

SUBGRANT AGREEMENT

THIS AGREEMENT, entered into as of this ___ day of _____, 2023, by and between City of Stonecrest, Georgia (hereinafter referred to as the "Subgrantee") and the ATLANTA REGIONAL COMMISSION (hereinafter referred to as "ARC").

WITNESSETH THAT:

WHEREAS, ARC desires to engage the Subgrantee to render certain services hereinafter described in connection with an undertaking or project (hereinafter referred to as the "Project") which is to be wholly or partially financed by a grant from the United States Department of Transportation, (hereinafter, along with the appropriate auditing agency of the entities making such grant, referred to as "the Concerned Funding Agencies");

WHEREAS, the Subgrantee desires to render such services in connection with the project;

NOW THEREFORE, in consideration of the premises and the mutual covenants and agreements hereinafter contained, the parties hereto agree as follows:

1. Engagement of the Subgrantee. ARC hereby agrees to engage the Subgrantee and the Subgrantee hereby agrees to perform the services hereinafter set forth in accordance with the terms and conditions herein.
2. Scope of Services. The Subgrantee shall do, perform and carry out in a satisfactory and proper manner, as determined by ARC, the work and services described in Attachment "A" which is attached hereto and made a part hereof.
3. Time of Performance. The services of the Subgrantee are to commence immediately upon execution of this agreement. Work and services shall be undertaken and pursued in such sequence as to assure their expeditious completion and as may be required in Attachment "A." All work and services required hereunder shall be completed on or before October 31, 2024.
4. Compensation. The Subgrantee shall be compensated for the work and services to be performed under this agreement as set forth in Attachment "B" which is attached hereto and made part hereof. Compensation for work and services in the performance of this contract shall not exceed \$250,000.
5. Approval of Subcontracts. None of the work or services to be performed under this agreement by the Subgrantee shall be subcontracted without the prior written approval of ARC's Executive Director or his authorized agent. If such approval is requested, all subcontract documents shall be submitted to ARC's Executive Director or her authorized agent, for her review and approval prior to the execution of such subcontract. Further, if requested by ARC's Executive Director or her authorized agent, the Subgrantee shall provide ARC with such documentation as ARC's Executive Director shall require, regarding

the method the Subgrantee used in selecting its subcontractor. The Subgrantee acknowledges that if work or services to be performed under this agreement is financed solely or partially with federal funds, the selection of subcontractors is governed by regulations requiring competition between potential subcontractors or adequate justification for sole source selection. The Subgrantee agrees to abide by such regulations in its selection procedure.

6. Prompt Payment and Retainage. The prime subgrantee agrees to pay each subcontractor under this prime grant for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime subgrantee receives from ARC. The prime subgrantee agrees further to return retainage payments to each subcontractor within 30 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of ARC. This clause applies to both DBE and non-DBE subcontracts.

Any subgrantee found not to be in compliance with this clause will be considered in breach of contract and any further payments will be withheld until corrective action is taken. If subgrantee does not take corrective action, subgrantee may be subject to contract termination.

7. Assignability. The Subgrantee shall not assign, sublet or transfer all or any portion of its interest in this agreement without the prior written approval of ARC.
8. Amendments. ARC may require changes in this agreement. Except for termination for cause or convenience, such changes, including any increase or decrease in the amount of the Subgrantee's compensation shall be incorporated in written amendments to this agreement. Amendments to this agreement may be executed on behalf of ARC only by ARC's Executive Director and Chairman.
9. Insurance. The Subgrantee will have and maintain insurance coverage that complies with the laws of the state of Georgia, as well as reasonable and prudent business practices. Such insurance shall at least include Worker's Compensation, Public Liability, Property Damage, and Valuable Papers coverage.
10. Indemnification. The Subgrantee shall hold harmless and indemnify ARC, its officers, directors, and employees from and against losses, reasonable attorney's fees and costs, that may be based on any injury to persons or property caused by the negligent performance of services under this agreement by the Subgrantee or any person employed by the Subgrantee.
11. Formal Communication. Formal communications regarding this agreement shall include, but not necessarily be limited to correspondence, progress reports and fiscal reports.

All formal communication regarding this agreement shall be in writing between the person executing this agreement on behalf of the Subgrantee (executor) and ARC's Executive Director. However, the Subgrantee executor and ARC's Executive Director shall each have the right to designate in writing to the other an agent to act in his or her behalf regarding this

agreement. Any restrictions to such designation must be clearly defined in the written designation.

In this regard, ARC's Executive Director hereby designates the Chief Operating Officer as her agent for purposes of this contract only, except for Amendments and Terminations.

12. Reports. The Subgrantee shall furnish ARC with narrative progress reports, in such form and frequency as may be specified by ARC's Executive Director or her authorized agent, outlining the work accomplished by the Subgrantee during the period, including the current status of the Project, and the percentage of work which has been completed.
13. Financial Reports. In addition to other records required by this contract, the Subgrantee agrees to provide to ARC such additional financial reports in such form and frequency as ARC may require in order to meet ARC's requirements for reporting to the Concerned Funding Agencies.
14. Program Fraud and False or Fraudulent Statements or Related Acts. The Subgrantee acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Subgrantee certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the project for which this contract work is being performed. In addition to other penalties that may be applicable, the Subgrantee further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Subgrantee to the extent the Federal Government deems appropriate.
15. Review and Coordination. To ensure adequate assessment of the Subgrantee's project and proper coordination among interested parties, ARC shall be kept fully informed concerning the progress of the work and services to be performed hereunder. The Subgrantee may be required to meet with designated representatives of ARC and the Concerned Funding Agencies from time to time to review the work and services performed. The Subgrantee shall be given reasonable written notice of such meetings.
16. Inspections. Authorized representatives of ARC and the Concerned Funding Agencies may at all reasonable times review and inspect the Project activities and data collected pursuant to this agreement. Except where specifically prohibited by law, all reports, studies, records, and computations prepared by or for the Subgrantee under this agreement shall be made available to authorized representatives of ARC and the Concerned Funding Agencies for inspection and review at all reasonable times in the Subgrantee's office where data is normally accumulated. Approval and acceptance of such material shall not relieve the Subgrantee of its professional obligation to correct, at its expense, any errors found in the work unless such errors can be shown to be caused by inaccurate or incomplete information provided by ARC.

17. Maintenance of Cost Records. The Subgrantee shall maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred on the Project and shall make such material available at all reasonable times during the period of the agreement, and for three years from the date of final payment under the agreement, for inspection by ARC, the Concerned Funding Agencies, and if the work and services to be performed under this agreement is wholly or partially funded with federal funds, the Comptroller General of the United States, or any of their duly authorized representatives. The Subgrantee shall include the provisions of this paragraph in any subcontract executed in connection with this Project.
18. No Obligation by the Federal Government. ARC and the Subgrantee acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to ARC, the Subgrantee, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.
19. Status as Independent Contractors. Nothing contained in this agreement shall be construed to constitute the Subgrantee or any of its employees, servants, agents or subcontractors as a partner, employee, servant, or agent of ARC, nor shall either party to this agreement have any authority to bind the other in any respect, it being intended that each shall remain an independent contractor.
20. Subgrantee's Personnel. The Subgrantee represents that it has, or will secure at its own expense, all personnel required to perform the services under this agreement. Such personnel shall not be employees of ARC, nor shall such personnel have been employees of ARC during any time within the twelve-month period immediately prior to the date of this agreement, except with the express prior written consent of ARC. Further, the Subgrantee agrees that no such former ARC employees shall be involved in any way with the performance of this agreement, without the express prior written approval of ARC.
21. Employees' Rate of Compensation. The rate of compensation for work performed under this project by a staff member or employee of the Subgrantee shall not exceed the compensation of such person that is applicable to his or her other work activities for the Subgrantee. Charges for salaries and wages of individuals shall be supported by time and attendance and payroll distribution records.
22. Interest of Subgrantee. The Subgrantee covenants that neither the Subgrantee, nor anyone controlled by the Subgrantee, controlling the Subgrantee, or under common control with the Subgrantee, nor its agents, employees or Subgrantees, presently has an interest, nor shall acquire an interest, direct or indirect, which would conflict in any manner or degree with the performance of its service hereunder, or which would prevent, or tend to prevent, the satisfactory performance of the Subgrantee's service hereunder in an impartial and unbiased manner. The Subgrantee further covenants that in the performance of this agreement no person having any such interest shall be employed by the Subgrantee as an agent,

Subgrantee or otherwise. If the Subgrantee contemplates taking some action which may constitute a violation of this paragraph, the Subgrantee shall request in writing the advice of ARC, and if ARC notifies the Subgrantee in writing that the Subgrantee's contemplated action will not constitute a violation hereof, then the Subgrantee shall be authorized to take such action without being in violation of this paragraph.

23. Interest of Members of ARC and Others. No officer, member or employee of ARC, and no public official of any local government which is affected in any way by the project, who exercises any function or responsibilities in the review or approval of the project or any component part thereof, shall participate in any decision relating to this agreement which affects his or her personal interests or the interest of any corporation, partnership or association in which he or she is directly, or indirectly, interested; nor shall any such officer, member or employee of ARC, or public official of any local government affected by the project, have an interest, direct or indirect, in this agreement or the proceeds arising therefrom.
24. Officials Not to Benefit. No member of or delegate to the Congress of the United States of America, resident commissioner or employee of the United States Government, shall be admitted to any share or part of this agreement or to any benefits to arise herefrom.
25. Compliance with Requirements of the Concerned Funding Agencies. The Subgrantee shall be bound by the applicable terms and conditions of the Grant Contract between ARC and the Concerned Funding Agencies which said Grant Contract is on file in the offices of ARC and is hereby made a part of this agreement as fully as if the same were attached hereto. ARC will notify the Subgrantee in writing of any applicable changes within a reasonable time after ARC has received appropriate notice of such changes from the Concerned Funding Agencies.
26. Rights in Documents, Materials and Data Produced. For purposes of this agreement, "data" includes, but is not limited to, writings, sound recordings, photographs, films, videotapes or other graphic representations and works of a similar nature. ARC and the Concerned Funding Agencies shall have the right to use same without restriction or limitation and without compensation to the Subgrantee other than as provided in this agreement. The Subgrantee acknowledges that matters regarding rights to inventions and materials generated by or arising out of this agreement may be subject to certain regulations issued by the Concerned Funding Agencies.
27. Data and Software Licensing. During performance of the work covered by this Agreement ARC may provide certain data or software products, such as aerial photography or commercially available planning data and software, to the Subgrantee that have been obtained from various sources under specific licensing agreements. The Subgrantee acknowledges that any data or software that ARC may provide hereunder is provided as a non-exclusive, non-transferable, limited license for the Subgrantee or its Sub-Subgrantees to use the data or software for the work covered by this Agreement only. The Subgrantee shall not redistribute, republish or otherwise make this data or software available to any party not covered by this Agreement. The Subgrantee or any Sub-Subgrantees shall not use this data

or software for any work not covered by this Agreement. The Subgrantee further acknowledges that upon completion of the project covered by this Agreement all data and software provided by ARC will be returned to ARC and all copies of the data or software residing on the Subgrantee's or Sub-Subgrantee's computer systems will be removed.

28. Publicity. Articles, papers, bulletins, reports or other material reporting the plans, progress, analysis or results and findings of the work conducted under this agreement shall not be presented or published without first submitting the same to ARC for review and comment. No such presentation shall be made until comments have been received from ARC regarding such review; provided, however, if such comments have not been received by the Subgrantee within thirty calendar days after such submission, it shall be presumed that ARC has no objection thereto. ARC's comments, objections, reservations or disagreements regarding such material shall be accommodated as ARC shall specify.

29. Assurances. The Subgrantee hereby assures and certifies that it will comply with the appropriate regulations, policies, guidelines and requirements (as applicable), including, but not limited to, 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 48 CFR 31, "Contract Cost Principles and Procedures," Executive Order 12372, "Intergovernmental review of Federal programs," U.S. Office of Management and Budget Circular Nos. A 21, "Cost Principles for Educational Institutions," and A 133, "Audits of States, Local Governments and Non-Profit Organizations," or other requirements imposed by ARC or the Concerned Funding Agencies concerning requirements of law or project matters as expressly made applicable by ARC herein, as they relate to the application, acceptance, use and audit of federal funds for this federally assisted project. For audits of fiscal years beginning on or after December 26, 2014, the provisions of 2 CFR 200.501 supersede OMB circular A133. A nonfederal entity that expends \$750,000 or more in federal awards during its fiscal year must have a single or program-specific audit conducted for that year. Also, the Subgrantee gives assurance and certifies with respect to this agreement that:
 - a. For all agreements:
 - i. It possesses legal authority to apply for this agreement, and, if appropriate, to finance and construct any proposed facilities; and, any required resolution, motion or similar action has been duly adopted or passed as an official act of the Subgrantee's governing body; that proper authorization exists for the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the Subgrantee to act in connection with the application and to provide such additional information as may be required, and, upon ARC approval of its application, that the person identified as the official representative of the Subgrantee is authorized to execute an agreement incorporating the terms of its application.
 - ii. It understands that the phrase "federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect federal assistance.

- iii. It will comply with Title VI of the Civil Right Act of 1964 (P.L. 88-352 and 42 USC 2000d) and in accordance with Title VI of that Act, no person in the United States shall, on the ground of age, handicap, religion, creed or belief, political affiliation, sex, race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any project or activity for which the applicant receives federal financial assistance and will immediately take any measures necessary to effectuate this assurance. The Subgrantee shall take affirmative action to ensure that qualified applicants are employed and qualified subcontractors are selected, and that qualified employees are treated during employment, without regard to their age, handicap, religion, creed or belief, political affiliation, race, color, sex or national origin. Such action shall include but not be limited to the following: employment, upgrading, demotions, or transfers; recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; selection for training including apprenticeship, and participation in recreational and educational activities.

The Subgrantee shall in all solicitations or advertisements for subcontractors or employees placed by or on behalf of the Subgrantee, state that all qualified applicants will receive consideration for employment without regard to age, handicap, religion, creed or belief, political affiliation, race, color, sex or national origin. The Subgrantee shall not discriminate against any qualified client or recipient of services provided through this agreement on the basis of age, handicap, religion, creed or belief, political affiliation, race, color, sex or national origin. The Subgrantee shall cause foregoing provisions to be included in all subcontracts for any work covered by this agreement so that such provisions will be binding upon each subcontractor.

The Subgrantee shall keep such records and submit such reports concerning the racial and ethnic origin of applicants for employment and employees as ARC or the Concerned Funding Agencies may require.

The Subgrantee agrees to comply with such rules, regulations or guidelines as ARC or the Concerned Funding Agencies may issue to implement the requirements of this paragraph.

- iv. It will comply with applicable requirements of the provisions of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (P.L. 91-646) which provides for fair and equitable treatment of persons displaced as a result of federal and federally assisted projects.
- v. It will comply with the applicable provisions of the Hatch Act which limits the political activity of employees.
- vi. It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain

for themselves or others, particularly those with whom they have family, business, or other ties.

- vii. It will cooperate with ARC in assisting the Concerned Funding Agencies in this compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), Executive Order 11593, and the Archeological and Historic Preservation Act of 1966 (16 U.S.C. 469a-1 et set.) by (a) consulting, through ARC, with the State Historic Preservation Officer on the conduct of investigations, as necessary, to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 36 CFR Part 800.8) by the activity, and notifying, through ARC, the Concerned Funding Agencies of the existence of any such properties, and by (b) complying with all requirements established by ARC or the Concerned Funding Agencies to avoid or mitigate adverse effects upon such properties.
- viii. For agreements not involving federal financial assistance for construction, it will insure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the Project are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify the Concerned Funding Agencies, through ARC, of the receipt of any communication from the Director of the EPA Office of Federal Activities indicting that a facility to be used in the project is under consideration for listing by EPA.
- ix. It will comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in U.S. Department of Labor regulations (41 CFR Part 60).
- x. The Subgrantee agrees that throughout the performance of this contract it will remain in full compliance with all federal and state immigration laws, including but not limited to provisions 8 USC 1324a and O.C.G.A. § 13-10-91 regarding the unlawful employment of unauthorized aliens and verification of lawful presence in the United States. Thereunder, Subgrantee will ensure that only persons who are citizens or nationals of the United States or non-citizens authorized under federal immigration laws are employed to perform services under this contract or any subcontract hereunder.
- xi. The Subgrantee agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

The Subgrantee further agrees to include the provisions contained in the forgoing paragraph in each subcontract for services hereunder.

The Subgrantee shall not retaliate or take any adverse action against any employee or any subcontractor for reporting, or attempting to report a violation(s) regarding applicable immigration laws.

- b. For agreements involving either full or partial federal financial assistance for construction projects(s):
 - i. It will comply with the provisions of Executive Order 11296, relating to evaluation of flood hazards, and Executive Order 11288, relating to the prevention, control, and abatement of water pollution.
 - ii. It will require the facility to be designed to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to and Usable by, the Physically Handicapped," Number A117 1-1961, as modified (41 CFR 101 - 17.703). The Subgrantee will be responsible for conducting inspections to ensure compliance by the Subgrantee with these specifications.
- c. For agreements exceeding \$100,000.00 in federal financial assistance:
 - i. It will comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).

30. Certifications.

- a. Prohibition Against Use of Funds to Influence Legislation (Lobbying). No part of any funds under this agreement shall be used to pay the salary or expenses of any Subgrantee, or agent acting for the Subgrantee, to engage in any activity designed to influence legislation or appropriations pending before the Congress as stated in 49 CFR 20.
- b. Debarment and Suspension. The Subgrantee agrees to comply with the nonprocurement debarment and suspension rules in 49 CFR 29.
- c. Drug-Free Workplace. The Subgrantee agrees and certifies that it will comply with the requirements for a Drug-Free Workplace, as described in Section 50-24-3 of the Official Code of Georgia, including passing through this requirement to lower tier Subgrantees.
- d. The Subgrantee agrees and hereby certifies that it will comply with the Georgia Security and Immigration Compliance requirements of O.C.G.A. § 13-10-91.

31. Other Requirements. In addition to other requirements of this agreement, the Subgrantee agrees to comply with, and shall be bound by, the applicable terms and conditions of all state and federal laws or regulations governing and defining resources, project administration, allowable costs and associated procurement standards, and the ARC Disadvantaged Business Enterprise Plan (in compliance with 49 CFR Part 26), as appropriate. In addition, the Subgrantee further agrees to comply with the DBE Utilization

Plan submitted to ARC as part of its proposal. All such documents are hereby made part of this agreement fully as if the same were attached hereto.

The Subgrantee shall not discriminate on the basis of race, color, national origin, or sex in the performance of this agreement. The Subgrantee shall carry out applicable requirements of 49 CFR 26 in the award and administration of DOT assisted agreements. Failure by the Subgrantee to carry out these requirements is a material breach of this agreement, which may result in the termination of this agreement or such other remedy as the recipient deems appropriate.

The Subgrantee agrees to pay each subcontractor under this prime agreement for satisfactory performance of its agreement no later than ten business days from the receipt of each payment that said prime Subgrantee receives from ARC. The prime Subgrantee agrees further to return retainage payments to each subcontractor within ten business days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of ARC. This clause applies to both Disadvantaged Business Enterprises and non-Disadvantaged Business Enterprises.

32. Termination for Mutual Convenience. ARC or the Subgrantee may terminate this agreement in whole or in part when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall, through formal written amendment, agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. The Subgrantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. ARC shall evaluate each noncancelable obligation to determine its eligibility for inclusion in project costs. Settlement will be made in accordance with the terms and conditions of this agreement. ARC shall allow full credit to the Subgrantee for the ARC share of the non-cancelable obligations, properly incurred by the Subgrantee prior to termination.
33. Termination for Convenience. ARC may terminate this agreement, in whole or in part, at any time by giving written notice to the Subgrantee of such termination and specifying the effective date thereof, at least fifteen days before the effective date of such termination. In that event, all information and material produced or collected under this agreement and/or used in the performance of the scope of services shall, at the option of ARC, become its property. If this agreement is terminated by ARC as provided in this paragraph, the Subgrantee will be reimbursed for the otherwise allowable actual expenses incurred by the Subgrantee up to and including the effective date of such termination, as authorized in Attachment "B." The Subgrantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. ARC shall evaluate each noncancelable obligation to determine its eligibility for inclusion in project costs.
34. Termination of the Agreement for Cause. If the Subgrantee, due to its action or failure to act, shall fail to fulfill in a timely and proper manner its obligations under this agreement, or

if the Subgrantee has or shall violate any of the covenants, agreements, representations or stipulations of this agreement, ARC shall thereupon have the right to terminate this agreement by giving written notice to the Subgrantee of such termination and specifying the effective date thereof, at least five days before the effective date of such termination. In such event, all information and materials collected or produced under this agreement and/or used in the performance of the scope of services shall, at the option of ARC, become its property. The Subgrantee shall be entitled to receive just and equitable compensation for any satisfactory work completed under the Scope of Service up to and including the effective date of termination as authorized in Attachment "B." Notwithstanding the foregoing to the extent provided by law, the Subgrantee shall not be relieved of liability to ARC for damages sustained by ARC by virtue of any breach of this agreement by the Subgrantee and ARC may withhold any payments to the Subgrantee for the purpose of set-off for damages caused by the Subgrantee's breach, until such time as the exact amount of damages to ARC from the Subgrantee is determined.

35. Termination Due to Non-Availability of Funds. Notwithstanding any other provision of this agreement, in the event that any of the funds for carrying out the functions to which this agreement relates do not become available, then, upon written notice to the Subgrantee, this agreement may be immediately terminated without further obligation of ARC.
36. Suspension Due to Non-Availability of Funds. The Concerned Funding Agencies have the right to suspend financial assistance for this project. Consequently, ARC reserves the same right regarding this agreement. Such suspension would cause the withholding of further payments and/or prohibiting the Subgrantee from incurring additional obligations during the suspension period. However, unless notified in writing to the contrary, such suspension would not invalidate obligations otherwise properly incurred by the Subgrantee prior to the date of suspension to the extent that they are noncancelable.
37. Disputes and Appeals Any dispute concerning a question of fact arising either from a Subgrantee or subgrant selection decision, or under a Subgrantee or subgrant contract, once executed, shall be decided by ARC's Chief Operating Officer who, after advisory consultation with all appropriate ARC officials (e.g., General Counsel, etc.), shall promptly reduce such decision concerning the question of fact to writing and mail, or otherwise furnish a copy thereof, to the disputing party (i.e., as appropriate, either: the unsuccessful proposer; or the Subgrantee or subgrantee). The Chief Operating Officer shall concurrently fully advise the disputing party, in writing, of the provisions outlined herein below concerning the disputing party's right to appeal the decision to the ARC Executive Director. A copy of all such documents shall also be furnished to the ARC Office of General Counsel.

The decision of the Chief Operating Officer shall be final and conclusive unless, within ten (10) calendar days of receipt of such written decision, the disputing party mails or otherwise furnishes a written appeal concerning the question of fact to the ARC Executive Director, who shall arrange a formal hearing within twenty (20) calendar days after receipt of such appeal. Both the appealing party and the Chief Operating Officer shall be notified no less than five (5) calendar days in advance of the hearing and shall have the right to present witnesses and give evidence concerning the question of fact at such time. Within twenty

(20) calendar days after the hearing, the Executive Director shall make a decision concerning the question of fact in writing to the appealing party and to the Chief Operating Officer. A copy of the decision shall also be furnished to the ARC Office of General Counsel.

The decision of the Executive Director concerning the question of fact shall be final and conclusive unless determined by the cognizant grantor agency or agencies, or the Comptroller General of the United States, or a court of competent jurisdiction to have been arbitrary, capricious, an abuse of discretion or otherwise not in accordance with the law.

Pending final decision of an appeal to the Executive Director under a Subgrantee or subgrant contract already executed, the Subgrantee or subgrantee shall proceed diligently with the performance of the contract and in accordance with the Chief Operating Officer's decision.

Nothing in the foregoing shall be construed as making final the decisions of the Chief Operating Officer or the Executive Director as such decision relate to question of law.

38. Force Majeure. In no event shall either Party be responsible or liable for any failure or delay in the performance of its obligations hereunder upon the occurrence of any circumstance beyond the control of either party, such as acts of God, war, acts of terrorism, government regulations, disaster, strikes, work stoppages, accidents, mandatory quarantines, pandemics, curfews, or other restrictions of movements, or civil disorder, to the extent that such circumstances make it illegal or impossible for either Party to fulfill the terms of this Agreement. Any termination or delay in the performance of this Agreement without liability is conditioned upon delivery of written notice to the other party setting forth the basis for such termination as soon as reasonably practical, but in no event longer than ten (10) days, after learning of such basis. It is understood that both Parties shall use reasonable efforts which are consistent with industry standard to fulfill the performance of this agreement to the extent feasible.
39. Applicable Law. This agreement shall be deemed to have been executed and performed in the State of Georgia. All questions of interpretation and construction shall be construed by the laws of Georgia.

IN WITNESS WHEREOF, the Subgrantee and ARC have executed this agreement as of the day first above written.

ATTEST:

CITY OF STONECREST

By: _____

Title: _____

ATTEST:

ATLANTA REGIONAL COMMISSION

ARC Assistant Secretary

By: _____
Executive Director

By: _____
Chairman

ATTACHMENT A
CITY OF STONECREST
FREIGHT CLUSTER PLAN

SCOPE OF WORK

I. General: The work to be accomplished is in support of the following Atlanta Regional Commission (ARC) Cost Center:

Cost Center 206EFS- Regional Freight Planning Studies

Any contract award for this study is contingent upon ARC and the Subgrantee receiving adequate funding for this purpose from the Georgia Department of Transportation (GDOT).

II. Area Covered: The study area is located within Dekalb County. The study area boundaries are generally located north of I-20 within and around the municipal boundaries of the Cities of Stonecrest and Lithonia. See attached study area map. Coordination with all local jurisdictions within the study area and adjacent jurisdictions within an area of three to five miles outside the study area is also required in order to promote coordinated long-range transportation planning efforts across jurisdictional boundaries.

III. Goal: The Freight Cluster Plan Program provides local governments and Community Improvement Districts (CIDs) funds for local planning with a focus on freight movement. The purpose of freight cluster plans is to address transportation planning, traffic operations, and related planning needs, and to identify recommended projects and policy changes to address those needs. Recommended projects should aim to be competitive for local, state, and federal funding with adequate information and cost estimates to complete potential grant applications and be prepared for advancement to Scoping and/or PE phases. These plans, while focused on local issues and needs, also serve as the groundwork for regional planning efforts led by the Atlanta Regional Commission.

IV. Background: The *2016 Atlanta Regional Freight Mobility Plan Update* identified the need to conduct local, small area freight planning in the Atlanta Region to address transportation issues related to this key part of the region's economy. Based on this need, ARC sought applications from project sponsors for grants to conduct these plans in 2017 and 2019.

The Freight Cluster Plan Program assists project sponsors by clearly defining goals, needs, and priorities for the study area. Local transportation plans are a key mechanism in which governments define programs and projects they are prepared to support and assist with funding. It is a critical program objective that these identified priorities will form the basis for future funding requests during ARC Transportation Improvement Program (TIP) and Regional Transportation Plan (RTP) update cycles, as well as future funding requests via GDOT, FHWA, and other sources.

Transportation plans resulting from the Freight Cluster Plan Program shall be informed by existing county and city comprehensive plans, thereby strengthening the connection between land use and transportation planning. Freight Cluster Plan recommendations will clearly reference alignment with these aforementioned efforts. Federal funding, with a minimum 20% local match, provides the resources to implement the program.

The studies will focus on facilitating efficient movement of freight, improving access to jobs, reducing traffic congestion, changes in the freight industry, and improving safety, mobility, and access for all roadway users. The studies will help the Subgrantee prioritize the study area's needs and priorities, with a focus on project implementation. This program is intended to complement the CTP program, which typically does not have the budget to conduct detailed analysis of industrial areas or to develop local projects focused on the efficient movement of freight.

V. Work Tasks:

This scope of work outlines the minimum requirements which the City of Stonecrest must fulfill to receive funding from ARC. The Subgrantee may include additional or more detailed tasks in the contract with their consultants based on individual needs.

Comprehensive progress reports detailing progress on each task shall be submitted to ARC with each invoice. The Subgrantee shall present deliverables to ARC for comment, involve ARC in relevant stakeholder and technical committee meetings, and notify ARC of public and private sector outreach activities. The Subgrantee shall also work directly with GDOT, relevant transit agencies, and all local jurisdictions within the study area, presenting deliverables to these organizations for comment, involving them in relevant stakeholder and technical committee meetings, and notifying them of key public and private sector outreach activities.

Task 1: Project Management

The outcomes of this task are the establishment of a Project Management Team, development of a Project Management Plan, and development of a Stakeholder Engagement and Outreach Plan.

The Project Management Plan will identify those agencies and organizations which must be involved in the overall direction of the plan development process due to the critical nature of their financial, technical and/or political support. These key stakeholders will constitute the Project Management Team. The Project Management Plan will establish protocols for communicating and sharing data, drafting materials for review, and developing other resources within the Project Management Team. A schedule for meetings of the team will be established and preliminary dates for key work task milestones and decision-making points will be defined.

The Stakeholder Engagement and Outreach Plan will be developed and approved by the Project Management Team prior to significant work being undertaken on subsequent tasks. The Stakeholder Engagement and Outreach Plan will identify key individuals, agencies and organizations whose participation will be critical in properly addressing the various elements and emphasis areas defined in the work program. Outreach techniques to effectively involve these stakeholders will be defined. The Stakeholder Engagement and Outreach Plan will also establish

how members of the general public and leadership and staff from private sector stakeholders will be engaged throughout the process and have the opportunity to contribute meaningful input prior to final decisions being made.

Deliverables:

- *Project Management Plan (Draft and Final)*
- *Stakeholder Engagement and Outreach Plan (Draft and Final)*

Task 2: Engagement

The most effective methods to involve private sector stakeholders of the freight and logistics industry as well as a diverse range of the general public in the plan development process will be developed for the Stakeholder Engagement and Outreach Plan in Task 1. Specific direct engagement techniques, such as stakeholder interviews, online and/or intercept surveys, online mapping tools, advisory committees, technical committees, open houses, workshops, and charrettes will be defined at the discretion of the Subgrantee and through consensus of the Project Management Team. Since all freight movement is regional, the engagement efforts shall include presentations and opportunities for input at three ARC Freight Advisory Task Force meetings.

The portfolio of techniques employed will be designed to maximize the potential for a broad range of private sector stakeholders and the public to participate and add value to the planning process. In particular, the outreach process should seek input from local business leaders, staff that work at local industrial businesses, and truck drivers who regularly travel in the study area. Efforts to engage those community members who have traditionally been underrepresented in the transportation decision making process, or will be most directly impacted by recommendations, will be emphasized. Private sector stakeholders and the public will be permitted the opportunity to review draft deliverables related to the inventory and assessment of the transportation system and plan recommendations prior to those deliverables being finalized.

An early deliverable of engagement and outreach activities will be to define the desired long-term outcomes which implementation of the Freight Cluster Plan will help support. These outcomes must support the regionally defined vision of World-Class Infrastructure, a Competitive Economy, and Healthy Livable Communities as adopted in The Atlanta Region's Plan. The regional vision will be scaled and interpreted as appropriate to be more directly applicable and responsive to the unique characteristics of the study area. The locally desired outcomes may be expressed in terms of a vision statement, goals, and objectives, or may use a different nomenclature which resonates more strongly with community members.

Information on the process, schedule, draft and final deliverables, and opportunities for engagement will be readily accessible at all times throughout plan development via a project website. Access to the site will be available through the Subgrantee's main website in a direct and logical manner.

Deliverables:

- *Statement of Freight Cluster Plan Vision, Goals, and Objectives*
- *Robust Community Engagement Activities*
- *Project Website*

Task 3: Best Practices Review

Early in the planning process, conduct a high-level review of best practices for freight planning to provide direction during the remainder of the planning efforts. Topics of this review may include:

- Local freight planning methods, including transportation planning and traffic operations focused on efficient freight movement
- ITS, changing technology, and other transportation innovation that may impact freight movement
- Managing land use conflicts between industrial and non-industrial land uses, particularly residential land uses
- Transportation innovation within the supply chain and logistics field which may impact the transportation system, focused on the private sector and/or public-private partnerships

Deliverables:

- *Best Practices Report (Draft and Final)*

Task 4: Inventory and Assessment

The Freight Cluster Plan shall include a detailed inventory of existing conditions and an assessment of current and future needs for the study area. Because of the related nature of inventory and assessment activities, these two tasks shall be combined for analysis and documentation purposes.

The inventory shall begin with a review of previously completed local, regional, and state plans that are relevant to the study areas. The implementation of previous plans that included the study area, as well as other ongoing capital and maintenance projects in or adjacent to the study area, shall be documented as part of this task.

Data related to the existence, condition, and performance of the transportation network within the study area will be collected and documented. Data collection for the Freight Cluster Plan shall include the following core elements:

1. Transportation System State of Good Repair / Maintenance
2. Roadways
3. Multimodal crash history
4. Transit Infrastructure and Operations
5. Bike/Pedestrian Infrastructure

6. Transportation Demand Management (TDM) Programs
7. Technology / Intelligent Transportation Systems (ITS) / Connected and Autonomous Vehicle Infrastructure
8. Vulnerable Transportation Assets
9. System Performance Monitoring and Reporting Program

In addition to the aforementioned core elements, additional data shall be collected on the following aspects of freight transportation:

1. Designated truck routes – local, regional, state, and national
2. Routes with truck prohibition
3. Freight origin/destination patterns
4. Bridges – sufficiency ratings, weight restrictions, and low bridges
5. Authorized and unauthorized truck parking locations for overnight and staging needs
6. Rail crossing locations and safety issues
7. Freight rail facilities – intermodal, bulk transfer, and carload
8. Relevant truck related signage
9. Other intermodal facilities (air and pipeline), if present
10. Locations of alternative fuel facilities – CNG, LNG, electric
11. Major generators of truck trips
12. Locations for potential growth, with a focus on industrial growth
13. Existing land use/zoning conflicts between industrial and residential areas
14. Job accessibility options for individuals that don't own a car
15. Other relevant data specific to the study area

The inventory and assessment shall also consider changes in industrial development design and operations and the overall supply chain and logistics industry. This may include the impacts of high-cube warehouse design, growing use of automation in warehouses/distribution centers, operational and staffing changes related to e-commerce fulfillment centers, and other related issues. Industrial developments of today and in the future will be very different from industrial developments in the past, and these changes should be considered as part of the assessment.

Using data and information gathered in the inventory, as well as input from technical staff, stakeholders, and the public, elements of the transportation system will be assessed to determine both existing and potential future conditions. The assessment will address both strengths and shortcomings of the system and the ability of existing facilities and services to meet the study area's needs. The assessment process may use any combination of regional and local area travel demand models, analytical tools, and methodologies which best suits the characteristics and issues of the study area and produces useful information in a cost-effective manner.

In addition to data on transportation facilities and policies, this task will include an assessment of how the City of Stonecrest currently funds transportation. This will also incorporate transportation funding trends at the state and federal levels.

Deliverables:

- *Inventory and Assessment Report (Draft and Final)*

Task 5: Traffic Study

A traffic analysis of key intersections and corridors within the study area shall be conducted to identify locations of traffic congestion, operational issues, and potential recommendations. The traffic analysis shall follow current Highway Capacity Manual (HCM) methodology, and shall determine intersection Level of Service (LOS) at key intersections. Traffic count data used for this study must be no more than 3 years old at the time the analysis is being conducted. Traffic counts will be conducted, as needed, for this study, including:

- AM and PM peak hour intersection turning movement traffic counts
- Additional off-peak turning movement traffic counts, if needed due to local conditions
- Vehicle classifications counts, and/or
- Average Annual Daily Traffic (AADT) counts

An Existing Conditions analysis will be conducted using the AM and PM Peak hour turning movement count data. A future year traffic analysis will be conducted using traffic volumes projected 10 years after the Existing Conditions analysis. Future year traffic volumes will be developed using historic growth rates, projected growth rates from the ARC regional travel demand model, ITE trip generation rates for planned developments, or a combination of these and other relevant data sources.

For each analysis timeframe, potential changes to lane geometry and/or operations shall be developed and analyzed for any intersections with a failing LOS so that the intersection may operate with an acceptable LOS. Other potential changes may be analyzed as additional alternatives as needed.

An operational and geometric design field review shall be conducted of key intersections and corridors as a part of the traffic study. This review shall focus on the overall traffic conditions in the study area as well as specific design and operations issues related to freight movement. At a minimum, the field review shall include the following:

- Identification of discrepancies between the existing condition traffic analysis results and the field conditions
- Queue lengths for turning movements that impact intersection operations
- Signal timing, phasing, and coordination along key corridors
- Intersection turning radii, median, and shoulder design issues
- Unsignalized intersection and driveway turning conflicts
- Horizontal and vertical sight distance issues
- Adequacy of signage and lighting
- Other local issues identified during the planning process

The results of the field review shall be documented with a focus on how issues identified in the field may impact the study area's traffic conditions and multimodal safety. The documentation shall include key intersections and corridors that are a part of the traffic analysis as well as unsignalized intersections, driveways, and mid-block locations that are not part of the traffic analysis but have design or operational problems.

Deliverables:

- *Traffic Study Report (Draft and Final), including raw traffic count data*
- *Traffic analysis files (i.e. Synchro, CORSIM, VISSIM, etc.)*

Task 6: Recommendations

Recommendations may take a variety of forms and the precise outcomes will be dictated by the level of emphasis placed on each cluster plan element. The Recommendations may include any issues identified in the inventory and assessment task, traffic operations changes identified as part of the traffic study, and policy changes. Recommendations shall consider innovation and new technology wherever practical. Regardless of the unique needs and priorities of the Subgrantee, the following general outcomes shall be achieved:

- **Fiscally Constrained Short-Term Action Plan:** Five to ten year fiscally constrained list of transportation projects, policies, and action steps which reflect currently available funding sources and feasible policy actions that can be taken by the Subgrantee and by local government jurisdictions in the study area.
- **Fiscally Unconstrained Long-Term Vision Project List:** Prioritized list of transportation projects, policies, and action steps necessary to support the visions for infrastructure, economic development, and strong communities established by the community. This project list does not have to be fiscally constrained, and it may be broken into two tiers. Along with the Short-Term Action Plan, this will result in three tiers of recommended projects, policies, and action steps.
- **Recommendations shall:**
 - Be vetted through a robust community engagement process and formally adopted by local government policy officials as part of the final plan.
 - Leverage and complement regional facilities, services and programs to address local needs and priorities.
 - Consider innovative projects, technology advances, connected and autonomous vehicles, and changes in the supply chain and logistics industry
 - Knit together previous plans and projects identified at the community level through Comprehensive Transportation Plans (CTPs), Livable Centers Initiative (LCI) studies, county/city Capital Improvement Programs (CIP), Community Improvement District (CID) work programs, corridor studies, and other initiatives previously undertaken within the study area.

The Short-Term Action Plan shall be developed with a focus on implementation. Two to five High Priority projects shall be identified within the Short-Term Action Plan. These are projects that will move into implementation first. Additional data shall be provided in the Recommendations Final Report on these projects to assist with potential grant applications, including the purpose of the project, a more detailed cost estimate, issues that may increase cost (i.e. wetlands, bridges/culverts, utility relocations), and other related data.

Deliverables:

- *Fiscally Constrained Short-Term Action Plan (Draft and Final)*

- *Fiscally Unconstrained Long-Term Vision Project List (Draft and Final)*

Task 7: Documentation

The planning process shall conclude with the Recommendations Final Report and Executive Summary. The Recommendations Final Report shall describe how recommended projects, policies, and actions were developed, evaluated, and prioritized, and will include the Fiscally Constrained Short-Term Action Plan and the Fiscally Unconstrained Long-Term Vision Project List. Summary information from previously submitted deliverables shall be included as needed to support the development of the Action Plan and Project List. A user-friendly Executive Summary will be prepared that explains the key recommendations and conclusions.

Deliverables:

- *Recommendations Final Report (Draft and Final)*
- *Executive Summary (Draft and Final)*

The use of innovative and creative approaches to documentation is encouraged. ARC shall be provided with electronic copies of each interim deliverable and the final plan. The plan website shall remain active for a minimum of five years or until the next plan update, whichever comes first. If it is desired to deactivate the site for any reason prior to either of these milestones, advance coordination with ARC is required so that electronic versions of plan documents can be archived appropriately.

To the extent possible, system inventory and assessment data, as well as the final project recommendations, should be mapped in ArcGIS. Relevant shapefiles shall be provided to ARC upon completion of the Freight Cluster Plan. Mapped information developed in other software, whether conceptual in nature or geographically accurate, shall also be provided, in either the original source format or exported into an intermediate format usable by ARC.

The minimum required deliverables for the completed plan, as defined in this work program and which will collectively constitute the City of Stonecrest Freight Cluster Plan, are the:

- Project Management Plan
- Stakeholder Engagement and Outreach Plan
- Inventory and Assessment Report
- Traffic Study Report
- Fiscally Constrained Short-Term Action Plan
- Fiscally Unconstrained Long-Term Vision Project List
- Recommendations Final Report
- Executive Summary
- Traffic analysis files (i.e. Synchro, CORSIM, VISSIM, etc.)
- Word and/or In-Design, PDF, Excel, ArcGIS, and other relevant electronic files

A copy of adopting resolution(s) shall also be provided to ARC.

ATTACHMENT B

COMPENSATION AND METHOD OF PAYMENT

I. Compensation: The total cost of the Project (as described in “Attachment A”) is \$312,500. ARC’s compensation to the Subgrantee will not exceed 80 percent of the actual costs incurred. However, in no event will the total compensation and reimbursement, if any, to be paid to the Subgrantee under this contract exceed the sum of \$250,000. All costs in excess of \$250,000 are to be paid by the Subgrantee.

A breakdown of this compensation is shown in Exhibit B-1, “Budget Estimate”, which is attached to and made part of this contract for financial reporting, monitoring and audit purposes.

II. Method of Payment: The following method of payment replaces that specified in the main body of the contract.

A. Progress Payments: The Subgrantee shall be entitled to receive progress payments on the following basis. As of the last day of each month during the existence of this contract, the Subgrantee shall prepare an invoice for payment documenting work completed and costs incurred during the invoice period. This invoice shall be submitted to ARC along with the monthly report by the 10th of the following month. Any work for which reimbursement is requested may be disallowed at ARC’s discretion if not properly documented, as determined by ARC, in the required monthly narrative progress report.

Upon the basis of its audit and review of such invoice and its review and approval of the monthly reports called for in the paragraph concerning “Reports” in the main body of the contract, ARC will, at the request of the Subgrantee, make payments to the Subgrantee as the work progresses but not more often than once a month. Invoices shall reflect 100% of the allowable actual costs incurred, be numbered consecutively and submitted each month until the project is completed. Reimbursement payments from ARC shall be at 80% of the approved invoiced costs.

Subgrantee’s monthly invoices and monthly narrative progress reports are to be submitted to the ARC Director or his authorized agent and must be received by him not later than the 10th day of the following month. ARC may, at its discretion, disallow payment of all or part of an invoice received after this deadline.

B. Final Payment: Final payment shall only be made upon determination by ARC that all requirements hereunder have been completed. Upon such determination and upon submittal of a final invoice, ARC shall pay all compensation due to the Subgrantee, less the total of all previous progress payments made.

Subgrantee’s final invoice and summary document must be received by ARC no later than ten days after the project completion date specified in Paragraph 3 of the contract. ARC may, at its discretion, disallow payment of all or part of a final invoice received after this deadline.

III. Completion of Project: It is agreed that in no event will the maximum compensation and reimbursement, if any, to be paid to the Subgrantee under this contract exceed \$250,000 and that the Subgrantee expressly agrees that he shall do, perform and carry out in a satisfactory and proper manner, as determined by ARC, all of the work and services described in Attachment A.

IV. Access to Records: The Subgrantee agrees that ARC, the Concerned Funding Agency or Agencies and, if appropriate, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the Subgrantee which are directly pertinent to the project for the purpose of making audit, examination, excerpts and transcriptions.

The Subgrantee agrees that failure to carry out the requirements set forth above shall constitute a breach of contract and may result in termination of this agreement by ARC or such remedy as ARC deems appropriate.

V. ARC's Designated Agent. In accordance with Paragraph 5 of the main body of this contract, ARC's Director hereby designates ARC's Chief Operating Officer, as her authorized agent for purposes of this contract only, except for executing amendments hereto.

EXHIBIT B-1

Budget Estimate

Task 1: Project Management	\$18,566
Task 2: Engagement	\$51,796
Task 3: Best Practices Review	\$34,592
Task 4: Inventory and Assessment	\$64,006
Task 5: Traffic Study	\$28,393
Task 6: Recommendations	\$77,926
Task 7: Documentation	<u>\$37,221</u>
Total Cost	\$312,500
ARC Share (80%)	\$250,000
Local Share (20%)	\$62,500

* Note: The estimates listed above are preliminary and actual costs by task may vary so long as the total contract value does not increase. Any change to the budget estimates shown above must be requested in writing and approved by ARC's Chief Operating Officer.