management TEAM

Other Members _____

Other Members _____

CONFLICT OF INTEREST DISCLOSURE

The following information must be disclosed:

1. List the names of all persons having a financial interest in the consultant's business.

2. If any person identified pursuant to (1) above is a corporation or partnership, list the names of all individuals owning more than 10% of the shares in the corporation or owning any partnership interest in the partnership.

3. If any person identified pursuant to (1) above is a nonprofit organization or a trust, list the names of any person serving as director of the nonprofit organization or as trustee or beneficiary or trustor of the trust.

4. List the address of any property owned by the Consultant or principals identified in (2) that is located in Stonecrest and/or DeKalb County.

(NOTE: Attach additional pages as necessary.)

Person is defined as: Any individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust receiver, syndicate, this and any other group or combination acting as a unit.

Authorized Signature of Responder

Date

CERTIFICATE AND ACKNOWLEDGEMENT

Applicant certifies that it as individual or member of a corporation or partnership is not now and will not be at contract execution in violation of the following policies:

- YES NO Delinquent in the payment of taxes due to the City of Stonecrest;
- YES NO Building or health code violations on property owned that is not being actively abated;
- YES NO Been convicted of a felony crime that affects property or neighborhood stability or safety;
- YES NO Have any outstanding judgments or debts to the City;
- YES NO Have no past due loan(s) with the City;
- YES NO Been subject to a foreclosure within the previous ten (10) years;
- YES NO Been involved in litigation relating to a project either voluntary or involuntary within the past five (5) years; and
- YES NO Been adjudged bankrupt either voluntary or involuntary within the past ten (10) years.

I/We acknowledge understanding of the above policies and certify that none of the individuals or members of a corporation or partnership are in violation. I certify that this information is true and correct.

I/We further certifies that the information and exhibits comprising this RFP are true and correct. Unsigned/undated submissions will not be considered.

CERTIFICATION OF AUTHORIZED REPRESENTATIVE:

I _____ as Authorized Representative for

_____,
hereby certify that all information and materials submitted in response to this RFP are true and accurate to the best of my knowledge and belief. I understand that any attempt to falsify information in this application shall result in disqualification. Further, I hereby consent to requests that the City may make of third parties for information to substantiate information provided in this RFP, and I authorize third parties to release such information to the City.

Authorized Signature of Responder

Date

Print or type name

Authorized Signature of Responder

Date

Print or type name

CONTRACT AGREEMENT

AGREEMENT BETWEEN THE CITY OF STONECREST AND _____ FOR REQUEST FOR PROPOSAL FOR AMERICAN RESCUE PLAN ACT CONSULTANT SERVICES

This Agreement (the "Agreement") is made this ___ day of _____, 2021, by and between _____ (hereinafter referred to as "Company"), and the City of Stonecrest, Georgia ("City").

WITNESSETH:

WHEREAS, Company is engaged in the business of providing the necessary materials and labor to complete the Work in the manner therein specified within the time specified, as therein set forth; and

WHEREAS, the City of Stonecrest seeking proposals for American Rescue Plan Act consultant services.

WHEREAS, Company is willing and able to render said services;

NOW, THEREFORE, in consideration of the mutual terms, conditions and covenants set forth herein, the parties hereto agree as follows:

1. SERVICES

Company agrees to render services (the "Services") to the City to furnish all specified materials or approved equivalent, equipment, and labor to complete the required renderings and assessments as described in its entirety to the specifications as directed and the terms of this contract including all incidentals as directed by the City Manager or his representative or as set forth in Exhibit "A" specifically as detailed in the Scope of Services. Company agrees to perform the Services at the direction of the appropriate department head, or his designee, in the manner and to the extent required by the parties herein, as may be amended hereafter in writing by mutual agreement of the parties.

2. COMPENSATION

a. Fee. In consideration for Services, City shall pay to Company a fee not to exceed the cost described in the Submittal, incorporated herein as Exhibit "B". The full cost of said services shall not exceed \$_____ for all the services detailed.

b. Manner of Payment. The City agrees to pay said invoices within thirty (30) days of receiving same. As the City is a local government entity and thus exempt from sales taxation, notwithstanding the terms of the submittal, Company acknowledges that the City shall not be

responsible for payment of any sales taxes on any invoices submitted for the services provided under this Agreement.

3. RELATIONSHIP OF PARTIES

a. Independent Contractors. Nothing contained herein shall be deemed to create any relationship other than that of independent contractor between City and Company. This Agreement shall not constitute, create, or otherwise imply an employment, joint venture, partnership, agency or similar arrangement between City and Company. It is expressly agreed that Company is acting as an independent contractor and not as an employee in providing the Services under this Agreement.

b. Employee Benefits. Company shall not be eligible for any benefit available to employees of the City including, but not limited to, workers' compensation insurance, state disability insurance, unemployment insurance, group health and life insurance, vacation pay, sick pay, severance pay, bonus plans, pension plans, or savings plans.

c. Payroll Taxes. No income, social security, state disability or other federal or state payroll tax will be deducted from payments made to Company under this Agreement. Company shall be responsible for all FICA, federal and state withholding taxes and workers' compensation coverage for any individuals assigned to perform the Services for the City.

4. CONTRACT PERIOD

The performance period for this contract shall be upon completion of the full scope of work. Contract performance shall begin on the date stated in the contract award letter.

5. TERMINATION FOR CAUSE AND FOR CONVENIENCE

Either party shall have the right to terminate this Agreement if the other party is in default of any obligation hereunder and such default is not cured within ten (10) days of receipt of a notice from the other party specifying such default. "Default" shall mean:

- a. If the City fails to make payments when due or fails to perform or observe any of its duties or obligations under the terms of this Agreement;
- b. If Company fails to perform or observe any of its duties or obligations under the terms of this Agreement;
- c. If either the City or Company shall have made any warranty or representation in connection with this Agreement which is found to have been false at the time such warranty or representation was made and is materially harmful to the other party.

This Agreement may also be terminated by the City for convenience by giving Company written notice sixty (60) days prior to the effective date of termination.

6. COMPENSATIVE IN EVENT OF TERMINATION

If this Agreement is terminated by the City for convenience, Company shall be exclusively limited to receiving only compensation for the pro-rata work performed and appropriately documented to and including the effective date identified in the written termination notice, but in no event shall Company receive less than a prorated amount of the service fees hereunder. Any amount over the amount otherwise due by the City for the services provided prior to the termination date shall be refunded by the Company within ten (10) days of the date of termination, with the exception of any costs incurred by the Company in removal of equipment and shutting down the project, which costs shall be borne by the City in the event of termination for convenience.

7. TERMINATION OF SERVICES AND RETURN OF PROPERTY

Upon the expiration or earlier termination of this Agreement, Company shall immediately terminate the Services hereunder and shall deliver promptly to the City all property relating to the Services that is owned by the City.

8. STANDARD OF PERFORMANCE AND COMPLIANCE WITH APPLICABLE LAWS

Company warrants and represents that it possesses the special skill and professional competence, expertise, and experience to undertake the obligations imposed by this Agreement. Company agrees to perform in a diligent, efficient, competent, and skillful manner commensurate with the highest standards of the profession, and to otherwise perform as is necessary to undertake the Services required by this Agreement, including the requirements set forth in the Certification of Sponsor Drug Free Workplace Exhibit "C".

Company warrants and represents that it will, at all times, observe and comply with all federal, state, local and municipal ordinances, rules, regulations, relating to the provision of the Services to be provided by Company hereunder or which in any manner affect this Agreement.

9. CONFLICT OF INTEREST

Company warrants and represents that:

a. the Services to be performed hereunder will not create an actual or apparent conflict of interest with any other work it is currently performing; and

b. Company is not presently subject to any agreement with a competitor or with any other party that will prevent Company from performing in full accord with this Agreement; and

c. Company is not subject to any statute, regulation, ordinance, or rule that will limit its ability to perform its obligations under this Agreement. The parties agree that Company shall be free to accept other work during the term hereof; provided, however, that such other work shall not interfere with the provision of Services hereunder.

10. PROPRIETARY INFORMATION

Company acknowledges that it may have access to and become acquainted with confidential and other information proprietary to the City including, but not limited to, information concerning the City, its operations, customers, citizens, business, and financial condition, as well as information with respect to which the City has an obligation to maintain confidentiality (collectively referred to herein as “Proprietary Information”). Company agrees not to disclose, directly or indirectly, to anyone or to use or to allow others to use, for any purpose whatsoever, any Proprietary Information of any type, whether or not designated confidential or proprietary, acquired in the course of performing under this Agreement. The obligations of Company under this section shall survive the termination of this Agreement.

11. INSURANCE

Company agrees to defend, indemnify, and hold harmless the City of Stonecrest, its officers, employees, and agents, to the extent allowed by applicable law, from and against any and all third-party claims, losses, liabilities, or expenses (including, without limitation, attorneys’ fees) which may arise, in whole or in part, out of a breach by the Indemnitor of its obligations under this Agreement.

12. ASSIGNMENT

Company shall not assign this Agreement without the prior express written consent of the City. Any attempted assignment by Company without the prior express written approval of the City shall at the City’s sole option terminate this Agreement without any notice to Company of such termination.

13. NOTICES

All notices or other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given when delivered personally in hand, or when mailed by certified or registered mail, return receipt requested with proper postage prepaid, addressed to the appropriate party at the following address or such other address as may be given in writing to the parties:

If to the City:

Procurement Department
Stonecrest City Hall
3120 Stonecrest Blvd.
Stonecrest, Georgia 30038

With copies to:

City Attorney
Fincher Denmark, LLC
8024 Fair Oaks Court
Jonesboro, Georgia 30236

If to the Company:

14. GOVERNING LAW AND CONSENT TO JURISDICTION

This Agreement is made and entered into in the State of Georgia and this Agreement and the rights and obligations of the parties hereto shall be governed by and construed according to the laws of the State of Georgia without giving effect to the principles of conflicts of laws. The jurisdiction for resolution of any disputes arising from this Agreement shall be in the State Courts of DeKalb County, Georgia.

15. WAIVER OF BREACH

The waiver by either party of a breach or violation of any provision of this Agreement shall not operate or be construed to constitute a waiver of any subsequent breach or violation of the same or other provision thereof.

16. SEVERABILITY

If any provision of this Agreement is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of the Agreement, which shall remain in full force and effect, and enforceable in accordance with its terms.

17. ENTIRE AGREEMENT

This Agreement which includes the exhibits hereto contains the entire agreement and understanding of the parties with respect to the subject matter hereof, and supersedes and replaces any and all prior discussions, representations, and understandings, whether oral or written. This Agreement incorporates the Company’s Scope of Services and is referenced in Exhibit “A”. In case of conflict between any term of the Company’s Submittal and this Agreement, the terms of this Agreement shall control unless otherwise stated herein.

18. GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT

Offeror’s full compliance with all applicable federal and state security and immigration laws, including without limitation O.C.G.A. § 13-10-90, *et seq.* as amended and Georgia Department of Labor Rule 300- 10-1, *et seq.* is a condition for the contract bid and any contract award. Offeror is required to affirm compliance by completing and returning all three (3) Georgia Security and Immigration Compliance documents (Appendix I) with Offeror’s submittal.

Pursuant to O.C.G.A. § 13-10-91 no Offeror or subcontractor may propose a contract or enter into a contract with a public employer for the physical performance of services unless the Offeror or subcontractor is registered with and participates in the federal work authorization program to verify information of all newly hired employees and provides certain required affidavits. Any Offeror, subcontractor, or sub-subcontractor of such Offeror or subcontractor, shall also be required to satisfy the requirements set forth herein.

IN WITNESS WHEREOF, the parties have executed this Agreement through their duly authorized representatives.

IN WITNESS WHEREOF, the parties have executed this Agreement through their duly authorized representatives.

Company: _____

By: _____

Title: _____

Date: _____

City of Stonecrest, Georgia

By: _____

Jason Lary

Title: Mayor_____

Date: _____

Approved as to form

City Attorney

Attest:

City Clerk



GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT AFFIDAVIT

Contractor(s) Name: _____

Address: _____

By executing this affidavit, the undersigned person or entity verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm, or corporation which is contracting with the Georgia Department of Transportation has registered with, is authorized to participate in, and is participating in the federal work authorization program commonly known as E-Verify, * in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91.

The undersigned person or entity further agrees that it will continue to use the federal work authorization program throughout the contract period, and it will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the undersigned with the information required by O.C.G.A. § 13-10-91(b).

The undersigned person or entity further agrees to maintain records of such compliance and provide a copy of each such verification to the Georgia Department of Transportation within five (5) business days after any subcontractor(s) is/are retained to perform such service.

E Verify™ Company Identification Number

Date of Authorization

BY: Authorized Officer or Agent
(Name of Person or Entity)

Date

SUBSCRIBED AND SWORN BEFORE
ME ON THIS THE

____ DAY OF _____, 201__

[NOTARY SEAL]

Notary Public

My Commission Expires: _____

* **or any subsequent replacement** operated by the United States Department of Homeland Security, or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603



Subcontractor Affidavit under O.C.G.A. § 13-10-91(b)(3)

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services under a contract with (name of contractor) on behalf of (name of public employer) has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned subcontractor will continue to use the federal work authorization program throughout the contract period and the undersigned subcontractor will contract for the physical performance of services in satisfaction of such contract only with sub-subcontractors who present an affidavit to the subcontractor with the information required by O.C.G.A. § 13-10-91(b). Additionally, the undersigned subcontractor will forward notice of the receipt of an affidavit from a sub-subcontractor to the contractor within five business days of receipt. If the undersigned subcontractor receives notice that a sub-subcontractor has received an affidavit from any other contracted sub-subcontractor, the undersigned subcontractor must forward, within five business days of receipt, a copy of the notice to the contractor. Subcontractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

Federal Work Authorization User Identification Number

Date of Authorization

Name of Subcontractor

Name of Project

Name of Public Employer

SUBSCRIBED AND SWORN
BEFORE ME ON THIS THE

____ DAY OF _____, 2021_

Notary Public

[NOTARY SEAL]

My Commission Expires _____