



CITY OF STONECREST, GEORGIA

CITY COUNCIL SPECIAL CALLED MEETING – AGENDA

3120 Stonecrest Blvd. Stonecrest, GA 30038

Tuesday, February 22, 2022 at 6:00 PM

Council Member Tara Graves – District 1 Council Member Rob Turner – District 2

Council Member Jazzmin Cobble – District 3 Mayor Pro Tem George Turner – District 4

Council Member Tammy Grimes – District 5

Citizen Access: [Stonecrest YouTube Live Channel](#)

I. CALL TO ORDER: George Turner, Mayor Pro-Tem

II. ROLL CALL: Sonya Isom, City Clerk

III. AGENDA ITEMS

a. For Decision - Agile Fleet Management Contract Approval - *Gia Scruggs*

b. For Decision - Talantage Contingency Agreement and Extension of General Staffing Agreement Approval - *Gia Scruggs*

c. For Decision - Heating Ventilation and Air Conditioning Replacement Approval - *Gia Scruggs*

d. For Decision - Mauldin & Jenkins Change Order Approval - *Gia Scruggs*

e. For Information - 2021 DeKalb County Election Invoices - *Gia Scruggs*

IV. EXECUTIVE SESSION

(When an executive session is required, one will be called for the following issues: 1) Personnel, 2) Litigation, 3) Real Estate)

V. ADJOURNMENT

Americans with Disabilities Act

The City of Stonecrest does not discriminate on the basis of disability in its programs, services, activities and employment practices.

If you need auxiliary aids and services for effective communication (such as a sign language interpreter, an assistive listening device or print material in digital format) or reasonable modification to programs, services or activities contact the ADA Coordinator, Sonya Isom, as soon as possible, preferably 2 days before the activity or event.



CITY COUNCIL AGENDA ITEM

SUBJECT: Agile Fleet Contract Approval

AGENDA SECTION: *(check all that apply)*

☐ PRESENTATION ☐ PUBLIC HEARING ☐ CONSENT AGENDA ☐ OLD BUSINESS
☒ NEW BUSINESS ☐ OTHER, PLEASE STATE: Click or tap here to enter text.

CATEGORY: *(check all that apply)*

☐ ORDINANCE ☐ RESOLUTION ☒ CONTRACT ☐ POLICY ☐ STATUS REPORT
☐ OTHER, PLEASE STATE: Click or tap here to enter text.

ACTION REQUESTED: ☒ DECISION ☐ DISCUSSION, ☐ REVIEW, or ☐ UPDATE ONLY

Previously Heard Date(s): Click or tap to enter a date. & Click or tap to enter a date.

Current Work Session: Click or tap to enter a date.

Current Council Meeting: Tuesday, February 22, 2022

SUBMITTED BY: Gia Scruggs, Finance Director

PRESENTER: Gia Scruggs

PURPOSE: The City of Stonecrest is currently under a short-term rental with Budget Rental for City vehicles. The City is still awaiting delivery of 15 vehicles from Acme Leasing that will serve as the City's solution for fleet vehicles. In preparation for the vehicles, fleet management software was reviewed by City staff.

FACTS: Agile Fleet is a part of the Sourcewell cooperative buying contract. This allows agencies, like the City of Stonecrest, to purchase FleetCommander Technologies without the need to solicit competitive bids. Sourcewell has already conducted an exhaustive open and competitive bidding process that eliminates the need for additional solicitations. The City of Stonecrest's Purchasing Policy has language under Cooperative Purchasing that allows for this type of use. Prior to making any purchase, the Purchasing Agent shall obtain approval from all necessary parties pursuant to the applicable purchasing thresholds. The initial annual contract is \$29,425. This software and hardware combination will allow for a more robust, streamlined fleet management system with reporting capabilities. The system will allow authorized drivers to reserve vehicles for use, obtain key and gas card from a secured kiosk located within City Hall. The system is



CITY COUNCIL AGENDA ITEM

designed to allow for greater flexibility and control over the use of vehicles. It also assists with vehicle usage and maintenance schedule. The Telematics system is designed to keep track of mileage and fuel. This amount includes the software, professional services (project management), key control hardware and Telematics – GPS. The Year 2 and Year 3 costs reflected on the Investment Summary are considerably less. The Funding for this contract will come from General General Operations.

OPTIONS: Approve, Deny, Defer [Click or tap here to enter text.](#)

RECOMMENDED ACTION: Approve [Click or tap here to enter text.](#)

ATTACHMENTS:

- (1) Attachment 1 - AgileFleet FleetCommander Investment Summary
- (2) Attachment 2 - Software License and Maintenance Agreement
- (3) Attachment 3 - [Click or tap here to enter text.](#)
- (4) Attachment 4 - [Click or tap here to enter text.](#)
- (5) Attachment 5 - [Click or tap here to enter text.](#)



FleetCommander Investment Summary

January 24, 2021

Prepared for



Prepared By

Ron Katz
Sr. Director of National Accounts
(781) 253-2239
rkatz@agilefleet.com

FleetCommander Investment Summary Based upon the Sourcewell Cooperative Purchasing Agreement

This investment summary defines the software, hardware, and professional services necessary for the comprehensive implementation of Agile Fleet's web-based vehicle sharing solution prepared for the City of Stonecrest.

This Investment Summary reflects the annual costs for the Software as a Service (SaaS) delivery of FleetCommander as well as all necessary professional services to include secure application hosting services, project management, data conversion and implementation services, remote training and annual maintenance and support fees. For ease of budgeting, costs for subsequent years are also included below.

FleetCommander Licensing / Professional Services		Cost
FleetCommander Annual Software as a Service Offering		
FleetCommander Licensing for up to 15 total assets to meet the City of Stonecrest's vehicle sharing requirements with <u>unlimited</u> user access		
Modules include: Vehicle Management, Driver/User Management, Maintenance, Motor Pool, Key Control, Kioware, Reports and secure application hosting services.		\$ 10,920
Subtotal Software		\$ 10,920
Professional Services		
Project Management		\$ 585
Data Conversion, Configuration and Implementation Services		\$ 780
Remote System Administrator Training (Up to 6 System Administrators)		\$ 780
Subtotal Services		\$ 2,145
Key Control Solution		
Single 16 Unit Key Box (Includes First Year Maintenance & Support)		\$ 7,495
Single Indoor Kiosk (Includes First Year Maintenance & Support)		\$ 3,105
Shipping for Above		\$ 210
Key Control Hardware		\$10,810
Telematics – GPS		
15 - FleetCommander GPS Units – Plugs into OBDII Port - \$190.60 Each		\$ 2,859
15 – GPS 'Data Only' Monitoring Fee - \$14.95/Month/Each		\$ 2,691
Telematics - GPS		\$ 5,550
Total for Software, Implementation, Key Control and GPS		\$29,425
Day Rate for Professional Services and Custom Reports (\$195/hour)		\$1,560/Day
Above Pricing Remains in Effect Through January 31, 2022		

Annual SaaS Fees, Support & Maintenance	FleetCommander Software	Key Control Hardware	GPS Monitoring Fee
Year 1	Included	Included	Included
Year 2	\$6,625	\$1,655	\$2,691
Year 3	\$6,845	\$1,705	\$2,691



Notes:

- The above FleetCommander costs are based upon 15 “active” vehicles. Agile Fleet’s SaaS pricing **in no way limits the number of users that can access the system at any given time.**
- Agile Fleet’s annual SaaS licensing, application hosting, software and hardware support and maintenance contract providing unlimited technical support, version upgrades and new releases takes effect upon the expiration of the initial first year complimentary support contract. Technical support for the City of Stonecrest is 100% U.S. based.
- Agile Fleet has included in the above pricing one complimentary registration to our annual user group conference valued at \$495.
- Included in the above pricing is the migration of the City of Stonecrest’s current standing vehicle, organizational and user data utilizing Agile’s preconfigured data loader. We presume that City supplied data has all relevant fields and necessary coding structure for proper migration to FleetCommander. Additional data manipulation will incur additional cost.
- The "FleetCommander GPS Annual Monitoring Fee" begins 10 days after the arrival of the GPS units or upon their installation, whichever occurs first. The GPS devices are self-installable by plugging the devices directly into the vehicles OBDII port.
- The GPS ‘Data Only’ monitoring includes automated updates of vehicle activity, including odometer updates, stop time, idle time, drive time, and performance and fuel usage details for supported vehicles.
- Agile Fleet’s implementation, data conversion, and remote training service pricing is based upon the scope of work discussed with the City of Stonecrest thus far. If the City requires material changes to this scope of work, a mutually agreed upon change order will be executed. This change order will include a revised scope of work, days required, impact to the schedule and the cost to perform. Change orders will be priced at Agile Fleet’s current Professional Services rates.
- Travel and related expenses are excluded from the fixed rate services outlined above. Pre-approved travel and related expenses will be billed at cost as incurred.

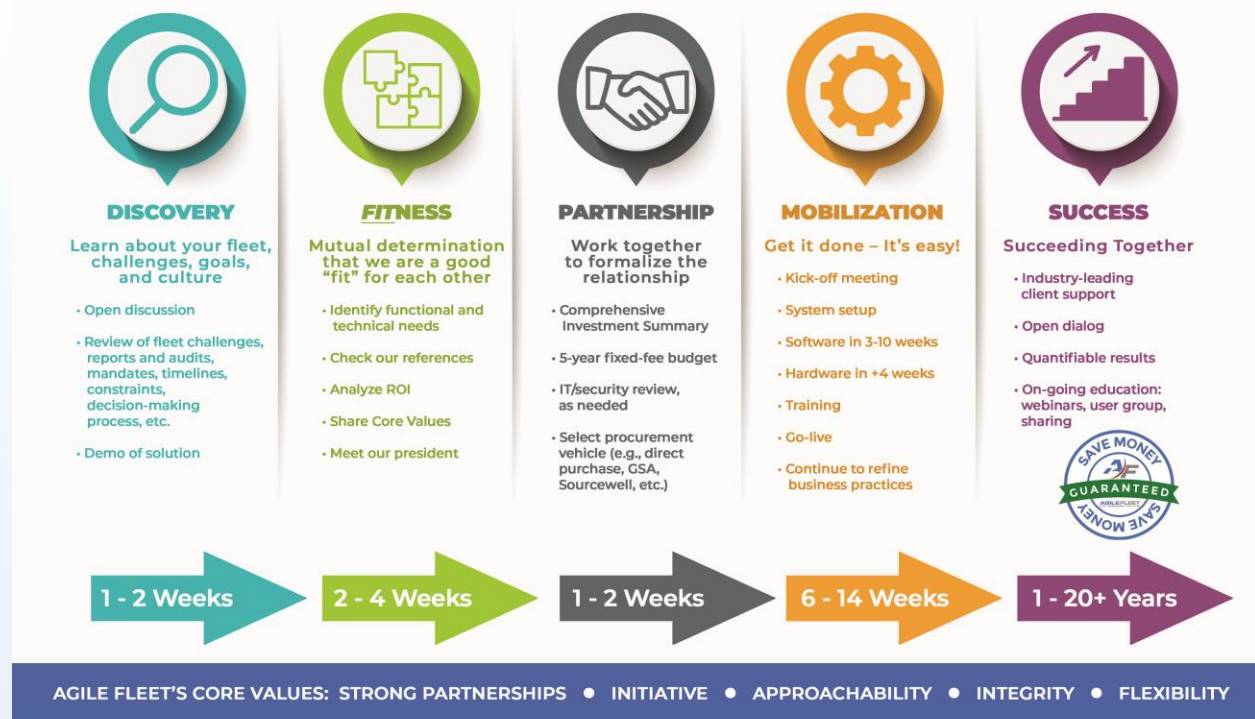
Our Core Values & The Agile Fleet Way

In early 2020, the management team of Agile Fleet developed a set of core values for the company. These core values are a timeless set of guiding principles that define the behaviors we expect from each other, our partners, and our clients and they define our culture and guide our business decisions. They define what makes Agile Fleet different and unique.

For more than 20 years, we have seen our clients succeed. The Agile Fleet Way™ is our proven process for working together to achieve cost savings and efficiency in your fleet operations. When a client takes part in this proven process, we know they will achieve their goals of efficiency and cost savings goals – in fact, we guarantee it!



THE AGILE FLEET WAY™



SOFTWARE LICENSE AND MAINTENANCE AGREEMENT

This Software License and Maintenance Agreement (“Agreement”) is made and entered into as of _____, 2022 (“Reference Date”), by and between **Agile Fleet, Inc.** 14101 Willard Rd., Ste. A, Chantilly, VA 20151 (“Vendor”), and **The City of Stonecrest** 3120 Stonecrest Boulevard, Stonecrest, GA 30038 (“Client”).

In consideration of valuable consideration and the mutual promises herein contained, the parties agree as follows:

1. Definitions.

The following terms, when used in this Agreement, shall have the following meanings:

- 1.1. “Confidential Information” means non-public information disclosed by a party to this Agreement to the other party. Confidential Information shall be limited to the Software and Documentation, related data supplied for proper installation and all other non-public information clearly identified by the disclosing party as confidential. All Confidential Information that is orally disclosed by a party shall be reduced in writing to the receiving party within ten days of disclosure or else disclosed information shall not be deemed to be Confidential Information.
- 1.2. “Licensed Software” or “Software” means the source, object, or executable code version of the computer programs, improvements, modifications, extensions, enhancements, and Updates for the modules that are provided by Vendor to Client, as listed in Exhibit A (Licensed Software Listing).
- 1.3. “Documentation” means Vendor’s training course materials, system specifications, hardware requirements, technical manuals, and all other user instructions regarding the capabilities, operation, installation and use of the Licensed Software, including all online help files and other user instructions. “Documentation” does not include source code.

2. Software License.

- 2.1. *License Grant.* Subject to the terms and conditions of this Agreement, Vendor grants to Client a world-wide, software as a service, enterprise, non-transferable (except as provided herein) license to use the Licensed Software by all users authorized by Client, including without limitation, employees, agents (such as outsourcers, consultants and independent contractors), and all other affiliated entities. For purposes of this Section, the term “Client” shall include Client and its affiliates, and their respective employees and authorized contractors and agents.
- 2.2. *License Software Use Restrictions.* Except as permitted in this Agreement, Client’s use of the Licensed Software shall be subject to the following restrictions:
 - 2.2.1. The Licensed Software shall be used solely for Client’s business purposes;
 - 2.2.2. Client shall not cause the Licensed Software in any way to be disassembled, decompiled or reverse engineered nor shall any attempt to do so be undertaken or permitted;
 - 2.2.3. Client shall not make the Licensed Software available for access or use by any person or entity other than Client’s employees and authorized contractors and agents. Notwithstanding the foregoing, Client may serve as a service bureau for its affiliates provided such affiliates are listed and identified in Exhibit A;
 - 2.2.4. Client shall adhere to the license limits for each module of the Licensed Software.

2.2.5. Client shall not copy, translate, port, modify, or make derivative works of the Licensed Software, unless otherwise allowed by this Agreement.

2.3. *Ownership.* This Agreement does not grant to Client any ownership interest in the Licensed Software. Rather, Client is granted a license to use the Licensed Software as provided in this Agreement. Client hereby agrees and acknowledges that Vendor owns all right, title, and interest in the Licensed Software. Any copy, modification, revision, enhancement, adaptation, translation, or derivative work of or created from the Licensed Software made by or at the direction of Client shall be owned solely and exclusively by Vendor, as shall all patent rights, copyrights, trade secret rights, trademark rights, and all other proprietary rights, worldwide (all of the foregoing rights taken together being referred to collectively herein as “Intellectual Property Rights”) therein and thereto.

2.4. *Copyright.* The Licensed Software contains material that is protected by United States copyright law and trade secret law, and by international treaty provisions. All rights not granted to Client by this Agreement are expressly reserved by Vendor. Client shall not remove any proprietary notice of Vendor from any copy of the Licensed Software.

2.5. *Vendor Hosted.* Vendor provides all computers, software, licenses, and support in the Vendor-hosted environment.

2.6. *Delivery.* Client will be deemed to have accepted the Licensed Software on date site creation is completed.

3. Maintenance.

3.1. *General Obligations.* Subject to Client’s payment of the annual technical support and software maintenance fees set forth in Exhibit A, Vendor will provide Client access to all releases, updates, patches, service packs, improvements, and new versions of Licensed Software (“Updates”). For clarity, Client is entitled to all Updates to the right and the left of the decimal point in Vendor numbering scheme of Licensed Software. Vendor will provide Client (via a Client-dedicated, single point of contact) with unlimited telephone and email support regarding use and operation of the Licensed Software. Vendor from time to time will require access to Client's database. Client agrees to provide access as required to support software upgrades, technical support, and license compliance checks. Access is provided via secure methods. No data mining is performed. No data is disclosed outside of Agile Fleet, Inc.

3.2. *Supported Releases.* Vendor agrees to provide support for the current and one prior release of the Licensed Software under this Agreement.

3.3. In the event Vendor removes a material function ("Function") found in any Licensed Software by Vendor to Client hereunder ("Initial Product") from a subsequent version or release of such Licensed Software, whether such removal occurs via Services purchased by Client for the Initial Product or otherwise, and that Function appears in another product (“Additional Product”) Vendor makes commercially available, then Client, at Client’s sole discretion and without forfeiting rights to Initial Product, shall be entitled to receive an equal quantity of licenses for the Additional Product as Client had rights in the Initial Product at no additional license or Maintenance charge provided that Client is current on Services at the time Vendor removes the Function from the Initial Product.

3.4. *SaaS Fees.* Technical support and software maintenance will be provided under the SaaS license purchase by the Client. Vendor may increase SaaS fees annually no greater than five (5%) percent for the first and all subsequent SaaS renewals. If the license size increases and/or

additional modules are purchased, then the price for SaaS may increase accordingly. Custom development outside of a standard implementation could require additional professional service hours and could affect the annual costs for the SaaS license.

- 3.5. *Standard Technical Support Hours of Operation.* Vendor will provide e-mail and telephone support. Support is offered Monday through Friday 7:30 a.m. to 7:00 p.m. Eastern Standard Time, exclusive of federal holidays, with an eight (8) hour response time. All support requests to Vendor personnel will be directed through one Client contact. After hours' technical support may be billed at Vendor's professional services hourly rate. After hours' technical support requests will be considered by Vendor on a case-by-case basis and approved in writing by Client prior to scheduling.
- 3.6. *Professional Service Rate.* Vendor will bill Client for professional services at the hourly rate of \$225.00. Professional service fees include but are not limited to assistance in developing custom transition plans for migration from legacy processes to new processes, review and analysis of FleetCommander operations, metrics and reports, developer assistance with data import/manipulation, additional training, on-site maintenance or other tasks as agreed. Vendor will provide Client with a written Change Request ("CR"), specifying the scope of work to be provided and estimated number of professional service hours for completion. CR's must be approved by Client prior to scheduling. Custom development outside of a standard implementation could require additional professional service hours and could affect the annual costs for SaaS license.
- 3.7. *Internet-based Administrator Training.* Using web-conferencing tools, Vendor will instruct up to 10 Client representatives on the operation of the FleetCommander application. Client will be responsible for training additional employees. On-site training incurs an additional cost as well as reasonable and actual travel and living expenses. Estimates for these costs will be submitted to Client before traveling and approved prior to scheduling.
- 3.8. *Case Study Participation.* Provide input to a case study reflecting Licensed Software's use in Client's environment. This is not an endorsement, but rather factual input based on actual Licensed Software use. Case studies are used to assist Vendor's prospects in understanding how Licensed Software is used to manage other fleets. Information to be provided and potentially published by Vendor includes: Client name, fleet characteristics, strengths and weaknesses of Licensed Software with respect to managing Client's fleet, and "My Biggest FleetCommander Success" story.
- 3.9. *Return Material Authorization.* Notification and Return Material Authorization. Proper notification will be deemed to have occurred only after (i) Client has in good faith worked with technical support team by telephone at (571) 253-2239 ext. 2 or email fcsupport@agilefleet.com to evaluate, troubleshoot and test any Hardware that appears to have a Defect; (ii) if the technical support team determines that the Hardware appears to have a warranted Defect that cannot be repaired through telephone support or over the air programming. Technical support will authorize and assign a Return Material Authorization Number ("RMA") for the Hardware.
- 3.10. *Warranty and Repair Process.* Client, at its own cost, shall uninstall the Hardware and the facility and return it, securely packaged, to a designated facility for repair with the assigned RMA clearly visible on each shipping form and carton. Inbound shipping will be paid by Client and outbound standard ground shipping for warranty service will be borne by Vendor, with Client bearing all risk of loss during inbound transit. Any other shipping requested by Client will be at Client's sole cost. Client consents to Licensed Technology

updates or upgrades being installed with respect to any Hardware. Hardware returned for repair under warranty that is determined to not be covered by warranty will be charged to Client at a flat diagnostic/repair rate (10% markup to actual costs). Repair services for Hardware that is outside its warranty period may not be available and replacement may be required. If non-warranty repairs are requested and are available, the diagnostic/repair costs will be set forth in the RMA and Client's delivery of the Hardware by Client support constitutes agreement to these charges. Client shall be responsible for the Installation and the payment of any Taxes, shipping or other charges or fees associated with each repaired or replaced Hardware unit. On-site troubleshooting services are not covered under warranty and are available to Client only upon request and will be subject to a separate agreement.

- 4. Term.** This Agreement shall be effective as of the Reference Date and shall automatically renew annually unless positive action is taken by the Client to terminate by providing written notice of non-renewal to Vendor thirty (30) days prior to termination or unless terminated earlier in accordance with this Agreement.

- 4.1. *Termination.* Client or Vendor may terminate this Agreement for a material breach of this Agreement by either party as long as thirty (30) days written notice specifying the events or circumstances giving rise to the notice. The termination shall not become effective unless, after the lapse of forty-five (45) day remedy period, Client or Vendor has failed to remedy the events or circumstances specified in the notice or propose a reasonable plan for remedying them.
- 4.2. *Effect of Termination.* Immediately upon termination of this Agreement, Client shall return or destroy all Software and Documentation and all copies thereof in any form, whether partial or complete, and whether or not modified by Client.
- 4.3. *Survival of Obligations.* The following obligations shall survive termination of this Agreement. (i) all obligations regarding use or disclosure of Confidential Information; (ii) all obligations to indemnify or protect proprietary information; and (iii) all obligations to make payments of amounts or fees owed or accrued prior to termination. Specifically, the parties' rights and obligations under Sections 2.2, 2.3, 4, 9, 12 shall survive termination of this Agreement.
- 4.4. The contract shall terminate absolutely and without further obligation on the part of the Client at the close of the calendar year in which it was executed and at the close of each succeeding calendar.

5. Termination For Convenience.

The Client may at any time by written notice terminate all or any part of this Contract for the Client's convenience. If this Contract is terminated, in whole or in part, for the Client's convenience, the Vendor shall be paid an amount, to be mutually agreed upon, which shall be adequate to cover the actual and reasonable cost paid by the Vendor for the actual goods and labor reasonably used by the Vendor to perform the work under this Contract to the effective date of termination, plus a reasonable profit thereon; provided that no amount shall be paid to the Vendor for (i) any anticipatory profits related to work under this Contract not yet performed, or (ii) costs incurred due to the Vendor's failure to terminate work as ordered on the effective date of termination. In no event shall the total amount paid under the provisions of this paragraph exceed the prices set forth in this Contract for the work terminated.

6. Fees and Payment.

- 6.1. *License and Maintenance Fees.* Client shall pay the license, maintenance, and other fees set forth in Exhibit A.

- 6.2. *Taxes.* As the Client is a local government entity and thus exempt from sales taxation, notwithstanding the terms of the proposal, Vendor acknowledges that the Client shall not be responsible for payment of any sales taxes on any invoices submitted for the services provided under this Agreement. Exempt Clients are required to provide Vendor with a tax exemption certificate prior to use of the software on annual basis.
- 6.3. *Payment.* Unless provided otherwise herein, Client agrees to pay all amounts due under this Agreement within thirty (30) days upon receipt of invoice.
- 6.4. *Late Penalty.* Failure to provide payment by the first day of the billed period will result in ongoing monthly late payment fees of 1.5% of the total outstanding invoice. Vendor also reserves the right to discontinue services due to non-payment.
- 6.5. *Additional Software and Hardware.* Client will be invoiced for any additional software and/or hardware and shipping costs. Vendor shall reserve the right to require Client's payment in advance, in full or part, prior to ordering for additional software and hardware costs not covered in Exhibit A.

7. Limited Warranty.

- 7.1. *Licensed Software.* Vendor warrants that the Licensed Software shall perform substantially in accordance with the requirements of this Agreement and, solely to the extent not inconsistent with the documentation for the term of Agreement. Vendor shall not be responsible for any errors or nonconformities in the Licensed Software resulting from Client's failure to use the Licensed Software in conformance with this Agreement or modification of the Licensed Software by Client.
- 7.2. *Hardware.* Vendor warrants that the Hardware shall perform substantially in accordance with the requirements of this Agreement and, solely to the extent not inconsistent with the documentation for the term of Agreement. Vendor shall not be responsible for any errors or nonconformities in the Hardware resulting from Client's failure to use the Hardware in conformance with this Agreement or modification of the Hardware by Client.
- 7.3. *Services.* Vendor warrants that all services provided by Vendor to Client under this Agreement shall be performed in a workmanlike manner and in accordance with industry best practices and standards.
- 7.4. *Viruses and Disabling Mechanisms.* Vendor shall use commercially reasonable measures to screen the Licensed Software to avoid introducing any virus or other destructive programming that are designed (i) to permit unauthorized access or use by third parties to the software installed on Client's systems, or (ii) to disable or damage Client's systems. Vendor shall not insert into the Licensed Software any code or other device that would have the effect of disabling or otherwise shutting down all or any portion of the Licensed Software, except as such capabilities are included in the off-the-shelf Licensed Software in the form of a payment key or product key. In the event a payment key is included in the Licensed Software in a Client-hosted environment, the payment key shall be set to expire no less than one hundred years from the date of this agreement. Vendor shall not invoke any new code or other device at any time or modify the payment key, including upon expiration or termination of this Agreement for any reason. Client shall not modify or disable the payment key or product key at any time.
- 7.5. *Infringement.* To the best of Vendor's knowledge, Client's permitted use of the Licensed Software will not infringe the intellectual property rights of any third party.

- 7.6. *No Litigation.* Vendor further warrants there is no pending or threatened litigation that would have a material adverse impact on its performance under this Agreement.
- 7.7. *Authority.* Vendor has the full power, capacity and authority to enter into and perform this Agreement and to make the grant of rights contained herein.
- 7.8. *Compliance with Applicable Law.* Vendor warrants that the services provided under this Agreement and Client's permitted use of the Licensed Software shall comply with applicable federal, state, and local laws and regulations.
- 8. Disclaimer of Warranties.** EXCEPT AS PROVIDED IN SECTION 7, VENDOR EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS AND IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. VENDOR DOES NOT WARRANT THAT THE PRODUCTS WILL MEET CLIENT'S REQUIREMENTS, THAT THE LICENSED SOFTWARE IS COMPATIBLE WITH ANY PARTICULAR HARDWARE OR SOFTWARE PLATFORM, OR THAT THE OPERATION OF THE LICENSED SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE LICENSED SOFTWARE WILL BE CORRECTED. THE ENTIRE RISK AS TO THE RESULTS AND PERFORMANCE OF THE LICENSED SOFTWARE IS ASSUMED BY CLIENT. FURTHERMORE, EXCEPT AS PROVIDED IN SECTION 7, VENDOR DOES NOT WARRANT OR MAKE ANY REPRESENTATION REGARDING THE USE OR THE RESULTS OF THE USE OF THE LICENSED SOFTWARE OR RELATED DOCUMENTATION IN TERMS OF THEIR CORRECTNESS, ACCURACY, QUALITY, RELIABILITY, APPROPRIATENESS FOR A PARTICULAR TASK OR APPLICATION, CURRENTNESS, OR OTHERWISE. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY VENDOR OR VENDOR'S AUTHORIZED REPRESENTATIVES SHALL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF WARRANTIES PROVIDED IN THIS AGREEMENT.
- 9. Limitation of Liability.** IN NO EVENT SHALL VENDOR BE LIABLE TO CLIENT OR ANY THIRD PARTY FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, INDIRECT, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES FOR LOSS OF BUSINESS, LOSS OF PROFITS, BUSINESS INTERRUPTION, LOSS OF DATA, OR LOSS OF BUSINESS INFORMATION) ARISING OUT OF OR CONNECTED IN ANY WAY WITH USE OF OR INABILITY TO USE THE LICENSED SOFTWARE, OR FOR ANY CLAIM BY ANY OTHER PARTY, EVEN IF VENDOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. VENDOR'S TOTAL LIABILITY TO CLIENT FOR ALL DAMAGES, LOSSES, AND CAUSES OF ACTION (WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE) SHALL NOT EXCEED ONE (1) TIMES THE PURCHASE PRICE. THE LIMITATIONS PROVIDED IN THIS SECTION SHALL APPLY EVEN IF ANY OTHER REMEDIES FAIL OF THEIR ESSENTIAL PURPOSE.
- 10. Indemnification.** Vendor, at its own expense (including payment of attorney's fees, expert fees and court costs) shall defend and hold harmless Client and its directors, officers, agents, employees, affiliates and successors in interest against any loss, cost, damage, liability, or expense from any and all third party claims that the License Software infringes any patent, copyright, trade secret, or other proprietary right of a third party and shall indemnify and hold harmless Client and its directors, officers, agents, employees, subsidiaries and successors in interest from any amounts assessed against them in a resulting judgment or amounts to settle such claims, provided that Client (a) gives Vendor prompt written notice of any such claim, (b) permits Vendor to control and direct the defense or settlement of any such claim, and (c) provides Vendor all reasonable assistance (at the expense

of Vendor) in connection with the defense or settlement of any such claim. If the Licensed Software is, or is likely to be, the subject of an infringement claim, Vendor, at its expense, shall: (i) procure the right to allow Client to continue to use the Licensed Software; or (ii) modify or replace the Licensed Software or infringing portions thereof to become non-infringing, without loss of material functionality. If Vendor is unable to provide one of the remedies in (i) nor (ii) within forty-five (45) days of notice of the claim (unless such period is extended by Client), Vendor shall have the right to terminate this Agreement and refund all fees paid hereunder for the Licensed Software, pro-rated on a straight-line basis over a five-year term. Notwithstanding the foregoing, Vendor shall have no obligations under this Section solely to the extent any infringement claim is based upon or arising out of (i) any modification or alteration to the Licensed Software not approved by Vendor, (ii) any combination or use of the Licensed Software with products or services not supplied by Vendor or approved in writing by Vendor in advance of such combination, or (iii) use of the Licensed Software not in accordance with the applicable Documentation or outside the scope of the license granted under this Agreement.

- 11. Independent Contractor.** Vendor acknowledges that it is at all times acting as an independent contractor under this Agreement and except as specifically provided herein, not as an agent, employee, joint venture, or partner of Client.
- 12. Notices.** Any notices required or permitted to be given hereunder by either party to the other shall be in writing and shall be deemed duly given or made if delivered: (1) by United States first class registered or certified mail, postage prepaid, return receipt requested; or (2) by bonded courier or by a nationally recognized overnight delivery company; or , in each case, addressed to the parties as follows (or to such other addresses as the parties may request in writing by notice given pursuant to this Section):

If to Vendor:

Edwin Smith

President

Agile Fleet, Inc.

14101 Willard Road

Chantilly, VA 20151

If to Client:

City Manager

City of Stonecrest

3120 Stonecrest Blvd.

Stonecrest, Georgia 30038

- 13. Confidentiality.** Both parties shall treat all information provided by the other party in the strictest confidence and shall not reveal such information to anyone other than parties' own employees and contractors.

- 14. GOVERNING LAW; EXCLUSIVE JURISDICTION; EXCLUSIVE VENUE:** This Agreement is entered into in Virginia and shall be governed by and construed in accordance with the substantive law (and not the law of conflicts) of the Commonwealth of Virginia. Courts of competent authority located in Fairfax County, Virginia shall have sole and exclusive jurisdiction of any action arising out of or in connection with the Agreement, and such courts shall be the sole and exclusive venue for any such action.
- 15. Force Majeure.** Vendor shall not be responsible for failures of its obligations under this Agreement to the extent that such failure is due to causes beyond Vendor's control including, but not limited to, acts of God, war, acts of any government or agency thereof, fire, explosions, epidemics, and quarantine restrictions (each, a "Force Majeure Event"). Should Vendor declare a Force Majeure Event, Client shall be relieved of all payment obligations during the time Vendor has declared such Force Majeure Event, and Vendor shall refund to Client within 90 days of resumption to normal business practices, a prorated amount of any prepaid recurring fees paid by Client for the period of the Force Majeure Event.
- 16. Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes all other prior and contemporary agreements, understandings, end-user license agreements, click-through agreements, and commitments between the parties regarding the subject matter of this Agreement. Click-through license agreements will be deemed void, even if affirmative acceptance of an agreement was clicked in the course of using the software. This Agreement may not be modified or amended except by a written instrument executed by the parties. In particular, any provisions, terms, or conditions contained in Client's Purchase Orders or other similar forms that are in any way inconsistent with or in addition to the terms and conditions of this Agreement shall not be binding upon Vendor.
- 17. Severability.** If any provision of this Agreement is found to be invalid or unenforceable by any court, such provision shall be ineffective only to the extent that it is in contravention of applicable laws without invalidating the remaining provisions of the Agreement.
- 18. Assignment.** Neither this Agreement nor any interest in this Agreement may be assigned by Client without the prior express written approval of Vendor. Vendor may assign, pledge, mortgage, sell to a third party, or otherwise dispose of all or any portion of this Agreement, provided that such action shall not relieve Vendor of its obligations to Client under this Agreement or reduce Client's rights hereunder.
- 19. Waiver.** All waivers under this Agreement shall be in writing to be effective. No failure or delay by a party to exercise any right it may have by reason of the default of the other party shall operate as a waiver of default or as a modification of this Agreement or shall prevent the exercise of any right of the non-defaulting party under this Agreement.
- 20. Headings.** Headings used in this Agreement are provided for convenience only and shall not be used to construe meaning or intent.
- 21. Agreement Drafted by Both Parties.** This Agreement is the result of arm's length negotiations between the parties and shall be construed to have been drafted by all parties such that any ambiguities in this Agreement shall not be construed against either party.
- 22. Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and will become effective and binding upon the parties as of the Reference Date at such time as all the signatories hereto have signed a counterpart of this Agreement.

23. IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first above written.

Accepted by:

Client:

The City of Stonecrest

By:

Name:

Title:

Date:

Vendor:

Agile Fleet, Inc.

By:

Name: Edwin Smith

Title: President

Date:

EXHIBIT A
Licensing & Fees

FleetCommander Licensing / Professional Services	Cost
FleetCommander Annual Software as a Service Offering	
FleetCommander Licensing for up to 12 total assets to meet the City of Stonecrest's vehicle sharing requirements with <u>unlimited</u> user access	
Modules include: Vehicle Management, Driver/User Management, Maintenance, Motor Pool, Key Control, Kioware, Reports and secure application hosting services.	\$ 9,959
Subtotal Software	\$ 9,959
Professional Services	
Project Management	\$ 585
Data Conversion, Configuration and Implementation Services	\$ 780
Remote System Administrator Training (Up to 6 System Administrators)	\$ 780
Subtotal Services	\$ 2,145
Key Control Solution	
Single 16 Unit Key Box (Includes First Year Maintenance & Support)	\$ 7,495
Single Indoor Kiosk (Includes First Year Maintenance & Support)	\$ 3,105
Shipping for Above	\$ 210
Key Control Hardware	\$10,810
Telematics – GPS	
12 - FleetCommander GPS Units – Plugs into OBDII Port - \$190.60 Each	\$ 2,288
12 – GPS 'Data Only' Monitoring Fee - \$14.95/Month/Each	\$ 2,153
Telematics - GPS	\$ 4,441
Total for Software, Implementation, Key Control and GPS	\$27,355
Day Rate for Professional Services and Custom Reports (\$195/hour)	\$1,560/Day

Annual SaaS Fees, Support & Maintenance	FleetCommander Software	Key Control Hardware	GPS Monitoring Fee
Year 1	Included	Included	Included
Year 2	\$6,260	\$1,655	\$2,153
Year 3	\$6,465	\$1,705	\$2,153



CITY COUNCIL AGENDA ITEM

SUBJECT: Talantage Contingency Agreement Approval

AGENDA SECTION: *(check all that apply)*

- ☐ PRESENTATION ☐ PUBLIC HEARING ☐ CONSENT AGENDA ☐ OLD BUSINESS
☒ NEW BUSINESS ☐ OTHER, PLEASE STATE: Click or tap here to enter text.

CATEGORY: *(check all that apply)*

- ☐ ORDINANCE ☐ RESOLUTION ☒ CONTRACT ☐ POLICY ☐ STATUS REPORT
☐ OTHER, PLEASE STATE: Click or tap here to enter text.

ACTION REQUESTED: ☒ DECISION ☐ DISCUSSION, ☐ REVIEW, or ☐ UPDATE ONLY

Previously Heard Date(s): Click or tap to enter a date. & Click or tap to enter a date.

Current Work Session: Click or tap to enter a date.

Current Council Meeting: Tuesday, February 22, 2022

SUBMITTED BY: Gia Scruggs, Finance Director

PRESENTER: Gia Scruggs

PURPOSE: The City of Stonecrest is still in the transition phase of hiring for vacant positions as a result of the ending of the Jacobs contract agreement in December of last year. In an attempt to assist the City with additional recruitment efforts and to ensure quality candidates for the City to screen, interview and possibly hire, the Finance Director is presenting a Contingency agreement offered by Talantage to assist with these efforts.

FACTS: Talantage has previously assisted the City of Stonecrest with the hiring of the Human Resources Consultant and administrative support last fall. While that agreement has ended, the City still has vacancies to fill. In addition to the general staffing agreement, this agreement would allow the City to interview and possibly direct hire candidates through Talantage. At this time, the City would like to amend the original contract to allow for additional administrative support and to fund the Human Resource Consultant portion that extended past the original funding request in September 2021 into January 2022. The Human Resources Consultant was paid through mid January 2022 on the original Talantage contract. In addition, a recommendation to approve an amount not to exceed \$30,000 for direct hires for various non-director



CITY COUNCIL AGENDA ITEM

level positions for the City of Stonecrest. At this time, the two positions that are vital to be hired at this time are the Human Resources Analyst and the Procurement Manager positions. The funding from this will be from General Fund – Professional Services.

OPTIONS: Approve, Deny, Defer [Click or tap here to enter text.](#)

RECOMMENDED ACTION: Approve [Click or tap here to enter text.](#)

ATTACHMENTS:

- (1) Attachment 1 - Talantage Contingency Agreement
- (2) Attachment 2 - Talantage General Staffing Agreement
- (3) Attachment 3 - [Click or tap here to enter text.](#)
- (4) Attachment 4 - [Click or tap here to enter text.](#)
- (5) Attachment 5 - [Click or tap here to enter text.](#)



CONTINGENCY RECRUITMENT SERVICE AND FEE AGREEMENT

THIS AGREEMENT is made this 15th day of February 2022, between **TALANTAGE, LLC** ("Agency" or "we") and **CITY OF STONECREST** ("Client"), (collectively, the "parties").

Services

TALANTAGE, LLC provides search and placement recruitment services, including providing its clients with information concerning applicants whom CITY OF STONECREST agrees to consider for employment. The applicants we present are located through our reputation, recruiting partners, and effective recruiting tools. CITY OF STONECREST agrees to keep confidential the identities and related information we present concerning applicants and to use this information solely for the purpose of CITY OF STONECREST consideration of these applicants.

Contingency Recruitment

CITY OF STONECREST understand that we work on a contingency basis. Each order we receive must be balanced against all other orders currently available to us and, because the relationship is nonexclusive, the applicants we contact may be presented to more than one client. The fee for our services is earned if an applicant is hired by CITY OF STONECREST or any of its affiliates on a permanent, contract or consulting basis at any time within one year of the date the applicant is submitted to CITY OF STONECREST.

Replacement Guarantee

If the candidate placed with CITY OF STONECREST by TALANTAGE, LLC is terminated or resigns from your company for any reason within 6 months from the date of hire, CITY OF STONECREST may request that a suitable replacement candidate be found. TALANTAGE, LLC will replace the candidate with another candidate at no additional charge. If the recommended replacement candidate is found to be unacceptable to CITY OF STONECREST or if CITY OF STONECREST should elect to utilize another agency to find a replacement, CITY OF STONECREST shall not be entitled to a refund of service fees. The fees paid will be utilized as credit for future placement(s) within your company.

If a replacement is hired and then ceases to perform their services for any reason within thirty (30) days of hire, service fees will be credited toward future placement(s) within your company.

This replacement guarantee will only be provided if TALANTAGE, LLC has been paid in full within fifteen (15) calendar days from the start date of employment and a request for a replacement is received within five (5) days from the date the services cease. CITY OF STONECREST agrees that the guarantee policy will not apply if the candidate leaves under any of the following conditions: 1) the candidate is laid off due to downsizing or reorganization of the position, 2) the candidate is discharged following the Client's involvement in a sale or



merger, 3) the client does not give Agency the exclusive opportunity to replace the candidate within a reasonable length of time, 4) your company fails to meet terms and conditions agreed upon between **(Clients)** and the successful candidate, and/or 3) misrepresentation of your company or the position that has been made.

NOTICE

If employment of the candidate results from CITY OF STONECREST referral to a third party (another position, group, division, subsidiary, or unrelated company) within one (1) year of TALANTAGE, LLC referral, CITY OF STONECREST is liable for service fees payable to TALANTAGE, LLC.

TALANTAGE, LLC will perform the necessary employment credit reference checks, education verification, background and credit check as part of its services to **(Client)**. TALANTAGE, LLC agrees to inform you of any information we receive regarding a candidate's references, qualifications, education, and experience. However, we cannot guarantee the accuracy of information received from others, and our liability for damages resulting from such inaccuracies after a fee has been paid will be limited to a refund in accordance with the terms of our guarantee.

Fee

Client agrees to pay Agency a fee equal to Fifteen (15%) of the first year's base salary (the "Fee") for each applicant hired by Client. Agency agrees that it shall be entitled to a fee, subject to the terms and conditions of this Agreement, only if Agency is the procuring cause for Client to hire an applicant.

Terms and Procedure

Client agrees to notify Agency as promptly as practicable when it issues an employment offer letter to an applicant and again when the applicant accepts an offer. Client will provide Agency by a copy of the offer letter and written acceptance. Agency understands and acknowledges that a job offer by Client is contingent upon a number of additional steps in the employment process including, but not limited to, background, reference checking, and license or certification verification. The Fee will be considered fully earned when an offer has been extended and accepted, and Agency will issue an invoice at that time. The Fee is payable in full by Client within fifteen (15) days of the applicant's starting date.

Agreement Non-Exclusive

Agency agrees that this Agreement is non-exclusive and that nothing in this contract shall be interpreted as a restriction on Client's right to procure personnel services from any other vendor or through its own auspices.



Termination

The parties agree that either party may terminate this Agreement, in writing upon 15 days' notice, at any time, for any reason. If terminated by Client, Agency is entitled to a Fee for any applicant submitted prior to the date of notification and hired within 180 days thereafter.

Governing Law

This Agreement shall be interpreted for all purposes consistent with the laws of the State of Georgia.

Entire Agreement

This writing constitutes the entire agreement of the parties with respect to the placement of applicants for employment at Client and may be amended only by a writing signed by Agency and Client. This Agreement supersedes any prior agreement between Agency and Client, and any prior agreements are null and void.

TALANTAGE, LLC

By: _____

Date: _____

Name: Tasha Peck

Title: President & CEO

CITY OF STONECREST

By: _____

Date: _____

Print Name: _____

Title: _____

General Staffing Agreement

Talantage, LLC with its principal office located at 2302 Parklake Drive, NE, Suite 635, Atlanta, GA 30345 (“STAFFING FIRM”), and City of Stonecrest with its principal office located at 3120 Stonecrest Blvd., Stonecrest, GA 30038 (“CLIENT”) agrees to the terms and conditions set forth in this General Staffing Agreement (the “Agreement”).

STAFFING FIRM’s Duties and Responsibilities

1. STAFFING FIRM will:

- a. Recruit, screen, interview, conduct background check, drug screen and assign its personnel (“Assigned Employees”) to perform the type of work described on Exhibit “A” attached hereto under CLIENT’s supervision at the locations specified on Exhibit “A”;
- b. Pay Assigned Employees’ wages and provide them with the benefits that STAFFING FIRM offers to them, if any. Pay, withhold, and transmit payroll taxes; provide unemployment insurance, general liability insurance, registry bond and workers’ compensation benefits; and handle unemployment and workers’ compensation claims involving Assigned Employees;
- c. Make reasonable efforts to provide a similarly qualified replacement in case an Assigned Employee does not report to work;

CLIENT’s Duties and Responsibilities

2. CLIENT will:

- a. Properly supervise Assigned Employees performing its work and be responsible for its business operations, products, services, and intellectual property;
- b. Properly supervise, control, and safeguard its premises, processes, and systems; not permit or require Assigned Employees to operate any vehicle or mobile equipment, but limit their duties strictly to duties normally performed in an office and require Assigned Employees to work only in an office environment;
- c. Provide Assigned Employees with a safe work site and provide appropriate information, training, and safety equipment with respect to any hazardous substances or conditions to which they may be exposed at the worksite;
- d. Not change Assigned Employees’ job duties without STAFFING FIRM’s express prior written approval;
- e. Exclude Assigned Employees from CLIENT’s benefit plans, policies, and practices, and not make any offer or promise relating to Assigned Employees’ compensation or

benefits; and

- f. Not entrust Assigned Employees with unattended premises, cash, checks, keys, credit cards, merchandise, confidential or trade secret information, negotiable instruments, or other valuables without STAFFING FIRM's express prior written approval or as strictly required by the job description provided to STAFFINGFIRM.

Payment Terms, Bill Rates, and Fees

3. CLIENT will pay STAFFING FIRM for its performance at the rates set forth on Exhibit "A" and will pay any additional costs or fees set forth in this Agreement. STAFFING FIRM will invoice CLIENT for services provided under this Agreement on a weekly basis. Payment is due on receipt of invoice. Invoices not paid within 30 days from receipt of the invoice will be considered past-due. Past-due invoices will be charged a fee of 0.00% per month until paid. Invoices will be supported by the pertinent time sheets or other agreed system for documenting time worked by the Assigned Employees. CLIENT's signature or other agreed method of approval of the work time submitted for Assigned Employees certifies that the documented hours are correct and authorizes STAFFING FIRM to bill CLIENT for those hours. If a portion of any invoice is disputed, CLIENT will pay the undisputed portion upon receipt of the invoice, subject to the terms in this Section 6.
4. Assigned Employees are presumed to be non-exempt from laws requiring premium pay for overtime (OT), holiday work, or weekend work. STAFFING FIRM will charge CLIENT special rates for premium work time only when an Assigned Employee's work on assignment to CLIENT, viewed by itself, would legally require premium pay and CLIENT has authorized, directed, or allowed the Assigned Employee to work such premium work time. CLIENT's special billing rate for premium hours will be the same multiple of the regular billing rate as STAFFING FIRM is required to apply to the Assigned Employee's regular pay rate. For example, when federal law requires 150% of pay for work exceeding 40 hours in a week, CLIENT will be billed at 150% of the regular bill rate for those hours.
5. Non-Solicitation: Except as provided by this Agreement, Client (including all of its divisions subsidiaries and other affiliates) will not hire or offer employment to, or otherwise directly or indirectly use the services of, on a full-time, part-time or temporary basis.
 - (a) any Consultant who has provided services for Client hereunder until the expiration of one (1) year after termination of Consultant's most recent assignment to Client, or
 - (b) any Consultant or prospective Consultant who has been introduced, to recommended to or interviewed by Client through the services of Talantage, LLC until the expiration of one (1) year after the latest of such interview, discussion, introduction, or presentation to Consultant.

In the event that Client provides the services of any Consultant, or introduces or refers any Consultant, to any third party during the course of any assignment, Client shall obtain the agreement of such third party to the foregoing restrictions and shall be responsible to Talantage, LLC for any breach thereof by it or the third party.

If Client (including its divisions, subsidiaries or other affiliate) breached this section it will pay Talantage, LLC as a conversion fee an amount equal to twenty (20%) of the gross annual compensation (including salary plus any guaranteed bonus) of the Consultant at issue, if the Consultant is an employee of, or offered employment by, Client (including its divisions or affiliates) or a third party to whom Client introduced or referred the Consultant.

6. In addition to the bill rates specified in Exhibit A of this Agreement, CLIENT will pay STAFFING FIRM the amount of all new or increased labor costs associated with CLIENT's Assigned Employees that STAFFING FIRM is legally required to pay, such as wages, benefits, payroll taxes, social program contributions, or charges linked to benefit levels until the parties agree on new bill rates.

Conversion Fee

The conversion fee for roles placed unless otherwise stated and agreed, shall be as follows:

If Client, or any of its related companies (divisions, subsidiaries, parents, etc.) elects to hire or otherwise directly or indirectly use the services of the consultant shown above to perform services to Client pursuant to this agreement, Client agrees to pay Talantage within 10 days from the conversion date at a conversion fee of:

Hours Worked by Contractor	Conversion Fee Percentage of Salary Offered
0 – 165 hours	20%
166 - 325 hours	15%
326 - 490 hours	10%
491 - 720 hours	5%
721 or more hours	0%

Confidential Information

7. Both parties may receive information that is proprietary or confidential to the other party or its affiliated companies and their clients. Both parties agree to hold such information in strict confidence and not to disclose such information to third parties or to use such information for any purpose whatsoever other than performing under this Agreement or as required by law. No knowledge, possession, or use of CLIENT's confidential information will be imputed to STAFFING FIRM as a result of Assigned Employees' access to such information.

Cooperation

8. The parties agree to cooperate fully and to provide assistance to the other party in the investigation and resolution of any complaints, claims, actions, or proceedings that may be brought by or that may involve Assigned Employees.

Indemnification and Limitation of Liability

9. To the maximum extent permitted by law, STAFFING FIRM will defend, indemnify, and hold CLIENT and its parent, subsidiaries, directors, officers, agents, representatives, and employees harmless from all claims, losses, and liabilities (including reasonable attorneys' fees) to the extent caused by STAFFING FIRM's breach of this Agreement; its failure to discharge its duties and responsibilities set forth in Section 1; or the gross negligence, or willful misconduct of STAFFING FIRM or STAFFING FIRM's officers, employees, or authorized agents in the discharge of those duties and responsibilities.

10. To the extent permitted by law, CLIENT will defend, indemnify, and hold STAFFING FIRM and its parent, subsidiaries, directors, officers, agents, representatives, and employees harmless from all claims, losses, and liabilities (including reasonable attorneys' fees) to the extent caused by CLIENT's breach of this Agreement; its failure to discharge its duties and responsibilities set forth in Section 2; or the negligence, gross negligence, or willful misconduct of CLIENT or CLIENT's officers, employees, or authorized agents in the discharge of those duties and responsibilities.
11. ALL WARRANTIES, CONDITIONS, REPRESENTATIONS, INDEMNITIES AND GUARANTEES, WHETHER EXPRESS OR IMPLIED, ARISING BY LAW, CUSTOM, PRIOR ORAL OR WRITTEN STATEMENTS BY STAFFING FIRM OR OTHERWISE (INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANT ABILITY OR FITNESS FOR PARTICULAR PURPOSE) ARE HEREBY OVERRIDDEN, EXCLUDED AND DISCLAIMED. STAFFING FIRM MAKES NO ASSURANCE AS TO THE RESULTS OF ITS SERVICES, AND STAFFING FIRM IS TO BE PAID FOR SERVICES RENDERED IRRESPECTIVE OF THE RESULTS OF SUCH SERVICES.
12. NEITHER PARTY SHALL BE LIABLE FOR OR BE REQUIRED TO INDEMNIFY THE OTHER PARTY FOR ANY INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, SPECIAL, PUNITIVE, OR LOST PROFIT DAMAGES THAT ARISE IN CONNECTION WITH THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION (WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR OTHERWISE) AND REGARDLESS OF HOW CHARACTERIZED, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
13. As a condition precedent to indemnification, the party seeking indemnification will inform the other party within two (2) business days after it receives notice of any claim, loss, liability, or demand for which it seeks indemnification from the other party; and the party seeking indemnification will cooperate in the investigation and defense of any such matter.

Miscellaneous

14. Provisions of this Agreement, which by their terms extend beyond the termination or nonrenewal of this Agreement, will remain effective after termination or nonrenewal.
15. No provision of this Agreement may be amended or waived unless agreed to in a writing signed by the parties.
16. Each provision of this Agreement will be considered severable, such that if any one provision or clause conflicts with existing or future applicable law or may not be given full effect because of such law, no other provision that can operate without the conflicting provision or clause will be affected.
17. This Agreement and the exhibits attached to it contain the entire understanding between the parties and supersede all prior agreements and understandings relating to the subject matter of the Agreement.
18. The provisions of this Agreement will inure to the benefit of and be binding on the parties and their respective representatives, successors, and assigns.
19. The failure of a party to enforce the provisions of this Agreement will not be interpreted as a waiver of any provision or the right of such party thereafter to enforce each and every provision of this Agreement.
20. CLIENT will not transfer or assign this Agreement without STAFFING FIRM's written

consent.

21. Any notice or other communication will be deemed to be properly given only when sent via the United States Postal Service or a nationally recognized courier, addressed as shown on the first page of this Agreement.
22. Neither party will be responsible for failure or delay in performance of this Agreement if the failure or delay is due to labor disputes, strikes, fire, riot, war, terrorism, acts of God, or any other causes beyond the control of the nonperforming party.

Term of Agreement

23. This Agreement will be for a term of 12 months from the first date on which both parties have executed it. The Agreement may be terminated by either party upon 15 days' written notice to the other party, except that, if a party becomes bankrupt or insolvent, discontinues operations, or fails to make any payments as required by the Agreement, either party may terminate the agreement upon 72 hours written notice. Unless the Agreement is cancelled or a renegotiation notice is sent 30 days prior to the Agreement's expiration date, the Agreement will be renewed automatically upon expiration for an additional 12-month term. Termination of this Agreement shall not be effective with respect to any placed Assigned Employees until their placements are terminated or cease.
24. Enforcement. If any sums due to STAFFING FIRM are not paid when due, interest shall accrue thereon at the rate of 1.5% per month until paid in full. Any action to collect any sums due under this Agreement may be brought in Fulton County, Georgia, and the parties' consent to jurisdiction and venue in such County. In any action or proceeding to enforce or construe this Agreement, the prevailing party shall be entitled to recover their actual attorney's fees and costs.

Authorized representatives of the parties have executed this Agreement below to express the parties' agreement to its terms.

City of Stonecrest.

Talantage, LLC

Signature

Signature

Print Name

Tasha Peck

Title

President & CEO

Date

Date

Exhibit B

Amendment

Rate Schedule

Job Title	Location	Dollar Value	Hourly Bill Rate (\$)
Administrative Support	Hybrid – Remote 3120 Stonecrest Blvd., Stonecrest, GA 30038	\$3,000	38% Markup

***Mark-up includes workers' compensation, general liability and professional liability insurance, employer's taxes, and payroll processing.

City of Stoncrest

Signature

Print Name

Title

Date

Talantage, LLC

Tasha Peck

Signature

Tasha Peck

President & CEO

Date



CITY COUNCIL AGENDA ITEM

SUBJECT: Heating Ventilation and Air Conditioning Replacement Vendor Approval

AGENDA SECTION: *(check all that apply)*

☐ PRESENTATION ☐ PUBLIC HEARING ☐ CONSENT AGENDA ☐ OLD BUSINESS
☒ NEW BUSINESS ☐ OTHER, PLEASE STATE: Click or tap here to enter text.

CATEGORY: *(check all that apply)*

☐ ORDINANCE ☐ RESOLUTION ☐ CONTRACT ☐ POLICY ☐ STATUS REPORT
☒ OTHER, PLEASE STATE: Approval of replacement of HVAC Units

ACTION REQUESTED: ☒ DECISION ☐ DISCUSSION, ☐ REVIEW, or ☐ UPDATE ONLY

Previously Heard Date(s): Click or tap to enter a date. & Click or tap to enter a date.

Current Work Session: Click or tap to enter a date.

Current Council Meeting: Tuesday, February 22, 2022

SUBMITTED BY: Gia Scruggs, Finance Director

PRESENTER: Gia Scruggs

PURPOSE: Two Heating Ventilation and Air Conditioning (HVAC) units have been evaluated and are in need of replacement at Browns Mill Recreation Center.

FACTS: HVH Mechanical Partners, LLC is currently under contract with DeKalb County and the City of Stonecrest's purchasing policy allows for the City to utilize this as defined as cooperative purchasing. The quoted amount is \$27,825. Due to the complexity of the systems, any unforeseen repairs that require additional work will be reviewed and approved by the City prior to any work being performed. The funding for this will be General Fund – Leisure Service – Repair And Maintenance.

OPTIONS: Approve, Deny, Defer Click or tap here to enter text.

RECOMMENDED ACTION: Approve Click or tap here to enter text.



CITY COUNCIL AGENDA ITEM

ATTACHMENTS:

- (1) Attachment 1 - HVH quote
- (2) Attachment 2 - Click or tap here to enter text.
- (3) Attachment 3 - Click or tap here to enter text.
- (4) Attachment 4 - Click or tap here to enter text.
- (5) Attachment 5 - Click or tap here to enter text.



90 Chamisa Rd
Covington, GA 30016
(470) 444-1442
GA Reg. # Cn210576

Jan 21, 2022

Quote: Q22-1512

City of Stonecrest
5101 Browns Mill Rd
Stonecrest, GA, 30038
ATTN: Sheldon Fleming

Project: Replace (2) 5ton split systems and BAS controller that serve office area at Brown Mill Rd

HVH Mechanical Partners LLC proposes to furnish the labor and materials to perform the services as described below.

Scope of work includes:

Deliver materials and tools to jobsite
Lockout/Tagout electrical service to existing equipment
Demo (2) existing AHU's and condensers
Install new AHU's and condensers on same location as existing
Connect new equipment to existing electrical service, natural gas service, refrigerant line set, and ductwork
Install new BAS controller for new HVAC Equipment
Connect new BAS controller to new HVAC Equipment
Pressurize refrigerant system with nitrogen and leak check
Evacuate and charge refrigerant circuits with virgin refrigerant
Perform startup on new equipment and verify proper operation of equipment and equipment controller.

Exclusions:

- Any work not described in the scope whether required or requested is not included.
- Fire Alarm integration on new or existing equipment.
- Extensive BAS (Building Automation System) troubleshooting and repairs.
- Smoke detection disable and enable
- This proposal does not include charges from previous service call. A separate invoice will be sent to cover costs for the original service call.

Clarifications:

- Base proposal is quoted with all work being performed during normal working hours of 7:00 a.m. till 3:30 p.m. Monday through Friday.
- Due to the complexity of the systems unforeseen repairs any additional work discovered during the project will be reviewed with the customer for approval prior to any work being performed.

Investment:

The price to perform the base scope of work: **\$27,825.00**

Payment and / or progressive payment terms are due net 30 days from the date of invoice.

This agreement will be honored for thirty (30) days from the date of this proposal at which time prices and schedule will be re-estimated.

Thank you for the opportunity to offer our proposal for this work. If you should have any questions, please feel free to reach out to discuss at kevin.vanhorn@hvhmechanicalpartners.com. I look forward to working with you on this project.



Terms and Conditions:

Payment Terms - Standard payment terms for customers with approved credit are Net 30 days from date of invoice. Orders submitted without approved credit will require a "Cash in Advance" payment prior to service being performed or an equipment order being processed. Agreement not paid within 45 days from date of invoice shall accrue a simple interest at a rate of one percent (1.5%) per month. In addition, major Credit Cards (American Express, Master Card, Visa, PayPal) are accepted as a form of payment.

Credit Card Purchases and Transactions

- a. All payments made with a Credit Card will be charged a processing fee 1.5% up to the processing fee that the card being used charges for the total invoice amount. This processing fee is determined by the card being used (American Express, Discover, MasterCard, Visa, etc.) per transaction. (Note: American Express = 3.3% Fee)
- b. All additional Credit Card processing fees will be automatically applied during Credit Card processing and will appear on order invoices.
- c. When a service request or equipment order has been charged to a credit card and then a customer cancellation is accepted, the credit card will be charged the processing fee plus a minimum \$25.00 cancellation charge and any associated restocking fees.

Cancellation of Equipment Order – If an order for equipment is placed and the order is cancelled there may be restocking fees. These fees are in addition to fees associated with the use of a credit card for payment.

Returned Checks – HVH Mechanical Partners. LLC will charge \$100.00 to a customer account for returned checks due to insufficient funds.

***Late Payment Fees** - A late payment fee equal to 1.5% will be applied to any outstanding invoices that are unpaid after 45 days terms. This fee will be calculated and applied monthly to any outstanding unpaid invoices.

*Note: Any additional collection costs incurred due to past due collections efforts will be charged back to the customer.

Environmental Health and Safety - The customer is responsible to provide safe and adequate access and safe working conditions suitable for servicing equipment. This includes the ability to start and stop equipment as necessary for safety or service requirements. The customer shall also furnish any safety training or certifications required for working at their site at the customer's expense to include the hourly rate of the HVH Mechanical Partners. LLC employee and / or sub-contractor.

Repair Labor Warranty for Flat Rate Pricing and Time & Material Jobs -warrants labor on repairs made for a period of 90 days from the completion of the repair. The labor warranty is restricted to only part(s) replaced. The warranty does not include any other part(s) that are not related to the original repair nor does it cover the original part(s) if it is determined a lack of proper maintenance contributed to the failure.



Repair Part(s) Warranty for Flat Rate Pricing and Time and Material Jobs – HVH Mechanical Partners. LLC warranty part(s) based upon the original manufactures warranty policy.

New Equipment Labor Warranty - HVH Mechanical Partners. LLC warrants labor on new equipment furnished new as an addition or replacement for a period of 1 year from the date of installation. This labor warranty applies to the equipment only such as an air handler, chiller, pump, cooling tower, rooftop etc. It does not include a labor warranty on ancillary products such as a variable frequency drive unless the ancillary device was part of the original equipment when it was shipped from the manufacture.

New Equipment Warranty – HVH Mechanical Partners. LLC warrants equipment based upon the original manufactures warranty.

Exclusions – Equipment that is operated outside of the original manufactures design specifications. In addition, HVH Mechanical Partners. LLC. is not responsible for any loss of time or loss of profit associated with the work that is being performed or has been performed by HVH Mechanical Partners. LLC Consequential and liquidated damages are excluded.

Service Agreement Automatic Renewal and Escalation – This agreement shall automatically renew each year upon the anniversary date of the agreement with a minimum 3% increase. HVH Mechanical Partners. LLC reserves the right to escalate the contract rate to adjust for cost of living, labor cost and/or fluctuations in materials cost required to perform the contract. The customer shall be notified in writing of such an escalation.

Service Agreement Termination - The agreement may be cancelled by either party by written notice no less than 30 days prior to the anniversary date. The termination date shall be the anniversary date of the agreement. If the agreement is terminated prior to the anniversary date the customer agrees to reimburse HVH Mechanical Partners. LLC. on a pro-rated basis for all labor, parts, materials and for any material ordered by HVH Mechanical Partners LLC under this agreement as part of the service agreement.

Initial Inspection - HVH Mechanical Partners. LLC reserves the right to terminate in whole and / or adjust the agreement rate after the initial inspection due to unforeseen circumstances that would not allow HVH Mechanical Partners. LLC to perform the contracted task in a safe and/or timely manner. Any adjustment in the agreement shall be made as an addendum to the original agreement. If the agreement is to be terminated the customer agrees to pay the street time and material rate for work performed.

Customer Approval

Signature: _____

Print Name: _____

Date: _____

Attached Terms & Conditions have been read and agreed upon.



REQUISITION FORM

PURCHASE REQUISITION

Date issued: January 28, 2022
Need Date: February 1, 2022
Department: Parks and Recreation
Requisitioner: Tanya Diaz
Department Head: Tameika Porter

Req. No. PR: 01-22

To be purchased from: HVH Mechanical

To be delivered to:
 5101 Browns Mill Road,
 Stonecrest, GA 30038

Suggested vendors:

1. HVH Mechanical
- 2.
- 3.

ITEM NUMBER	QUANTITY	UNIT	DESCRIPTION	ACCOUNT TO BE CHARGED	UNIT PRICE	AMOUNT
			See attached for scope of work	52200		\$27,825.00
			TOTAL			\$27,825.00

Specifications:

Competitive Prices: *(To be filled in by Purchasing)* **Approved:**

 Finance Officer

 Purchasing Agent

 City Manager



CITY COUNCIL AGENDA ITEM

SUBJECT: Mauldin And Jenkins Change Order

AGENDA SECTION: *(check all that apply)*

☐ PRESENTATION ☐ PUBLIC HEARING ☐ CONSENT AGENDA ☐ OLD BUSINESS
☒ NEW BUSINESS ☐ OTHER, PLEASE STATE: Click or tap here to enter text.

CATEGORY: *(check all that apply)*

☐ ORDINANCE ☐ RESOLUTION ☒ CONTRACT ☐ POLICY ☐ STATUS REPORT
☐ OTHER, PLEASE STATE: Click or tap here to enter text.

ACTION REQUESTED: ☒ DECISION ☐ DISCUSSION, ☐ REVIEW, or ☐ UPDATE ONLY

Previously Heard Date(s): Click or tap to enter a date. & Click or tap to enter a date.

Current Work Session: Click or tap to enter a date.

Current Council Meeting: Tuesday, February 22, 2022

SUBMITTED BY: Gia Scruggs, Finance Director

PRESENTER: Gia Scruggs

PURPOSE: A change order is being requested for an amount not to exceed \$20,000 for additional audit procedures required for the Single Audit of the CARES Act as of December 31, 2020.

FACTS:

OPTIONS: Approve, Deny, Defer Click or tap here to enter text.

RECOMMENDED ACTION: Approve Click or tap here to enter text.

ATTACHMENTS:

- (1) Attachment 1 - Click or tap here to enter text.
- (2) Attachment 2 - Click or tap here to enter text.
- (3) Attachment 3 - Click or tap here to enter text.
- (4) Attachment 4 - Click or tap here to enter text.
- (5) Attachment 5 - Click or tap here to enter text.



CITY COUNCIL AGENDA ITEM

SUBJECT: 2021 DeKalb County Municipal General Election Invoices

AGENDA SECTION: *(check all that apply)*

☐ PRESENTATION ☐ PUBLIC HEARING ☐ CONSENT AGENDA ☐ OLD BUSINESS
☐ NEW BUSINESS ☒ **OTHER, PLEASE STATE: Informational**

CATEGORY: *(check all that apply)*

☐ ORDINANCE ☐ RESOLUTION ☐ CONTRACT ☐ POLICY ☒ STATUS REPORT
☐ **OTHER, PLEASE STATE:** Click or tap here to enter text.

ACTION REQUESTED: ☐ DECISION ☐ DISCUSSION, ☐ REVIEW, or ☒ UPDATE ONLY

Previously Heard Date(s): Click or tap to enter a date. & Click or tap to enter a date.

Current Work Session: Click or tap to enter a date.

Current Council Meeting: Tuesday, February 22, 2022

SUBMITTED BY: Gia Scruggs, Finance Director

PRESENTER: Gia Scruggs

PURPOSE: The invoices for the November 2021 DeKalb County Election were received in February 2022. The 2021 budget included \$50,000 for election costs. The total cost of the 2021 General Election and the Run off total \$92,281.00. These invoices are being presenting for review by Council.

FACTS: Final Budget adjustments for the 2021 budget will be presented to Council at the March Work Session and Council meeting for further review and approval.

OPTIONS: Update Only Click or tap here to enter text.

RECOMMENDED ACTION: Update Only Click or tap here to enter text.

ATTACHMENTS:

- (1) Attachment 1 - 2021 DeKalb County Election Invoices
- (2) Attachment 2 - Click or tap here to enter text.
- (3) Attachment 3 - Click or tap here to enter text.



CITY COUNCIL AGENDA ITEM

(4) Attachment 4 - Click or tap here to enter text.

(5) Attachment 5 - Click or tap here to enter text.

FEB 02 2022



DeKalb County
GEORGIA

DeKalb Co. Board of Registration & Elections

4360 Memorial Drive, Suite 300
Decatur, GA 30032
(404) 298-4020 fax (404) 298-4038

Invoice No. STC-1101

STONECREST

INVOICE

ATTN: Sonya Isom, Deputy City Clerk

Customer

Name City of Stonecrest
Address 3120 Stonecrest Blvd, Suite 190
City Stonecrest State GA ZIP 30038
Phone (770) 224-0200

Date 1/26/2022
Order No.
Rep
FOB

# Elections	Description	Unit Price	TOTAL
	MUNICIPAL GENERAL ELECTION -- NOVEMBER 2, 2021		
1	Ballots, Printing, Postage Fee	\$244.00	\$244.00
1	Administrative Services	\$550.00	\$550.00
1	Facility Usage Fees	\$500.00	\$500.00
1	Pollworker Salaries	\$27,528.00	\$27,528.00
1	Transportation of Voting equipment	\$350.00	\$350.00
1	Pro-Rated Direct Costs (Combined for both Elections) (Personnel, Set Up, Testing, Etc.)	\$7,568.00	\$7,568.00
	ADVANCE VOTING - October 12 - October 24, 2021		
1	Pollworker Salaries	\$26,649.00	\$26,649.00
1	Transportation of Equipment	\$25.00	\$25.00
		SubTotal	\$63,414.00
		Shipping & Handling	\$0.00
		Taxes	\$0.00
		TOTAL	\$63,414.00

Payment Details



MAKE CHECK PAYABLE TO:

DEKALB COUNTY

Office Use Only

Payment Due Upon Receipt

RECEIVED


**DeKalb Co. Board of Registration
& Elections**

 4380 Memorial Drive, Suite 300
 Decatur, GA 30032
 (404) 288-4020 fax (404) 288-4038

 Invoice No. RO **512-08-2022**
SEP 08 2022

STONECREST

INVOICE

ATTN: Sonya Isom, Deputy City Clerk

Customer

Name City of Stonecrest
 Address 3120 Stonecrest Blvd, Suite 190
 City Stonecrest State GA ZIP 30038
 Phone (770) 224-0200

Date 1/26/2022
 Order No. _____
 Rep _____
 FOB _____

# Elections	Description	Unit Price	TOTAL
	MUNICIPAL GENERAL ELECTION - NOVEMBER 30, 2021 RUNOFF		
1	Ballots, Printing, Postage Fee	\$331.00	\$331.00
1	Administrative Services	\$550.00	\$550.00
1	Pollworker Salaries	\$6,682.00	\$6,682.00
1	Transportation of Voting equipment	\$100.00	\$100.00
1	Pro-Rated Direct Costs (Combined for both Elections) (Personnel, Set Up, Testing, Etc.)	\$4,790.00	\$4,790.00
	ADVANCE VOTING - October 12 - October 24, 2021		
1	Pollworker Salaries	\$16,389.00	\$16,389.00
1	Transporation of Equipment	\$25.00	\$25.00

Payment Details

MAKE CHECK PAYABLE TO:
 DEKALB COUNTY

SubTotal	\$28,867.00
Shipping & Handling	\$0.00
Taxes	\$0.00
TOTAL	\$28,867.00

Office Use Only

Payment Due Upon Receipt