

EXHIBIT A

Scope of Engineering

Services and Related Matters

RFP #45-2011



Lexington-Fayette Urban County Government

Request For Proposal

The Lexington-Fayette Urban County Government hereby requests proposals for **RFP #45-2011 - Engineering Services for New Blue Sky Pump Station/Force Main Construction & Existing WWTP Closure & Demolition** to be provided in accordance with terms, conditions and specifications established herein.

Sealed proposals will be received in the Division of Central Purchasing, Room 338, Government Center, 200 East Main Street, Lexington, KY, 40507, until **2:00 PM**, prevailing local time, on **December 22, 2011**.

Proposals received after the date and time set for opening proposals will not be considered for award of a contract and will be returned unopened to the Proposer. It is the sole responsibility of the Proposer to assure that his/her proposal is received by the Division of Central Purchasing before the date and time set for opening proposals.

Proposals must be sealed in an envelope and the envelope prominently marked:

RFP #45-2011 - Engineering Services for New Blue Sky Pump Station/Force Main Construction & Existing WWTP Closure & Demolition

If mailed, the envelope must be addressed to:

Purchasing Director
Lexington-Fayette Urban County Government
Room 338, Government Center
200 East Main Street
Lexington, KY 40507

Additional copies of this Request For Proposals are available from the Division of Central Purchasing, Room 338 Government Center, 200 East Main Street, Lexington, KY 40507, (859)-258-3320, at no charge.

There will be a pre-proposal conference on Monday, December 12, 2011 at 1:00 PM, local time, at 125 Lisle Industrial Avenue, Ste 180, Lexington KY 40511.

Proposals, once submitted, may not be withdrawn for a period of sixty (60) calendar days.

The Proposer must submit one (1) master (hardcopy), (1) electronic version in PDF format on a flashdrive or CD and seven (7) duplicates (hardcopies) of their proposal for evaluation purposes.

The Lexington-Fayette Urban County Government reserves the right to reject any or all proposals, and to waive technicalities and informalities when such waiver is determined by the Lexington-Fayette Urban County Government to be in its best interest.

Signature of this proposal by the Proposer constitutes acceptance by the Proposer of terms, conditions and requirements set forth herein.

Minor exceptions may not eliminate the proposal. Any exceptions to the specifications established herein shall be listed in detail on a separate sheet and attached hereto. The Lexington-Fayette Urban County Government shall determine whether any exception is minor.

The Lexington-Fayette Urban County Government encourages the participation of minority- and women-owned businesses in Lexington-Fayette Urban County Government contracts. This proposal is subject to Affirmative Action requirements attached hereto.

Please do not contact any City staff member or any other person involved in the selection process other than the designated contact person(s) regarding the project contemplated under this RFP while this RFP is open and a selection has not been finalized. Any attempt to do so may result in disqualification of the firm's submittal for consideration.

Laws and Regulations

All applicable state laws, municipal ordinances and regulations of all authorities having jurisdiction over the project shall apply to the contract, and shall be deemed to be incorporated herein by reference.

Equal Employment Opportunity

The Entity (regardless of whether construction contractor, non-construction contractor or supplier) agrees to provide equal opportunity in employment for all qualified persons, to prohibit discrimination in employment because of race, color, creed, national origin, sex or age, and to promote equal employment through a positive, continuing program from itself and each of its subcontracting agents. This program of equal employment opportunity shall apply to every aspect of its employment policies and practices.

Kentucky Equal Employment Opportunity Act

The Kentucky Equal Employment Opportunity Act of 1978 (KRS 45.560-45.640) requires that any "county, city, town, school district, water district, hospital district, or other political subdivision of the state shall include in directly or indirectly publicly funded contracts for supplies, materials, services, or equipment hereinafter entered into the following provisions:

"During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, or national origin;
- (2) The contractor will state in all solicitations or advertisements for employees placed by or on behalf of the contractors that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, or national origin;
- (3) The contractor will post notices in conspicuous places, available to employees and applicants for employment, setting forth the provision of the nondiscrimination clauses required by this section; and
- (4) The contractor will send a notice to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding advising the labor union or workers' representative of the contractor's commitments under the nondiscrimination clauses."

The Act further provides:

"KRS 45.610. Hiring minorities -- Information required

- (1) For the length of the contract, each contractor shall hire minorities from other sources within the drawing area, should the union with which he has collective bargaining agreements be unwilling to supply sufficient minorities to satisfy the agreed upon goals and timetables.
- (2) Each contractor shall, for the length of the contract, furnish such information as required by KRS 45.560 to KRS 45.640 and by such rules, regulations and orders issued pursuant thereto and will permit access to all books and records pertaining to his employment practices and work sites by the contracting agency and the department for purposes of investigation to ascertain compliance with KRS 45.560 to 45.640 and such rules, regulations and orders issued pursuant thereto.

KRS 45.620. Action against contractor -- Hiring of minority contractor or subcontractor

(1) If any contractor is found by the department to have engaged in an unlawful practice under this chapter during the course of performing under a contract or subcontract covered under KRS 45.560 to 45.640, the department shall so certify to the contracting agency and such certification shall be binding upon the contracting agency unless it is reversed in the course of judicial review.

(2) If the contractor is found to have committed an unlawful practice under KRS 45.560 to 45.640, the contracting agency may cancel or terminate the contract, conditioned upon a program for future compliance approved by the contracting agency and the department. The contracting agency may declare such a contractor ineligible to bid on further contracts with that agency until such time as the contractor complies in full with the requirements of KRS 45.560 to 45.640.

(3) The equal employment provisions of KRS 45.560 to 45.640 may be met in part by a contractor by subcontracting to a minority contractor or subcontractor. For the provisions of KRS 45.560 to 45.640, a minority contractor or subcontractor shall mean a business that is owned and controlled by one or more persons disadvantaged by racial or ethnic circumstances.

KRS 45.630 Termination of existing employee not required, when

Any provision of KRS 45.560 to 45.640 notwithstanding, no contractor shall be required to terminate an existing employee upon proof that employee was employed prior to the date of the contract.

KRS 45.640 Minimum skills

Nothing in KRS 45.560 to 45.640 shall require a contractor to hire anyone who fails to demonstrate the minimum skills required to perform a particular job."

It is recommended that all of the provisions above quoted be included as special conditions in each contract. In the case of a contract exceeding \$250,000, the contractor is required to furnish evidence that his workforce in Kentucky is representative of the available work-force in the area from which he draws employees, or to supply an Affirmative Action plan which will achieve such representation during the life of the contract.

Contention Process

Vendors who respond to this invitation have the right to file a notice of contention associated with the RFP process or to file a notice of appeal of the recommendation made by the Director of Central Purchasing resulting from this invitation.

Notice of contention with the RFP process must be filed within 3 business days of the bid/proposal opening by (1) sending a written notice, including sufficient documentation to support contention, to the Director of the Division of Central Purchasing or (2) submitting a written request for a meeting with the Director of Central Purchasing to explain his/her contention with the RFP process. After consulting with the Commissioner of Finance the Chief Administrative Officer and reviewing the documentation and/or hearing the vendor, the Director of Central Purchasing shall promptly respond in writing findings as to the compliance with RFP processes. If, based on this review, a RFP process irregularity is deemed to have occurred the Director of Central Purchasing will consult with the Commissioner of Finance, the Chief Administrative Officer and the Department of Law as to the appropriate remedy.

Notice of appeal of a RFP recommendation must be filed within 3 business days of the RFP recommendation by (1) sending a written notice, including sufficient documentation to support appeal, to the Director, Division of Central Purchasing or (2) submitting a written request for a meeting with the Director of Central Purchasing to explain his appeal. After reviewing the documentation and/or hearing the vendor and consulting with the Commissioner of Finance and the Chief Administrative Officer, the Director of Central Purchasing shall in writing, affirm or withdraw the recommendation.

EVALUATION CRITERIA – see attached Evaluation Scoring Sheet

1. Specialized experience and technical competence of the person or firm (including a joint venture or association) with the type of service required.
2. Capacity of the person or firm to perform the work, including any specialized services, within the time limitations.
3. Character, integrity, reputation, judgment, experience and efficiency of the firm(s).
4. Past record and performance on contracts with the Urban County Government or other governmental agencies and private industry with respect to such factors as control of cost, quality of work and ability to meet schedules.
5. Familiarity with the details of the project.
6. Degree of local employment to be provided by the person or firm in the performance of the contract by the person or firm.
7. Estimated cost of services.

Proposals shall contain the appropriate information necessary to evaluate based on these criteria. A committee composed of government employees as well as representatives of relevant user groups will evaluate the proposals.

Questions shall be addressed to:

Betty Landrum, Buyer Senior
Division of Central Purchasing
bettyb@lexingtonky.gov

Affirmative Action Plan

All vendors must submit as a part of the proposal package the following items to the Urban County Government:

1. Affirmative Action Plan for his/her firm;
2. Current Work Force Analysis Form;

Failure to submit these items as required may result in disqualification of the submitter from award of the contract. All submissions should be directed to:

Director, Division of Central Purchasing
Lexington-Fayette Urban County Government
200 East Main Street, 3rd Floor
Lexington, Kentucky 40507

All questions regarding this proposal must be directed to the Division of Central Purchasing, (859)-258-3320.

AFFIDAVIT

Comes the Affiant, _____, and after being first duly sworn, states under penalty of perjury as follows:

1. His/her name is _____ and he/she is the individual submitting the proposal or is the authorized representative of _____, the entity submitting the proposal (hereinafter referred to as "Proposer").

2. Proposer will pay all taxes and fees, which are owed to the Lexington-Fayette Urban County Government at the time the proposal is submitted, prior to award of the contract and will maintain a "current" status in regard to those taxes and fees during the life of the contract.

3. Proposer will obtain a Lexington-Fayette Urban County Government business license, if applicable, prior to award of the contract.

4. Proposer has authorized the Division of Central Purchasing to verify the above-mentioned information with the Division of Revenue and to disclose to the Urban County Council that taxes and/or fees are delinquent or that a business license has not been obtained.

5. Proposer has not knowingly violated any provision of the campaign finance laws of the Commonwealth of Kentucky within the past five (5) years and the award of a contract to the Proposer will not violate any provision of the campaign finance laws of the Commonwealth.

6. Proposer has not knowingly violated any provision of Chapter 25 of the Lexington-Fayette Urban County Government Code of Ordinances, known as "Ethics Act."

continued on next page

7. Proposer acknowledges that "knowingly" for purposes of this Affidavit means, with respect to conduct or to circumstances described by a statute or ordinance defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists.

Further, Affiant sayeth naught.

STATE OF _____

COUNTY OF _____

The foregoing instrument was subscribed, sworn to and acknowledged before me by _____ on this the _____ day of _____, 2011.

My Commission expires: _____

NOTARY PUBLIC, STATE AT LARGE

EQUAL OPPORTUNITY AGREEMENT

The Law

- Title VII of the Civil Rights Act of 1964 (amended 1972) states that it is unlawful for an employer to discriminate in employment because of race, color, religion, sex, age (40-70 years) or national origin.
- Executive Order No. 11246 on Nondiscrimination under Federal contract prohibits employment discrimination by contractor and sub-contractor doing business with the Federal Government or recipients of Federal funds. This order was later amended by Executive Order No. 11375 to prohibit discrimination on the basis of sex.
- Section 503 of the Rehabilitation Act of 1973 states:

The Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap.

- Section 2012 of the Vietnam Era Veterans Readjustment Act of 1973 requires Affirmative Action on behalf of disabled veterans and veterans of the Vietnam Era by contractors having Federal contracts.

- Section 206(A) of Executive Order 12086, Consolidation of Contract Compliance Functions for Equal Employment Opportunity, states:

The Secretary of Labor may investigate the employment practices of any Government contractor or sub-contractor to determine whether or not the contractual provisions specified in Section 202 of this order have been violated.

The Lexington-Fayette Urban County Government practices Equal Opportunity in recruiting, hiring and promoting. It is the Government's intent to affirmatively provide employment opportunities for those individuals who have previously not been allowed to enter into the mainstream of society. Because of its importance to the local Government, this policy carries the full endorsement of the Mayor, Commissioners, Directors and all supervisory personnel. In following this commitment to Equal Employment Opportunity and because the Government is the benefactor of the Federal funds, it is both against the Urban County Government policy and illegal for the Government to let contracts to companies which knowingly or unknowingly practice discrimination in their employment practices. Violation of the above mentioned ordinances may cause a contract to be canceled and the contractors may be declared ineligible for future consideration.

Please sign this statement in the appropriate space acknowledging that you have read and understand the provisions contained herein. Return this document as part of your application packet.

Bidders

I/We agree to comply with the Civil Rights Laws listed above that govern employment rights of minorities, women, Vietnam veterans, handicapped and aged persons.

Signature

Name of Business

WORKFORCE ANALYSIS FORM

Name of Organization: _____ Date: ____/____/____

Categories	Total		White		Latino		Black		Other		Total	
	M	F	M	F	M	F	M	F	M	F	M	F
Administrators												
Professionals												
Superintendents												
Supervisors												
Foremen												
Technicians												
Protective Service												
Para-Professionals												
Office/Clerical												
Skilled Craft												
Service/Maintenance												
Total:												

Prepared by: _____ Name & Title

DIRECTOR, DIVISION OF CENTRAL PURCHASING
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT
200 EAST MAIN STREET
LEXINGTON, KENTUCKY 40507

NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE
EQUAL EMPLOYMENT OPPORTUNITIES AND DBE CONTRACT
PARTICIPATION

The Lexington-Fayette Urban County Government has set a goal that not less than ten percent (10%) of the total value of this contract be subcontracted to MBE/WBE's. The goal for the utilization of certified MBE/WBE's as subcontractors are recommended goals. Contractors who fail to meet such goals will be expected to provide written explanations to the Director of the Division of Central Purchasing of efforts they have made to accomplish the recommended goals and the extent to which they are successful in accomplishing the recommended goals will be a consideration in the procurement process.

For assistance in locating MBE/WBE Subcontractors contact Marilyn Clark at 859/258-3320 or by writing the address listed below:

Marilyn Clark, Division of Central Purchasing
Lexington-Fayette Urban County Government
200 East Main Street – Room 338
Lexington, Kentucky 40507

**Lexington-Fayette Urban County Government
MBE/WBE Participation Goals**

PART 1 - GENERAL

- 1.1 The LFUCG request all potential contractors to make a concerted effort to include Minority-Owned (MBE) and Woman-Owned (WBE) Business Enterprises as subcontractors or suppliers in their proposals.
- 1.2 Toward that end, the LFUCG has established 10% of total procurement costs as a Goal for participation of Minority-Owned and Woman-Owned Businesses on this contract.
- 1.3 **It is therefore a request of each Submitter to include in its proposal, the same goal (10%) or for MBE/WBE participation and other requirements as outlined in this section.**

PART 2 - PROCEDURES

- 2.1 The successful proposer will be required to report to the LFUCG, the dollar amounts of all purchase orders submitted to Minority-Owned or Woman-Owned subcontractors and suppliers for work done or materials purchased for this contract. (See Subcontractor Monthly Payment Report)
- 2.2 Replacement of a Minority-Owned or Woman-Owned subcontractor or supplier listed in the original submittal must be requested in writing and must be accompanied by documentation of Good Faith Efforts to replace the subcontractor / supplier with another MBE/WBE Firm; this is subject to approval by the LFUCG. (See LFUCG MBE/WBE Substitution Form)
- 2.3 For assistance in identifying qualified, certified businesses to solicit for potential contracting opportunities, submitters may contact:
 - A. The Lexington-Fayette Urban County Government, Division of Central Purchasing (859-258-3320)
- 2.4 The LFUCG will make every effort to notify interested MBE/WBE subcontractors and suppliers of each RFP, including information on the scope of work, the pre-proposal meeting time and location, the proposal date, and all other pertinent information regarding the project.

PART 3 - DEFINITIONS

- 3.1 A Minority-Owned Business Enterprise (MBE) is defined as a business which is certified as being at least 51% owned and operated by persons of African American, Hispanic, Asian, Pacific Islander, American Indian or Alaskan Native Heritage.

- 3.2 A Woman-Owned Business Enterprise (WBE) is defined as a business which is certified as being at least 51% owned and operated by one or more Non-Minority Females.

PART 4 - OBLIGATION OF PROPOSER

- 4.1 **The bidder shall make a Good Faith Effort to achieve the Participation Goal for MBE/WBE subcontractors/suppliers. The failure to meet the goal shall not necessarily be cause for disqualification of the bidder; however, bidders not meeting the goal are required to furnish with their bids written documentation of their Good Faith Efforts to do so.**
- 4.2 Award of Contract shall be conditioned upon satisfaction of the requirements set forth herein.
- 4.3 The Form of Proposal includes a section entitled "MBE/WBE Participation Form". The applicable information must be completed and submitted as outlined below.
- 4.4 **Failure to submit this information as requested may be cause for rejection of the proposal.**

PART 5 - DOCUMENTATION REQUIRED

- 5.1 Proposers reaching the Goal are required to submit only the "MBE/WBE Participation Form." The form must be fully completed including names and telephone number of participating MBE/WBE firm(s); type of work to be performed; estimated value of the contract and value expressed as a percentage of the total Lump Sum Proposal Price. The form must be signed and dated, and is to be submitted with the proposal.
- 5.2 Proposers not reaching the Goal must submit the "MBE/WBE Participation Form", the "MBE Quote Summary Form" and a written statement documenting their Good Faith Effort to do so (If proposal includes no MBE/WBE participation, proposer shall enter "None" on the subcontractor / supplier form). In addition, the proposer may submit the following as proof of Good Faith Efforts to meet the Participation Goal:
- A. Advertisement by the proposer of MBE/WBE Contracting opportunities associated with this proposal in at least two (2) of the following:
 - 1. A periodical in general circulation throughout the region
 - 2. A Minority-Focused periodical in general circulation throughout the region
 - 3. A Trade periodical aimed at the MBE/WBE community in general circulation throughout the region
 - 4. Proposer shall include copies of dated advertisement with his submittal
 - B. Evidence of written notice of contracting opportunities to at least five (5) MBE/WBE firms serving the construction industry at least seven (7) days prior to the proposal opening date.
 - C. Copies of quotations submitted by MBE/WBE firms which were not used due to uncompetitive pricing or other factors and/or copies of responses from

firms that were contacted indicating that they would not be submitting a proposal.

- D. Documentation of Proposer's utilization of the agencies identified to help locate potential MBE/WBE firms for inclusion on the contract including responses from agencies.
- E. Failure to submit any of the documentation requested in this section may be cause for rejection of the proposal. Proposers may include any other documentation deemed relevant to this requirement. "Record of MBE/WBE Solicitation" and other required documentation of Good Faith Efforts are to be submitted with the proposal, if participation Goal is not met.



MINORITY BUSINESS ENTERPRISE PROGRAM

Marilyn Clark
Minority Business Enterprise Liaison
Division of Central Purchasing
Lexington-Fayette Urban County Government
200 East Main Street
Lexington, KY 40507
mclark@lexingtonky.gov
859-258-3323

OUR MISSION: The mission of the Minority Business Enterprise Program is to facilitate the full participation of minority and women owned businesses in the procurement process and to promote economic inclusion as a business imperative essential to the long term economic viability of Lexington-Fayette Urban County Government.

To that end the city council adopted and implemented resolution 167-91—Disadvantaged Business Enterprise (DBE) 10% Goal Plan in July of 1991. The resolution states in part (a full copy is available in Central Purchasing):

“A Resolution supporting adoption of the administrative plan for a ten percent (10%) Minimum goal for disadvantaged business enterprise participation in Lexington-Fayette Urban County Government construction and professional services contracts; Providing that as part of their bids on LFUCG construction contracts, general Contractors shall make a good faith effort to award at least ten percent (10%) of All subcontracts to disadvantaged business enterprises; providing that divisions of LFUCG shall make a good faith effort to award at least ten percent of their Professional services and other contracts to disadvantaged business enterprises...”

A Disadvantaged Business Enterprise is defined as a business at least 51% owned, operated and managed by a U.S. Citizen of the following groups:

- African-American
- Hispanic-American
- Asian/Pacific Islander
- Native American/Native Alaskan
- Non-Minority Female

We are very happy that you have decided to bid for a contract, request for proposal, submitted a quote or are interested in learning more about how to do business with Lexington-Fayette Urban County Government. We have compiled the list below to help you locate certified minority vendors.

LFUCG—Economic Engine Listings

Marilyn Clark
mclark@lexingtonky.gov
859-258-3323

Commerce Lexington—

Tyrone Tyra, Minority Business Development
tyra@commercelexington.com
859-226-1625

Tri-State Minority Supplier Diversity Council

Sonya Brown
sbrown@tsmsdc.com
502-625-0137

Small Business Development Council

Dee Dee Harbut /UK SBDC
ddharbut@uky.edu

Shawn Rogers, UK SBDC
Shawn.rogers@uky.edu

Shiree Mack
smack@uky.edu

Community Ventures Corporation

James Coles
jcoles@cvckv.org
859-231-0054

Kentucky Department of Transportation

Shella Jarvis
Shella.Jarvis@ky.gov
502-564-3601

KPAP

Debbie McKnight
Debbie.McKnight@ky.gov
800-838-3266 or 502-564-4252

Bobbie Carlton
Bobbie.Carlton@ky.gov

Ohio River Valley Women's Business Council

Rea Waldon
rwaldon@orcni.org
513-487-6534

Kentucky Small Business Connect

Tom Back
800-626-2250 or 502-564-2064
<https://secure.kentucky.gov//sbc>

National Minority Supplier Development Council, Inc.

(NMSDC)
www.nmsdc.org

LFUCG MBE/WBE PARTICIPATION FORM

RFP # 45-2011

The MBE/WBE subcontractors listed have agreed to participate on this Bid/RFP/Quote. If any substitution is made or the total value of the work is changed prior to or after the job is in progress, it is understood that those substitutions must be submitted to Central Purchasing for approval immediately.

MBE/WBE Company, Name, Address, Phone, Email	Work to be Performed	Total Dollar Value of the Work	% Value of Total Contract
1.			
2.			
3.			
4.			

The undersigned company representative submits the above list of MBE/WBE firms to be used in accomplishing the work contained in this Bid/RFP/Quote. Any misrepresentation may result in the termination of the contract and/or be subject to applicable Federal and State laws concerning false statements and false claims.

Company

By

Date

Title

LFUCG MBE/WBE SUBSTITUTION FORM

RFP # 45-2011

The substituted MBE/WBE subcontractors listed below have agreed to participate on this Bid/RFP/Quote. These substitutions were made prior to or after the job was in progress. These substitutions were made for reasons stated below and are now being submitted to Central Purchasing for approval. By the authorized signature of a representative of our company, we understand that this information will be entered into our file for this project.

SUBSTITUTED MBE/WBE Company Name, Address, Phone, Email	MBE/WBE Formally Contracted/ Name, Address, Phone, Email	Work to Be Performed	Reason for the Substitution	Total Dollar Value of the Work	% Value of Total Contract
1.					
2.					
3.					
4.					

The undersigned acknowledges that any misrepresentation may result in termination of the contract and/or be subject to applicable Federal and State laws concerning false statements and false claims.

Company

Date

Company Representative

Title



MBE QUOTE SUMMARY FORM

RFP # 45-2011

The undersigned acknowledges that the minority subcontractors listed on this form did submit a quote to participate on this project.

Company Name	Contact Person
Address/Phone/Email	RFP Package / RFP Date

MBE/WBE Company Address	Contact Person	Contact Information (work phone, Email, cell)	Date Contacted	Services to be performed	Method of Communication (email, phone meeting, ad, event etc)	Total dollars \$\$ Do Not Leave Blank (Attach Documentation)	MBE * AA HA AS NA Female

(MBE designation / AA=African American / HA= Hispanic American/AS = Asian American/Pacific Islander/ NA= Native American)

The undersigned acknowledges that all information is accurate. Any misrepresentation may result in termination of the contract and/or be subject to applicable Federal and State laws concerning false statements and claims.

Company

Company Representative

Date

Title



LFUCG SUBCONTRACTOR MONTHLY PAYMENT REPORT

The LFUCG has a 10% goal plan adopted by city council to increase the participation of minority and women owned businesses in the procurement process. In order to measure that goal LFUCG will track spending with MBE/WBE vendors on a monthly basis. By the signature below of an authorized company representative, you certify that the information is correct, and that each of the representations set forth below is true. Any misrepresentation may result in termination of the contract and/or prosecution under applicable Federal and State laws concerning false statements and false claims. Please submit this form monthly to the Division of Central Purchasing/ 200 East Main Street / Room 338 / Lexington, KY 40507.

RFP #45-2011 _____

Total Contract Amount Awarded to Prime Contractor for this Project _____

Project Name/ Contract #	Work Period/ From: _____ To: _____
Company Name:	Address:
Federal Tax ID:	Contact Person:

Subcontractor Vendor ID (name, address, phone, email)	Description of Work	Total Subcontract Amount	% of Total Contract Awarded to Prime for this Project	Total Amount Paid for this Period	Purchase Order number for subcontractor work (please attach PO)	Scheduled Project Start Date	Scheduled Project End Date

By the signature below of an authorized company representative, you certify that the information is correct, and that each of the representations set forth below is true. Any misrepresentations may result in the termination of the contract and/or prosecution under applicable Federal and State laws concerning false statements and false claims.

Company	Company Representative
Date	Title

LFUCG STATEMENT OF GOOD FAITH EFFORTS
RFP #45-2011_____

By the signature below of an authorized company representative, we certify that we have utilized the following methods to obtain the maximum practicable participation by minority and women owned business enterprises on the project. Please indicate which methods you used by placing an X in the appropriate place.

- ____ Attended LFUCG Central Purchasing Economic Inclusion Outreach Event
- ____ Sponsored Economic Inclusion event to provide networking opportunities
- ____ Requested a list of MBE/WBE subcontractors or suppliers from LFUCG Economic Engine
- ____ Advertised for MBE/WBE subcontractors or suppliers in local or regional newspapers
- ____ Showed evidence of written notice of contracting and/or supplier opportunities to MBE/WBE firms at least seven days prior to the proposal opening date
- ____ Provided copies of quotations submitted by MBE/WBE firms which were not used and/or responses from firms indicating they would not be submitting a quote
- ____ Provided plans, specifications, and requirements to interested MBE/WBE subcontractors
- ____ Other
Please list any other methods utilized that aren't covered above.

The undersigned acknowledges that all information is accurate. Any misrepresentations may result termination of the contract and/or be subject to applicable Federal and State laws concerning false statements and claims.

Company

Company Representative

Date

Title

Firm Submitting Proposal: _____

Complete Address: _____
Street City Zip

Contact Name: _____ Title: _____

Telephone Number: _____ Fax Number: _____

Email address: _____

GENERAL PROVISIONS

1. Each Respondent shall comply with all Federal, State & Local regulations concerning this type of service or good.

The Respondent agrees to comply with all statutes, rules, and regulations governing safe and healthful working conditions, including the Occupational Health and Safety Act of 1970, 29 U.S.C. 650 *et. seq.*, as amended, and KRS Chapter 338. The Respondent also agrees to notify the LFUCG in writing immediately upon detection of any unsafe and/or unhealthful working conditions at the job site. The Respondent agrees to indemnify, defend and hold the LFUCG harmless from all penalties, fines or other expenses arising out of the alleged violation of said laws.

2. Failure to submit ALL forms and information required in this RFP may be grounds for disqualification.
3. Addenda: All addenda, if any, shall be considered in making the proposal, and such addenda shall be made a part of this RFP. Before submitting a proposal, it is incumbent upon each proposer to be informed as to whether any addenda have been issued, and the failure to cover in the bid any such addenda may result in disqualification of that proposal.
4. Proposal Reservations: LFUCG reserves the right to reject any or all proposals, to award in whole or part, and to waive minor immaterial defects in proposals. LFUCG may consider any alternative proposal that meets its basic needs.
5. Liability: LFUCG is not responsible for any cost incurred by a Respondent in the preparation of proposals.
6. Changes/Alterations: Respondent may change or withdraw a proposal at any time prior to the opening; however, no oral modifications will be allowed. Only letters, or other formal written requests for modifications or corrections of a previously submitted proposal which is addressed in the same manner as the proposal, and received by LFUCG prior to the scheduled closing time for receipt of proposals, will be accepted. The proposal, when opened, will then be corrected in accordance with such written request(s), provided that the written request is contained in a sealed envelope which is plainly marked "modifications of proposal".
7. Clarification of Submittal: LFUCG reserves the right to obtain clarification of any point in a bid or to obtain additional information from a Respondent.
8. Bribery Clause: By his/her signature on the bid, Respondent certifies that no employee of his/hers, any affiliate or Subcontractor, has bribed or attempted to bribe an officer or employee of the LFUCG.
9. Additional Information: While not necessary, the Respondent may include any

product brochures, software documentation, sample reports, or other documentation that may assist LFUCG in better understanding and evaluating the Respondent's response. Additional documentation shall not serve as a substitute for other documentation which is required by this RFP to be submitted with the proposal,

10. **Ambiguity, Conflict or other Errors in RFP:** If a Respondent discovers any ambiguity, conflict, discrepancy, omission or other error in the RFP, it shall immediately notify LFUCG of such error in writing and request modification or clarification of the document if allowable by the LFUCG.
11. **Agreement to Bid Terms:** In submitting this proposal, the Respondent agrees that it has carefully examined the specifications and all provisions relating to the work to be done attached hereto and made part of this proposal. By acceptance of a Contract under this RFP, proposer states that it understands the meaning, intent and requirements of the RFP and agrees to the same. The successful Respondent shall warrant that it is familiar with and understands all provisions herein and shall warrant that it can comply with them. No additional compensation to Respondent shall be authorized for services or expenses reasonably covered under these provisions that the proposer omits from its Proposal.
12. **Cancellation:** If the services to be performed hereunder by the Respondent are not performed in an acceptable manner to the LFUCG, the LFUCG may cancel this contract for cause by providing written notice to the proposer, giving at least thirty (30) days notice of the proposed cancellation and the reasons for same. During that time period, the proposer may seek to bring the performance of services hereunder to a level that is acceptable to the LFUCG, and the LFUCG may rescind the cancellation if such action is in its best interest.

A. Termination for Cause

- (1) LFUCG may terminate a contract because of the contractor's failure to perform its contractual duties
- (2) If a contractor is determined to be in default, LFUCG shall notify the contractor of the determination in writing, and may include a specified date by which the contractor shall cure the identified deficiencies. LFUCG may proceed with termination if the contractor fails to cure the deficiencies within the specified time.
- (3) A default in performance by a contractor for which a contract may be terminated shall include, but shall not necessarily be limited to:
 - (a) Failure to perform the contract according to its terms, conditions and specifications;
 - (b) Failure to make delivery within the time specified or according to a delivery schedule fixed by the contract;
 - (c) Late payment or nonpayment of bills for labor, materials,

- supplies, or equipment furnished in connection with a contract for construction services as evidenced by mechanics' liens filed pursuant to the provisions of KRS Chapter 376, or letters of indebtedness received from creditors by the purchasing agency;
- (d) Failure to diligently advance the work under a contract for construction services;
 - (e) The filing of a bankruptcy petition by or against the contractor; or
 - (f) Actions that endanger the health, safety or welfare of the LFUCG or its citizens.

B. At Will Termination

Notwithstanding the above provisions, the LFUCG may terminate this contract at will in accordance with the law upon providing thirty (30) days written notice of that intent. Payment for services or goods received prior to termination shall be made by the LFUCG provided these goods or services were provided in a manner acceptable to the LFUCG. Payment for those goods and services shall not be unreasonably withheld.

13. **Assignment of Contract:** The contractor shall not assign or subcontract any portion of the Contract without the express written consent of LFUCG. Any purported assignment or subcontract in violation hereof shall be void. It is expressly acknowledged that LFUCG shall never be required or obligated to consent to any request for assignment or subcontract, and further that such refusal to consent can be for any or no reason, fully within the sole discretion of LFUCG.
14. **No Waiver:** No failure or delay by LFUCG in exercising any right, remedy, power or privilege hereunder, nor any single or partial exercise thereof, nor the exercise of any other right, remedy, power or privilege shall operate as a waiver hereof or thereof. No failure or delay by LFUCG in exercising any right, remedy, power or privilege under or in respect of this Contract shall affect the rights, remedies, powers or privileges of LFUCG hereunder or shall operate as a waiver thereof.
15. **Authority to do Business:** The Respondent must be a duly organized and authorized to do business under the laws of Kentucky. Respondent must be in good standing and have full legal capacity to provide the services specified under this Contract. The Respondent must have all necessary right and lawful authority to enter into this Contract for the full term hereof and that proper corporate or other action has been duly taken authorizing the Respondent to enter into this Contract. The Respondent will provide LFUCG with a copy of a corporate resolution authorizing this action and a letter from an attorney confirming that the proposer is authorized to do business in the State of Kentucky if requested. All proposals must be signed by a duly authorized officer, agent or employee of the Respondent.
16. **Governing Law:** This Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky. In the event of any proceedings

regarding this Contract, the Parties agree that the venue shall be the Fayette County Circuit Court or the U.S. District Court for the Eastern District of Kentucky, Lexington Division. All parties expressly consent to personal jurisdiction and venue in such Court for the limited and sole purpose of proceedings relating to this Contract or any rights or obligations arising thereunder. Service of process may be accomplished by following the procedures prescribed by law.

17. Ability to Meet Obligations: Respondent affirmatively states that there are no actions, suits or proceedings of any kind pending against Respondent or, to the knowledge of the Respondent, threatened against the Respondent before or by any court, governmental body or agency or other tribunal or authority which would, if adversely determined, have a materially adverse effect on the authority or ability of Respondent to perform its obligations under this Contract, or which question the legality, validity or enforceability hereof or thereof.
18. Contractor understands and agrees that its employees, agents, or subcontractors are not employees of LFUCG for any purpose whatsoever. Contractor is an independent contractor at all times during the performance of the services specified.
19. If any term or provision of this Contract shall be found to be illegal or unenforceable, the remainder of the contract shall remain in full force and such term or provision shall be deemed stricken.

Signature

Date

**Design, Bidding and Construction Management Services for
New Blue Sky Pump Station/Force Main Construction
Existing Wastewater Treatment Plant Closure and Demolition
Scope of Engineering Services**

RFP 45-2011

The Lexington-Fayette Urban County Government (LFUCG) is accepting proposals from interested consulting engineering firms for the design of a new pumping station and force main to eliminate the Blue Sky Waste Water Treatment Plant (WWTP) and its point source discharge. The general scope of this project is described in Appendix K-1 of the Consent Decree in a case styled *United States, et al. v. Lexington-Fayette Urban County Government*, United States District Court for the Eastern District of Kentucky, Case No. 5:05-CV-00386. A copy of the Consent Decree and its appendices can be obtained at <http://www.lexingtonky.gov/index.aspx?page=840>.

Review of the other documents noted in the Scope of Services is by appointment only. Please contact Steve Farmer at (859) 425-2404 to request/schedule an appointment. Duplication costs will be ten cents per page for 8 inch by 11 inch copies. Duplication costs for 11 inch by 17 inch, charts, graphs or maps will be the net cost of reproduction.

1. General Project Description

The Consultant shall perform professional services as hereinafter stated which include customary civil, geotechnical, mechanical, electrical, and sanitary engineering services as related to

- Design, bidding and construction management of a new pump station and force main.
- Design, bidding and construction management for closure and demolition of the existing wastewater plant and lagoon.

This Commonwealth Environmental Project will involve design, right of way acquisition and construction of a sanitary pump station and force main that will eliminate the point source discharge associated with the existing Blue Sky WWTP. Construction of the sanitary pump station and force main would facilitate the conveyance of sewage generated within the Blue Sky Rural Activity Center to LFUCG owned collection and conveyance facilities located within the Urban Service Area, with the wastewater ultimately being treated at LFUCG's West Hickman WWTP. It is anticipated that the new pump station would be constructed within the 2.2 acre parcel that contains the existing treatment plant infrastructure. Upon completion, the Blue Sky WWTP will be taken offline and demolished, with the existing lagoon abandoned in accordance with Kentucky Division of Water guidelines.

In accordance with the requirements of Consent Decree Appendix K-1, design of the new Blue Sky force main should accommodate flow from the privately owned wastewater treatment plant identified in LFUCG's 201 Facilities Plan as Boonesboro Manor WWTP.

While not a requirement of the Consent Decree, this project will also include a limited evaluation of the existing Cutters Hill Court pump station. The evaluation will be limited to determining how the new Blue Sky pumping station may impact the viability of maintaining current operations of the Cutters Hill Court pump station.

A feasibility evaluation determined that the new Blue Sky pump station could be constructed within the existing WWTP site while the existing WWTP remained in service. In 2010, a WWTP lagoon closure plan for Blue Sky was sent to the Kentucky Division of Water and received a preliminary endorsement of viability.

2. Scope of Services

Task 1: Review:

1. *LFUCG's Federal Consent Decree, Appendix K-1.*
2. *Group 1 Sewer System Assessment (SSA) final report dated April 13, 2011.*
3. *Group 1 Remedial Measures Plan (RMP) dated October 12, 2011.*
4. *LFUCG's 201 Facilities Plan dated August 1999.*
5. All 2003 to present: Blue Sky WWTP flow data and interim collection system flow data collected in 2011.
6. *Blue Sky Property Investigation Report dated February 2009.*
7. *Blue Sky WWTP Lagoon Closure Plan dated September 23, 2010.*
8. *Pump Station Operation Plan for Power Outages dated September 30, 2011.*
9. Most current KPDES permits for Blue Sky and Boonesboro Manor wastewater treatment plants.
10. Historical documents as necessary to establish the geographical service area for the Blue Sky and Boonesboro Manor wastewater treatment plants. (LFUCG's Division of Planning is believed to possess previously approved development plans in the immediate vicinity of both plants.)
11. *The LFUCG Sanitary Sewer and Pumping Station Manual.*
12. *The Clean Water State revolving Fund 2012 Handbook.*

Task 2: Preliminary Design – Technical Memorandum

1. Based on a thorough review of all documents discussed in Task 1, prepare a written, technical memorandum describing:
 - a. The recommended design flows for the new Blue Sky Pumping Station and Force Main system.
 - b. The analysis used to determine the recommended design flows.
 - c. The expected hydraulic impact, based on point load discharge into LFUCG's hydraulic model, of the recommended design flows on downstream sanitary sewer infrastructure. This consultant will be expected to provide the point load discharge values to Division of Water Quality (DWQ). DWQ will provide those values to the consultant managing LFUCG's sanitary hydraulic model. The findings of a model run using the recommended design flows will then be reported back to the Blue Sky project consultant for inclusion in the technical memorandum.
2. The technical memorandum should also include preliminary analysis of potential Blue Sky force main alignments. The Division of Water Quality believes there are two feasibly accessible force main discharge points:

- a. Sanitary manhole:EH4_894
- b. East Hickman Pump Station

The technical memorandum should provide a map showing the potential force main alignment for each discharge point. Each alignment should identify all property owners (name, deed book reference) for which a utility easement or encroachment permit would be required.

3. The Division of Water Quality wishes to determine the feasibility of eliminating the Cutters Hill Court pump station with existing gravity flow directed to a new Blue Sky pump station. The selected consultant should complete a level survey to determine the feasibility of this option and detail the findings / conclusions of the survey in the technical memorandum. If the elimination option is technically feasible, an opinion of probable total project cost, itemized for design and construction, should also be included in the technical memorandum.
4. Prepare, conduct and document two (2) public meetings as scheduled and described in Task 7 below.
5. The technical memorandum should provide any and all consultant recommendations for proceeding with the Blue Sky pump station project scope. A schedule, in Gantt chart form, for completing the project within the scope and timeframes established by Consent Decree Appendix K-1, should also be included in the Technical Memorandum.

Task 3: Detailed Design

1. Since 2008, LFUCG has constructed five new pumping stations and completed design on two additional stations. Accordingly, considerable insight has been gained by staff that will be essential for a successful project. The selected consultant(s) must conduct a Pump Station Standards and Materials Review kick-off meeting with designated DWQ operations staff. The purpose of this meeting is to establish a line of communication with DWQ's Pump Station Operations and Construction Management sections so that recent experiences, not normally gleaned from LFUCG's Sanitary Sewer and Pumping Station Manual, are incorporated into the design.
2. Prepare monthly written status reports.
3. Conduct design progress meetings with DWQ designated staff at 25%, 50%, 75% and 90% completion ("Design Milestones"), and provide progress plans one week before the meeting for Lexington-Fayette Urban County Government review and comment. Progress plans should illustrate existing topography and infrastructure, proposed structures and elevations, critical cross sections, design calculations, flow diagrams and construction cost estimates completed for each percentage milestone. Authorization to progress from one Design Milestone to the next must be approved, in writing, by the LFUCG Project Manager. Authorization to proceed to the next

Design Milestone will be granted based on an evaluation of progress in easement, right of way and encroachment acquisition progress.

4. The construction documents shall include storm water Erosion and Sediment Control Plans and specifications that will be used by the selected contractors as a baseline for field level erosion and sediment control.
5. The Consultant is responsible for acquisition of all required local, state, and federal permits. Prior to bidding of the construction plans, the Consultant must provide copies of all permits, bound in a separate binder and deliver the binder to the LFUCG Project Manager. NOTE: LFUCG Land Disturbance Permit (LDP) is exempted from this requirement – LDP will be the responsibility of the selected contractors. A commercial building permit issued by the LFUCG Division of Building Inspection shall be required prior to bid opening of the project.
6. The Consultant shall incorporate pervious pavement, as practical, within the design of the Blue Sky Pumping Station.
7. Conduct Geotechnical investigation for pumping station site and force main corridor. Proposals should reflect a rock sounding interval of 200 feet for the force main alignment, with additional soundings on each side of any thoroughfare that requires boring as opposed to open cut construction.
8. Once a final force main alignment has been selected, provide coordination with utilities affected by project. Consultant shall request relocation costs and schedules from all affected utilities. Estimates must be reviewed by the Consultant and submitted to LFUCG prior to bid opening of the project.
9. Furnish detailed estimates of probable cost and revised present-worth analysis.
10. Coordinate and submit construction plans, specifications, and permit application to the Kentucky Division of Water and the Lexington-Fayette Urban County Government, and revise as needed or required by Division of Water based on their comments.
11. Conduct site surveys and appropriate referencing.
12. Interact with Urban County Government maintenance and management staff, including the Division of Water Quality. Particular consideration will be the direct interaction with pump station maintenance personnel.
13. Prepare final plans and specifications for:
 - a. The pumping station project.
 - b. The force main project.
 - c. Transfer of flow from the Blue Sky WWTP to the pump station.
 - d. Demolition of the Blue Sky treatment plant / closure of the lagoon.

All plans and specification for bidding purposes should be in both hard copy (reproducible format) and standard electronic format compatible with Lexington-Fayette Urban County Government equipment and software. Proposals should reflect at least ten (10) hard copies provided to LFUCG.

Specifications should include directives and required forms associated with the contractor / sub-contractor reporting requirements necessary for this SRF funded project (see Task 6 below). The Consultant selected for this project is solely responsible for ensuring that all KIA loan funding requirements are met throughout the project, including project close out.

14. Prepare detailed plats of the project for use by Lexington-Fayette Urban County Government as required for easement acquisition. The Consultant is responsible for all easement negotiations (see Section 4 of this RFP) and should coordinate completion of design plans with easement acquisition in accordance with Task 3.3. Also prepare and submit any and all required paperwork and surveys, to the Kentucky Department of Highways, Federal Highway Administration, and railroads for encroachment permits.
15. Furnish / update design and construction timelines schedules.
16. Bid documents shall be developed to allow multiple pump station equipment alternatives to ensure compatibility with other existing pump station facilities.

Task 4: Bidding Services

1. Consultant should be prepared to bid the pumping station, force main, collection system tie-in and wastewater treatment plant demolition separately.
2. Consultant shall submit reproducible plans, specifications, and contract documents to the official bid document distributor, LYNN IMAGING, 328 Old Vine Street, Lexington, KY 40507, (859) 255-1021 (www.lynnbp.com).
3. Conduct Pre-bid conference(s).
4. Prepare and distribute necessary addenda.
5. Respond to bidder, vendor and subcontractor questions.
6. Participate in bid evaluation(s) and provide award recommendation to Urban County Government.
7. Interact with Urban County Government, project management staff, and maintenance and operations staff for response to bidder questions.

Task 5: Construction Services

1. Review and approve shop drawings.
2. Evaluate Change Orders and make change order recommendations as necessary.
3. Conduct regular site progress visits at a detail sufficient to accurately review monthly invoices submitted by the contractor.
4. Review and approve monthly invoices submitted by the contractor including verifying the accuracy and conformance with all reporting requirements associated with federally funded projects (see Task 3.16).
5. Conduct monthly construction progress meetings, and prepare and distribute meeting minutes.

6. Provide "as-built" Global Positioning System (GPS) coordinates for force main and gravity sewer piping in accordance with the *Lexington-Fayette Urban County Government Sanitary Sewer and Pumping Station Manual*.
7. Verify and certify that all equipment and pipeline startup / testing specifications were met by the contractor.
8. Participate in final inspection and assist in compiling a final punch list.
9. Prepare accurate "as-built" drawings in both hard copy (reproducible format) and standard electronic format (Adobe Acrobat pdf file and AutoCAD dwg or dxf file) within 45 days of completion of final punch list.

Task 6 **Kentucky Infrastructure Authority**

The Consultant will be expected to provide all services necessary to meet obligations and expectations associated with this State Revolving Fund (SRF) loan funded project. The consultant should be expected to complete, for LFUCG, all forms / documents / reports / etc. necessary to complete an acceptable project close out. **Exhibit A – Flowchart for Clean Water Projects** is provided as general guidance as to the expected performance of the Consultant. It is suggested that proposers provide individual lump sump costs for each item listed in **Exhibit B – Generalized Deliverables for SRF Loan Projects**.

Task 7 **Public Participation**

The selected consultant should anticipate a significant need for public participation in the development of the *technical memorandum and the final design*. The anticipated public meetings are as follows:

1. A public meeting held in the Blue Sky area within 45 days of receiving a notice to proceed.
2. A second public meeting held in the Blue Sky area held no more than 30 days prior to submission of the draft technical memorandum.
3. A June 2012 project status presentation to the Urban County Council.
4. A December 2012 project status presentation to the Urban County Council.

NOTE: This outline is not intended to be all-inclusive, but is intended to be a guide to prospective proposers as to the general expectations of the Owner. The Lexington-Fayette Urban County Government will not compensate proposers for the cost of proposal preparation.

3. Detailed Cost Estimates

The Consultant shall prepare a detailed cost estimate for this proposal based on the Tasks outlined in the Scope of Services. Consultant should also provide an hourly rate for attending project meetings. The intent of this proposal is to be a lump sum contract.

4. Rights-of-Way and Easements

Consultant shall prepare offers consistent with Urban County Government guidelines as shown in the LFUCG CAO policy memo #30. If Federal funds are involved, then Section 49 CFR Part 2 and Section 23 CFR Part 710 are to be followed in addition to LFUCG policy. Consultant shall conduct negotiations and secure Memorandums of Understanding (MOU) in accordance with Urban County

Government standards. Title work (to include all work necessary for LFUCG to acquire clear title to property interests needed for the project), deeds (and other like legal documents), and plats shall be prepared by the Consultant, as necessary, for acquisition of Rights-of-Way and Easements, and they shall meet all requirements of the Urban County Government Planning Commission and the Department of Law.

Permanent and temporary easements shall be drawn to sufficient scale to be clear and distinguishable and meet the requirements of the Urban County Government Division of Engineering.

5. Plans, Specification and Bid Documents

Plans, construction specifications and other pertinent bid documents as required by the Lexington-Fayette Urban County Government shall be prepared by the Consultant and shall be subject to review and approval by the Lexington-Fayette Urban County Government Division of Water Quality, the Division of Engineering and the Kentucky Division of Water.

Final plans shall contain the completed and approved information provided by the design progress plans. Final plans shall also contain a cover sheet, general notes, erosion and sediment control/grading plans, plan and profile sheets, reference points, detail sheets, typical sections, existing topography and infrastructure, proposed structures and elevations, critical cross sections, design calculations, flow diagrams and a construction cost estimate. All sheets shall be on reproducible format. All plan sheets and specifications shall also be submitted in a standard electronic format compatible with Lexington-Fayette Urban County Government equipment and software.

The Consultant shall deliver a minimum of ten (10) paper copies of the final construction plans, specifications and bid documents to the Division of Water Quality. After contractor bids are opened the Consultant shall deliver the final sheets on reproducible format, electronic drawings and specifications to the Division of Water Quality in standard electronic format compatible with Lexington-Fayette Urban County Government equipment and software.

6. Construction Inspection

The Consultant shall include a cost for the option of providing full time, resident construction inspection. The Consultant shall also be available as needed, as outlined in Task 5 (Construction Services), to advise in matters as specified in the Scope of Services.

7. Attendance at the Bid Opening

The Consultant shall attend the bid opening at the designated site determined by the Lexington-Fayette Urban County Government. The Consultant shall also obtain copies of all bids, prepare a tabulation of bid prices, and submit a recommendation of award.

8. Schedule and Completion

The proposed timeline for this project is outlined in the following schedule. This timeline may be adjusted. The Director of Water Quality and/or the Construction Manager shall arrange the exact time and location of meetings.

- Meeting to Negotiate Contract – January 18, 2012
- Award Contract – February 16, 2012
- Submission of Technical Memorandum – May 15, 2012
- Submission of Final Construction Plans – November 30, 2012
- Review Completed by Division of Water – January 30, 2013
- Bidding of Construction Projects – February 2013
- Award of Construction Contracts – March 29, 2013

9. Method of Invoice and Payment

The Consultant may submit monthly invoices for basic services or work rendered, based upon the Consultant's estimate of the portion of the total services actually completed during the billing cycle. Each invoice shall be accompanied by a breakdown of hours attributed to each Task for both the billing cycle and the cumulative project period. Also include the percent Disadvantaged Business Enterprise (DBE) cost with each monthly invoice.

The Project Manager shall respond to the invoice within thirty days, either denying or approving payment. Specific project time sheets and other payroll information may be subject to reviews and audits by the Lexington-Fayette Urban County Government.

10. Miscellaneous

All plans, specifications and accompanying documents are subject to review by the Lexington-Fayette Urban County Government's Division of Water Quality, the Construction Manager, and the Division of Engineering. The Consultant shall be responsible for incorporating the comments and requirements of these divisions into all documents.

11. Disadvantaged Business Enterprise (DBE) Notice

NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITIES AND DBE CONTRACT PARTICIPATION

The Lexington-Fayette Urban County Government has set a goal that not less than ten percent (10%) of the total value of this contract be subcontracted to MBE/WBE's. The goal for the utilization of certified MBE/WBE's as subcontractors are recommended goals. Contractors who fail to meet such goals will be expected to provide written explanations to the Director of the Division of Central Purchasing of efforts they have made to accomplish the recommended goals and the extent to which they are successful in accomplishing the recommended goals will be a consideration in the procurement process.

For assistance in locating MBE/WBE Subcontractors contact Marilyn Clark at 859/258-3320 or by writing the address listed below:

Marilyn Clark, Division of Central Purchasing
 Lexington-Fayette Urban County Government
 200 East Main Street – Room 338
 Lexington, Kentucky 40507

RFP Scoring Sheet

RFP #45-2011 - Engineering Services for New Blue Sky Pump Station/Force Main Construction & Existing WWTP Closure & Demolition						
Consultant Name:						
Selection Criteria	Notes	Total Points	Score(1-5)	Weighted Score	Comment	Weighted Score= (Total Points/5)xScore
Specialized experienced and technical competence of the person or firm (including a joint venture or association) with the type of service required.		15	0			
Capacity of the person or firm to perform the work, including any specialized services, within the time limitations.		10	0			
Character, integrity, reputation, judgment, experience, and efficiency of the firm(s);		5	0			
Past record and performance on contracts with the Urban County Government or other governmental agencies and private industry with respect to such factors as control of cost, quality of work, and ability to meet schedules;		10	0			
Familiarity with the details of the project.		20	0			
Degree of local employment to be provided by the person or firm in the performance of the contract by the person or firm. Maximum point awards should be limited to firms whose headquarters are located locally.		15	0			
Estimated Cost of Services		25	0			
Final Technical Score		100	0			

DBE Participation(Name) _____
 DBE Portion(Percentage) _____
 Evaluator: _____

RFP Scoring Sheet

RFP #45-2011 - Engineering Services for New Blue Sky Pump Station/Force Main Construction & Existing WWTP Closure & Demolition

Affidavit

Affirmative Action Plan

EEO Agreement

Workforce Analysis

Insurance

Comments:

Description	Adjective	Numeric Rating
Fails to meet minimum requirements; major deficiencies which are not correctable	Unacceptable	1
Fails to meet requirements, significant deficiencies that may be correctable	Poor	2
Meets requirements; only minor deficiencies which can be clarified	Acceptable	3
Meets requirements and exceeds some requirements; no deficiencies	Good	4
Exceeds most, if not all requirements; no deficiencies	Excellent	5

ENGINEERING SERVICES AGREEMENT

THIS IS AN AGREEMENT made as of _____, 2012, between the LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, an urban county government of the Commonwealth of Kentucky pursuant to KRS Chapter 67A ("OWNER") and _____ with offices located at _____ ("CONSULTANT"). OWNER intends to proceed with the Engineering Services for New Blue Sky Pump Station/Force Main Construction & Existing WWTP Closure & Demolition as described in the attached EXHIBIT A, Scope of Engineering Services and Related Matters RFP #45-2011 (the "PROJECT"). The CONSULTANT shall perform professional engineering services and deliverables as described in EXHIBIT A which include customary master planning, civil, geotechnical, electrical, mechanical, water quality and sanitary engineering services as related to providing the deliverables specific to this agreement—that will assist the OWNER in successfully implementing the PROJECT and complying with any requirements which are related to the Consent Decree entered in a case styled *United States & Commonwealth of Kentucky v. Lexington Fayette Urban County Government*, United States District Court for the Eastern District of Kentucky, Civil Action No. 5:06-cv-386-KSF (the "CONSENT DECREE"). The services are hereinafter referred to as the PROJECT. The primary goal of the PROJECT is to provide the OWNER with the technical support necessary to successfully meet the Engineering Services for New Blue Sky Pump Station/Force Main Construction & Existing WWTP Closure & Demolition obligations and deadlines of the CONSENT DECREE. OWNER and CONSULTANT in consideration of their mutual covenants herein agree in respect of the performance of professional engineering services by CONSULTANT and the payment for those services by OWNER as set forth below.

CONSULTANT shall provide professional consulting services for OWNER in all phases of the PROJECT to which this Agreement applies, serve as OWNER'S professional engineering representative for the PROJECT as set forth below and shall give professional consultation and advice to OWNER during the performance of services hereunder.

SECTION 1 - BASIC SERVICES OF CONSULTANT

1.1. General

CONSULTANT shall perform professional services as hereinafter stated that include customary civil, geotechnical, structural, mechanical, electrical and sanitary engineering services incidental thereto.

1.2. Incorporated Documents

The following documents are incorporated by reference as part of this Agreement:

1. The CONSENT DECREE, as may be amended, including all appendices.
2. EXHIBIT A – Scope of Engineering Services and Related Matters RFP #45-2011 (Including Appendices _____ and Addendums).
3. EXHIBIT B – Certificate of Insurance and Evidence of Insurability.

4. **EXHIBIT C** – Proposal of Engineering Services and Related Matters (the **CONSULTANT**'s response to RFP #45-2011).
5. **EXHIBIT D** – Further Description of Basic Engineering Services and Related Matters.

To the extent of any conflict among the provisions of these documents and/or this Agreement, the provisions of this Agreement shall control, followed by the provisions of **EXHIBIT A**, then **EXHIBIT D**, and then **EXHIBIT C**.

1.3 Project Phase

A complete description of the duties and responsibilities of the **CONSULTANT** are as indicated in **EXHIBIT A**, Scope of Engineering Services and Related Matters RFP #45-2011, **EXHIBIT C** Proposal of Engineering Services and Related Matters, and **EXHIBIT D** Further Description of Basic Engineering Services and Related Matters. After written authorization to proceed from the **OWNER**, **CONSULTANT** shall:

- 1.3.1. Notify the **OWNER** in writing of its authorized representative who shall act as Project Engineer and liaison representative between the **CONSULTANT** and the **OWNER**. **OWNER** has the right to approve the Project Engineer, or any change thereto, which approval shall not be unreasonably withheld.
- 1.3.2. The **CONSULTANT** must perform all duties necessary to fully complete the deliverables as further described in attached **EXHIBIT A**, Scope of Engineering Services and Related Matters RFP #45-2011, attached **EXHIBIT C**, Proposal of Engineering Services and Related Matters, and attached **EXHIBIT D** Further Description of Basic Engineering Services and Related Matters unless otherwise agreed to in writing by the parties.
- 1.3.3. The **CONSULTANT** shall provide written documentation of all meetings and be responsible for incorporating all comments and changes resulting therefrom in final work product.
- 1.3.4. The **CONSULTANT** shall submit five (5) copies (hardcover) of all initial draft final work products for this **PROJECT** unless otherwise described in Exhibit A. The copies of the initial draft final reports are submitted for review and comment by the **OWNER**, and should be presented in person to the **OWNER**.
- 1.3.5. After the **OWNER**'S detailed review, the **CONSULTANT** will revise the initial draft final for all work products for this **PROJECT**, and the **CONSULTANT** shall submit five (5) copies (hardcover) unless otherwise described in Exhibit A. One electronic copy of the all work products for this **PROJECT**, including all appendices, shall be provided and prepared in such a manner that it can readily be converted to a quick-link accessible form for the **OWNER**'S Website. The **OWNER** shall have ten (10) business days within which to accept or deny each such final draft. If is denied, the **OWNER** shall provide a detailed explanation in writing for the basis of such denial. Once the **OWNER** accepts the draft as final, a total of ten (10) final copies (hardcover) are required in addition to an electronic copy unless otherwise described in Exhibit A.
- 1.3.6. Immediately notify **OWNER** of any delay in the delivery of a work product or deliverable, regardless of cause. Give written notice to **OWNER** within five (5)

business days whenever CONSULTANT observes or otherwise becomes aware of any development that affects the scope or timing of CONSULTANT'S services, or any defect in the work of Contractor(s).

SECTION 2 - EXTRA WORK BY CONSULTANT

- 2.1. The OWNER may desire to have the CONSULTANT perform work or render services in connection with this PROJECT other than provided by the expressed intent of this Agreement. Such work shall

be considered as Extra Work, subject to a change order, supplemental to this Agreement, setting forth the character and scope thereof and the compensation therefore. Work under such change order shall not proceed until the OWNER gives written authorization. Should the OWNER find it desirable to have previously satisfactorily completed and accepted plans or parts thereof revised, the CONSULTANT shall make such revisions as directed, in writing, by the OWNER. This work shall be considered as Extra Work and shall be paid as such.

- 2.2. All Extra Work is subject to prior written authorization of OWNER and necessary appropriations made by the Urban County Council.

SECTION 3 - OWNER'S RESPONSIBILITIES

OWNER shall:

- 3.1. Provide criteria and information as to OWNER'S requirements for the PROJECT, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations.
- 3.2. Assist CONSULTANT by placing at his disposal available information pertinent to the Project.
- 3.3. Examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by CONSULTANT, and provide written approval or disapproval thereof within a reasonable time so as not to delay the services of CONSULTANT.
- 3.4. Designate in writing a person to act as OWNER'S representative agent with respect to the services to be rendered under this Agreement (see Section 8.1.1.). Such person shall have complete authority to transmit instructions, receive information, interpret, and define OWNER'S policies and decisions with respect to materials, equipment, elements, and systems pertinent to CONSULTANT'S services.
- 3.5. Give written notice to CONSULTANT whenever OWNER observes or otherwise becomes aware of any development that affects the scope or timing of CONSULTANT'S services, or any defect in the work of CONSULTANT.
- 3.6. Furnish or direct CONSULTANT to provide, Extra Work as stipulated in Section Two (2) of this Agreement or other services as required.

SECTION 4 - PERIOD OF SERVICES

- 4.1. Time is of the essence in the performance of this Agreement. CONSULTANT is aware that the OWNER is subject to penalties for non-compliance with the CONSENT DECREE deadlines. See attached EXHIBIT A for the overall current project schedule.
- 4.2. The provisions of this Section Four (4) and the various rates of compensation for CONSULTANT'S services provided for elsewhere in this Agreement have been agreed to in anticipation of the orderly and continuous progress of the PROJECT through completion.
- 4.3. If a delay results from the acts of OWNER or another entity that is required to permit or approve the work or services, an extension of time for such delay will be considered by OWNER.
 - 4.3.1. If the above type of delay occurs and CONSULTANT wants an extension of time, it must, within ten (10) days from the date of the delay, apply in writing to OWNER for an extension of time for a reasonable period, which must be agreed upon by OWNER.
 - 4.3.2. If the extension of time is approved by OWNER, the PROJECT schedule/Final Task Order shall be revised to reflect the extension. Such extension of time to the completion date shall in no way be construed to operate as a waiver on the part of OWNER of any of its other rights in the Agreement.
 - 4.3.3. If the above type of delay would prevent complete performance of the PROJECT/Final Task Order within sixty (60) days of the time specified therein, OWNER shall have the option of cancelling the PROJECT/Final Task Order or otherwise adjusting the scope of the services or work.
 - 4.3.4. If the parties cannot mutually agree to an extension of time or an adjustment, Section 6.5 under "DISPUTES" of this Agreement shall apply.
- 4.4. If delays result solely by reason of acts of the CONSULTANT, the CONSULTANT shall be held liable for any financial penalties incurred by the OWNER as a result of the delay, including but not limited to those assessed pursuant to the CONSENT DECREE. Section 6.5 of this Agreement (Disputes), shall apply in the event the parties cannot mutually agree upon the cause(s) associated with delays in completing project deliverables. The CONSULTANT must immediately notify the OWNER in the event of such delay, and provide the OWNER a written action plan within five (5) business days on how it will attempt to resolve the delay.

SECTION 5 - PAYMENTS TO CONSULTANT

- 5.1. **Methods of Payment for Services of CONSULTANT.**
 - 5.1.1. **For Basic Services**
OWNER shall pay Consultant a lump sum amount not to exceed \$ _____.

5.1.2. For Extra Work

Extra Work shall be paid for by the **OWNER** on the basis of a fixed fee, the amount of which shall be determined by negotiation. The **OWNER** shall have the right to negotiate alternate methods of payment for Extra Work if the **OWNER** determines that the fixed fee basis is not feasible. In the event the **OWNER** and the **CONSULTANT** are unable to agree upon the amount of payment for Extra Work, then the amount of such payment shall be determined pursuant to Section 6.5 (Disputes).

5.2. Times of Payment

5.2.1 **CONSULTANT** shall submit to **OWNER** detailed monthly statements for Basic Services and Extra Work rendered. The Statements will be based upon **CONSULTANT'S** estimate of the proportion of the total services actually completed at the time of billing. **OWNER** shall respond to **CONSULTANT'S** monthly statements within thirty (30) days, either denying payment or making payment.

5.3. Other Provisions Concerning Payments

5.3.1. In the event the Agreement is terminated by the **OWNER** without fault on the part of the **CONSULTANT**, the **CONSULTANT** shall be paid for the work performed or services rendered for which it has not already been paid in an amount bearing the same ratio to the total Agreement fee as the amount of work completed or partially completed and delivered to the **OWNER** is to the total amount of work provided for herein, as determined by mutual agreement between the **OWNER** and the **CONSULTANT**.

5.3.2. In the event the services of the **CONSULTANT** are terminated by the **OWNER** for fault on the part of the **CONSULTANT**, the **CONSULTANT** shall be paid reasonable value of the work performed or services rendered and delivered for which it has not already been paid, and the amount to be paid shall be determined by the **OWNER**.

SECTION 6 - GENERAL CONSIDERATIONS

6.1. Termination

6.1.1. **CONSULTANT** may only terminate this Agreement due to **OWNER'S** material breach of the terms hereof which breach causes **CONSULTANT** to be unable to perform its duties and responsibilities under this Agreement and upon forty-five (45) days written advance notice to **OWNER**.

6.1.2. The **OWNER** may terminate this Agreement for cause upon seven (7) business days written advance notice to the **CONSULTANT**. The **OWNER** reserves the right to terminate the Agreement for any reason whatsoever, with or without cause, at any time upon thirty (30) days written advance notice to the **CONSULTANT**.

6.2. Ownership and Reuse of Documents

All documents, including raw data, reports, drawings and specifications, prepared by the CONSULTANT pursuant to this Agreement shall be delivered to and become the property of the OWNER. The OWNER shall have the right to reuse same without restriction or limitation, but without liability or legal exposure to CONSULTANT.

6.3. Legal Responsibilities and Legal Relations

- 6.3.1. The CONSULTANT shall familiarize itself with and shall at all times comply with the CONSENT DECREE and all federal, state, and local laws, ordinances, and regulations that in any manner affect the services of this Agreement.
- 6.3.2. In performing the services hereunder, the CONSULTANT and its consultants, employees, agents and representatives shall not be deemed or construed to be employees of OWNER in any manner whatsoever. Except as otherwise provided in this Agreement, the CONSULTANT shall be acting as an independent contractor. The CONSULTANT shall not hold itself out as, nor claim to be, an officer or employee of OWNER by reason hereof and shall not make any claim, demand or application to or for any right or privilege applicable to an officer or employee of OWNER. The CONSULTANT shall be solely responsible for any claims for wages or compensation by CONSULTANT'S employees, agents and representatives, including consultants, and shall save and hold OWNER harmless therefrom.
- 6.3.3. The parties hereto agree that causes of actions between the parties shall be governed by applicable provisions of the Kentucky Revised Statutes, and that venue of any legal action shall be a court of appropriate jurisdiction in Fayette County, Kentucky. The parties further agree that Kentucky law shall apply with respect to the interpretation of any provision of this Agreement.

6.4. Successors and Assigns

- 6.4.1. CONSULTANT binds itself and its partners, successors, assigns and legal representatives to this Agreement. CONSULTANT shall not assign any interest in this Agreement without prior written consent of OWNER. OWNER'S consent shall not relieve the CONSULTANT of any responsibility for compliance with the provisions of this Agreement.
- 6.4.2. **In no event shall** the CONSULTANT subcontract more than fifty percent (50%) of the work, based upon dollar value of the work.
- 6.4.3. Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than OWNER and CONSULTANT.

6.5. Disputes

Except as otherwise provided in this Agreement, any dispute hereunder may be resolved by agreement of the OWNER'S Agent (Section 8.1.1) and the CONSULTANT. In the absence of such an agreement, the dispute shall be submitted to the OWNER'S Commissioner, Department

of Environmental Quality, whose decision shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary, or so grossly erroneous as necessarily to imply bad faith. Pending a final decision of a dispute hereunder, the CONSULTANT shall proceed diligently with the performance of the Agreement in accordance with the directions of the OWNER.

6.6. Accuracy of Consultant's Work

CONSULTANT shall be required to perform this Agreement in accordance with the degree of ordinary and reasonable skill and care usually exercised by professional engineers prevailing at the time, place and under similar conditions as the services hereunder are rendered. CONSULTANT shall be responsible for the accuracy of all work, even though raw data, reports, Drawings and Specifications have been accepted by OWNER, and it shall make any necessary revisions or corrections resulting from its errors and/or omissions for no additional compensation. By submission of reports, soils and subsurface information, quantities estimates, calculations and Drawings and Specifications to OWNER, CONSULTANT has made an incontrovertible representation that the information is accurate within the appropriate standard of skill and care. Failure on the part of CONSULTANT to provide the expected level of accuracy may be grounds for OWNER to terminate this Agreement

6.7. Security Clause

The CONSULTANT certifies that he shall not at any time release or divulge any information concerning the services covered by this Agreement to any person or any public or private organization without prior approval of the OWNER.

6.8. Access to Records

The CONSULTANT and its sub-consultants shall maintain all books, documents, papers, and accounting records, and make such materials available at their respective offices at all reasonable times during the Agreement period and for three (3) years from the date of final payment under the Agreement for inspection by the OWNER, and copies thereof shall be furnished if requested. Failure to maintain such records for three (3) years after the date of final payment may be grounds for the OWNER to disqualify the CONSULTANT from consideration for future consultant engineering Agreements.

6.9. Risk Management Provisions, Insurance and Indemnification

6.9.1. DEFINITIONS

The CONSULTANT understands and agrees that the Risk Management Provisions of this Agreement define the responsibilities of the CONSULTANT to the OWNER.

As used in these Risk Management Provisions, the terms "CONSULTANT" and "OWNER" shall be defined as follows:

- a. CONSULTANT means the consultant and its employees, agents, servants, owners, principals, licensees, assigns and subcontractors of any tier.

- b. **OWNER** means the Lexington-Fayette Urban County Government and its elected and appointed officials, employees, agents, boards, assigns, volunteers, and successors in interest.

6.9.2. INDEMNIFICATION AND HOLD HARMLESS PROVISION

CONSULTANT shall defend, indemnify, and hold harmless OWNER from and against all liability, claims, losses, actions, costs, expenses, obligations, fines, and assessments of whatever kind, including defense costs and reasonable attorney's fees, that are in any way incidental to or connected with, or that arise or are alleged to have arisen, directly or indirectly, from or by CONSULTANT'S (or subcontractors or subconsultants of any tier) performance or breach of the Agreement provided that such claim, damage, loss or expense is attributable to personal injury, bodily injury, sickness, or death, or to injury to or destruction of property, including the loss of use resulting therefrom; or to or from negligent acts, errors or omissions or willful misconduct; provided however, that CONSULTANT shall not be required to indemnify for damages caused solely by the negligent act or omission or willful misconduct of OWNER. In the event OWNER is alleged to be liable based upon the above, CONSULTANT shall defend such allegations and shall bear all costs, fees and expenses of such defense, including but not limited to, all attorneys' fees and expenses, court costs, and expert witness fees and expenses, using attorneys approved in writing by OWNER, which approval shall not be unreasonably withheld. This Indemnification and Hold Harmless Provision shall in no way be limited by any financial responsibility or insurance requirements, and shall survive the termination of this Agreement.

6.9.3. DAMAGES RELATED TO NONPERFORMANCE OR DELAY BY CONSULTANT

In the event that CONSULTANT'S delay or other nonperformance of its obligations hereunder results in the imposition of penalties against the OWNER pursuant to the CONSENT DECREE, or the OWNER otherwise suffers damage as a result of such delay or nonperformance, CONSULTANT shall be solely liable to OWNER for any and all such damages, including any costs and attorney's fees.

6.9.4. FINANCIAL RESPONSIBILITY

The CONSULTANT understands and agrees that the CONSULTANT shall, prior to final acceptance of the CONSULTANT'S proposal and the commencement of any work; demonstrate the ability to assure compliance with the Indemnity Agreement and other provisions of this Agreement.

6.9.5. INSURANCE REQUIREMENTS

6.9.5.1. Required Insurance Coverage

CONSULTANT shall procure and maintain for the duration of this Agreement the following or equivalent insurance policies at no less than the limits shown below and

cause its subcontractors to maintain similar insurance with limits acceptable to OWNER in order to protect OWNER against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by CONSULTANT. The cost of such insurance shall be included in any proposal:

<u>Coverage</u>	<u>Limits</u>
General Liability (Insurance Services Office Form CG 00 01)	\$1 million per occurrence, \$2 million aggregate or \$2 million combined single limit
Commercial Automobile Liability (Insurance Services Office Form CA 0001)	combined single, \$1 million per occurrence
Professional Liability	\$1 million per occurrence, \$2 million aggregate
Worker's Compensation	Statutory
Employer's Liability	\$500,000.00

The policies above shall contain the following conditions:

- a. OWNER shall be named as an additional insured in the General Liability Policy and Commercial Automobile Liability Policy.
- b. The General Liability Policy shall be primary to any insurance or self-insurance retained by OWNER.
- c. The General Liability Policy shall include Business Interruption coverage.
- d. The General Liability Policy shall include a Products and Completed Operations endorsement or Premises and Operations Liability endorsement unless it is deemed not to apply by OWNER.
- e. The General Liability Policy shall include a Pollution Liability endorsement and/or Environmental Casualty coverage unless it is deemed not to apply by OWNER.
- f. The General Liability Policy shall have a Professional Liability endorsement (including Errors and Omissions), for \$1 million\ \$2 million aggregate and/or a separate Professional Liability Policy shall be obtained. (OWNER does not need to be named as additional insured).
- g. OWNER shall be provided at least 30 days advance written notice via certified mail, return receipt requested, in the event any of the required policies are canceled or non-renewed.
- h. The Professional Liability policy shall be maintained for a minimum of three years

beyond the completion date of the project, to the extent commercially available. If not commercially available, CONSULTANT shall notify OWNER and obtain similar insurance that is commercially available and acceptable to OWNER.

- i. Said coverage shall be written by insurers acceptable to OWNER and shall be in a form acceptable to OWNER. Insurance placed with insurers with a rating classification of no less than Excellent (A or A-) and a financial size category of no less than VIII, as defined by the most current Best's Key Rating Guide shall be deemed automatically acceptable.

6.9.5.2. Renewals

After insurance has been approved by OWNER, evidence of renewal of an expiring policy must be submitted to OWNER, and may be submitted on a manually signed renewal endorsement form. If the policy or carrier has changed, however, new evidence of coverage must be submitted in accordance with these Insurance Requirements.

6.9.5.3. Right to Review, Audit and Inspect

CONSULTANT understands and agrees that OWNER may review, audit and inspect any and all of CONSULTANT'S records and operations to insure compliance with these Insurance Requirements.

6.9.6. SAFETY AND LOSS CONTROL

CONSULTANT shall comply with all applicable federal, state, and local safety standards related to the performance of its works or services under this Agreement and take necessary action to protect the life, health and safety and property of all of its personnel on the job site, the public, and OWNER.

6.9.7. DEFINITION OF DEFAULT

CONSULTANT understands and agrees that the failure to comply with any of these insurance, safety, or loss control provisions shall constitute default under this Agreement. CONSULTANT also agrees that OWNER may elect as its option any single remedy or penalty or any combination of remedies and penalties, as available, including but not limited to purchasing insurance and charging CONSULTANT for any such insurance premiums purchased, or suspending or terminating this Agreement.

SECTION 7 - EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this Agreement, the CONSULTANT agrees as follows:

- 7.1. The CONSULTANT will not discriminate against any employee or application for employment because of race, color, religion, national origin, sex, age, or handicap. The

CONSULTANT will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, national origin, sex, age, or handicap. Such action shall include, but not be limited to the following: employment upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeships. The CONSULTANT agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this non-discrimination clause.

- 7.2. The CONSULTANT will, in all solicitations or advertisements for employees placed by or on behalf of the CONSULTANT, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, sex, age (between forty and seventy), or handicap.

SECTION 8 - SPECIAL PROVISIONS, EXHIBITS, AND SCHEDULES

- 8.1. This Agreement is subject to the following provisions.

- 8.1.1. Pursuant to subparagraph 3.4 of this Agreement, OWNER has assigned Charles H. Martin, P.E., Director of the Division of Water Quality (the "OWNER'S Agent"), as the authorized agent of OWNER, to monitor, direct and review the performance of work of the CONSULTANT. Documents, data, reports, and all matters associated with carrying out this Agreement shall be addressed to the OWNER'S Agent or his designee. Questions by the CONSULTANT regarding interpretations of the terms, provisions and requirements under this Agreement shall be addressed to the OWNER'S Agent or his designee. The CONSULTANT shall look only to the OWNER'S Agent or his designee for direction in its performance under this Agreement; no other direction shall be binding upon OWNER. OWNER shall respond to written requests by CONSULTANT within thirty (30) days.

- 8.2. This Agreement, together with the Incorporated Documents (Section 1.2) constitutes the entire Agreement between OWNER and CONSULTANT and supersedes all prior written or oral understandings. This Agreement and EXHIBITS A, B, C and D and any related schedules or documents may only be amended, supplemented, modified or canceled by a duly executed written instrument.

- 8.3. **NO THIRD PARTY RIGHTS.** This agreement does not create a contractual relationship with or right of action in favor of a third party against either OWNER or CONSULTANT.

- 8.4. **UNENFORCEABLE TERMS/SURVIVABILITY.** If any term or provision of this Agreement shall be found to be illegal or unenforceable, this Agreement shall remain in full force and such term or provision shall be deemed stricken. The provisions of Section 6 of this Agreement shall survive its termination.

8.5. **NON-WAIVER.** The failure of either party to enforce any right reserved to it in this Agreement shall not be a waiver of any such right to which the party is entitled.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year first above written.

OWNER:
LEXINGTON-FAYETTE URBAN
COUNTY GOVERNMENT

CONSULTANT:

BY: _____
JIM GRAY, MAYOR

BY: _____

ATTEST:

URBAN COUNTY COUNCIL CLERK

COMMONWEALTH OF KENTUCKY)
)
COUNTY OF FAYETTE)

The foregoing Agreement was subscribed, sworn to and acknowledged before me by _____, as the duly authorized representative for and on behalf of _____, on this the ____ day of _____, 2012.

My commission expires: _____.

NOTARY PUBLIC

EXHIBIT A

Scope of Engineering

Services and Related Matters

RFP #45-2011

EXHIBIT B

Certificate of Insurance

and

Evidence of Insurability

EXHIBIT C

Proposal of Engineering Services

and

Related Matters

EXHIBIT D

Further Description of Basic Engineering Services
and
Related Services



Lexington-Fayette Urban County Government
DEPARTMENT OF FINANCE & ADMINISTRATION

Jim Gray
Mayor

Jane C. Driskell
Commissioner

ADDENDUM #1

RFP Number: 45-2011

Date: December 16, 2011

Subject: **Engineering Services for New Blue Sky Pump Station/Force
Main Construction & Existing WWTP Closure & Demolition**

Please address inquiries to:
Betty Landrum (859) 258-3320

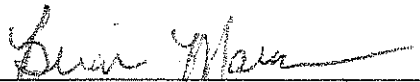
TO ALL PROSPECTIVE BIDDERS:

Please be advised of the following clarifications to the above referenced RFP:

- 1) See attached Summary of Pre-Proposal Meeting held on December 12, 2011 as well as the PowerPoint Presentation, and Exhibits A and B.

Questions	Answers
Our firm is certified as a WBE by the state of Kentucky, WBENC and the LFUCG. If we are the primary proposer on this project, will our status as a certified WBE be considered in determining if we have met the MBE/WBE participation goals?	Yes, a minority firm which is certified as a DBE by the state of Kentucky and as a WBE by WBENC can use their company's participation toward the MWBE goal for the contract. The company information and the percentage of the contract they will perform should be listed in the MWBE Participation document.
Is MBE/WBE participation counted only through a subcontract?	No, the MWBE participation is counted for the entire project, not just for subcontracts.
Should the consultant submit fees for Class B or Class C Pump Station or Both?	LFUCG recommends separate fees for both Class B and Class C pump stations.
Are any environmental studies required for the project?	LFUCG is unaware of any required environmental studies but a determination by the Division of Water that the project is not eligible for a Categorical Exclusion may lead to a required Environmental Assessment. LFUCG recommends that the proposals reflect alternative cost estimates for: <ol style="list-style-type: none"> 1. Categorical Exclusion outcome 2. Environmental Assessment outcome Consultant should refer the Clean Water State Revolving Fund 2012 Handbook, as described in Task 1 of the published Scope of

	Services, for more information.
Two possible tie locations are mentioned. Should the consultant give a fee for each possible alternate?	Yes
Can you provide the closest street address or street intersection of the force main discharge point locations referenced in the RFP. The discharge points are 1) Sanitary Manhole EH4_894 and 2) East Hickman Pump Station.	Sanitary manhole EH4_894 is located at 3721 Richmond Road. Physically, it is located approximately 1,950 linear feet west of the Jacobson Park entrance, which is at the intersection of Athens – Boonesboro Road and Old Richmond Road. East Hickman Pump Station is located at 3316 Buckhorn Drive. (aka: Buckhorn and Alumni Drive intersection)
There are some concerns regarding the insurability of certain clauses highlighted therein. These include among others the Indemnification clause (Article 6.9.2) and the Safety and Loss Control clause (Article 6.9.6). Recognizing the importance of insurability to all parties bound by the agreement has there been any discussion with hopes of modifying these Articles in a mutually acceptable fashion?	This is currently under review and may be revised.
Task 6 Kentucky Infrastructure Authority states 'It is suggested that proposers provide individual lump sum costs for each item listed in Exhibit B – Generalized Deliverables for SRF Loan Projects.' Where can this Exhibit B be found?	Both Exhibits A and B were erroneously omitted from the original published scope. They are now provided with this addendum.



Brian Marcum, Director
Division of Central Purchasing

All other terms and conditions of the RFP and specifications are unchanged. This letter should be signed, attached to and become a part of your RFP.

COMPANY: _____

ADDRESS: _____

SIGNATURE OF PROPOSER: _____

RFP 45-2011 Pre-Proposal Meeting Summary
December 12, 2011

Charlie Martin, Director of the Division of Water Quality, gave the attached presentation. He noted that this project is really four projects:

1. Pump Station;
2. Force Main;
3. Tie in of existing service to the new pump station; and
4. Demolition of the existing treatment plant.

Mr. Martin introduced Steve Farmer as the project manager for Blue Sky. He said any questions or contacts until a selection is made should be through Purchasing—not Division of Water Quality staff.

Betty Landrum, Division of Purchasing, said the boiler plate is pretty standard; every attendee should sign the attendance sheet; she reiterated any questions or contact should be directed to her/Purchasing and not Division of Water Quality staff; and the deadline is the hour listed in the RFP—not one minute after. She noted the deadline for questions is December 14, 2011, at 9:00 a.m. and the answers will be posted by 5:00 p.m. on December 15, 2011. The proposals should be submitted no later than 2:00 p.m. on December 22, 2011, downtown at the Government Center, Division of Purchasing.

Mr. Martin noted in the presentation and restated it again before the questions started, that this project involves a grant and KIA loan, and that the consultant selected will be responsible for meeting and maintaining all the grant and loan requirements through design and construction. Mr. Martin mentioned that it is important to document carefully the degree of local employment. He also pointed out that Task 5.4 – reference to federally funded projects should be Task 6, not Task 3.16.

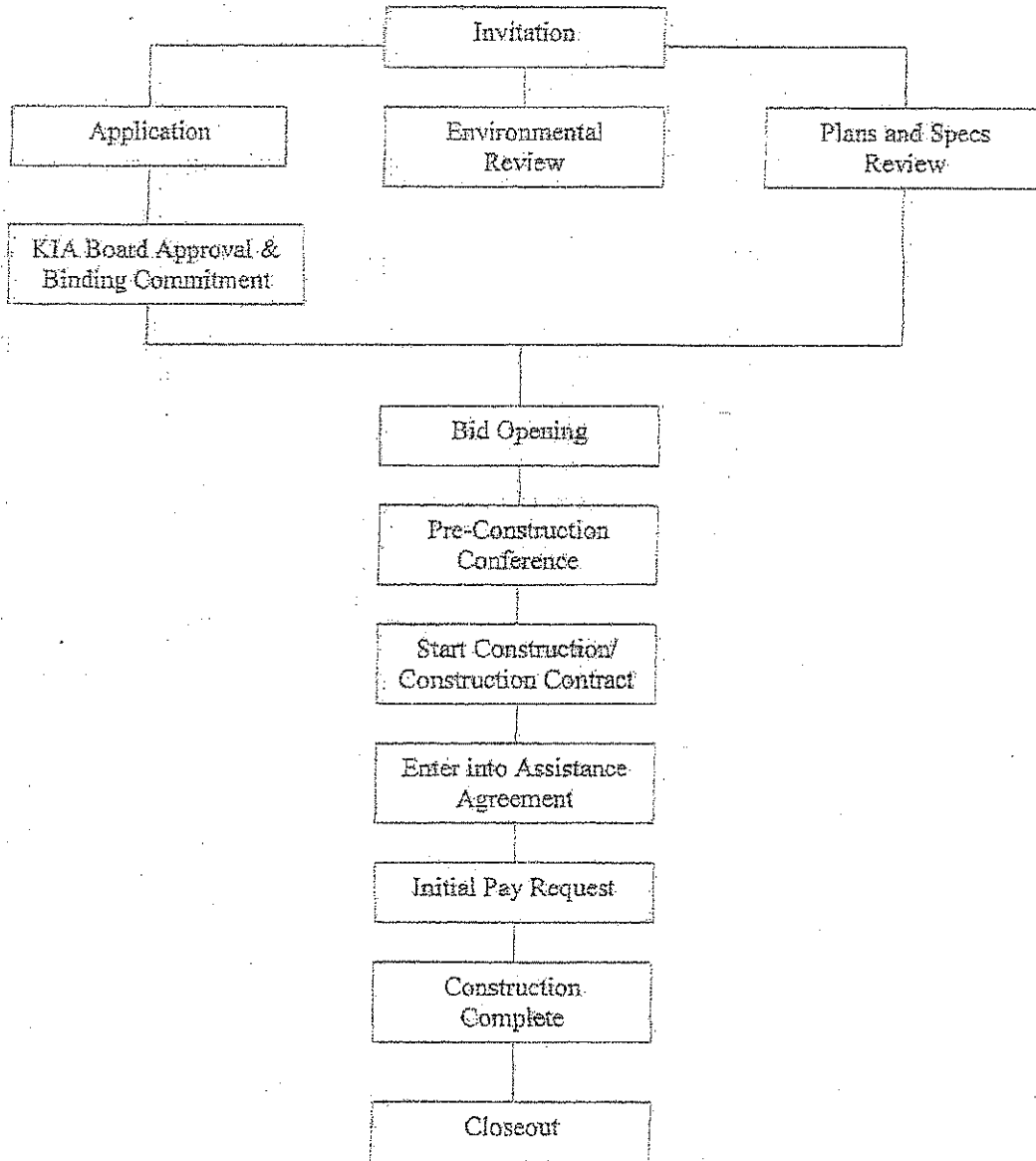
Mr. Martin also Section 3 stated that this contract is a lump sum contract, which is not correct. Mr. Martin clarified what the preferred proposal cost structure should be:

- Task 1 – lump sum
- Task 2 – lump sum
- Task 3 – lump sum except:
 - i. T 3.7: Rock soundings – provide unit cost for soundings.
 - ii. T 3.14: Plat preparation - since actual number of easements is currently unknown, provide unit cost per plat preparation.
- Task 4 – lump sum per bid (i.e. four separate costs for each separate bid as described in Task 4.1)
- Task 5 – lump sum per bid (i.e. four separate costs for each separate bid as described in Task 4.1)
- Task 6 – lump sum per bid (i.e. four separate costs for each separate bid as described in Task 4.1)
- Task 7 – lump sum for as described in the scope of services, estimated unit cost for each additional public presentation.

Eddie Mesta asked if there was a page limit on the proposals. Mr. Martin said no; however, he is interested in seeing a proposal that clearly documents a familiarity/understanding of this project/process—including the removal of the existing treatment plant, rather than a restatement of the scope. Harsha Wijesiri asked if the LFUCG GIS information would be available to the consultant selected. Mr. Martin said yes; however, since this plant was previously not an LFUCG property, the GIS information we have to date may not be super reliable. Joe Herman asked if there would be interviews, and Mr. Martin said that is not anticipated at this time.

Exhibit A

Flowchart for Clean Water Projects



GENERALIZED DELIEVERABLES FOR SRF LOAN PROJECTS
EXHIBIT B

ACTIVITY	FEE
ENVIRONMENTAL REVIEW	
Categorical Exclusion Submission / Approval	
Environmental Assessment Submission / Approval	
PLANS AND SPECIFICATIONS	
DOW Construction Permit Application / Approval	
DOW Plans & Specs Review / Responses	
Inclusion of Supplemental General Conditions	
SRF Site Certificate Completion	
ATA DOCUMENTS, PROCEDURES AND REPORTING	
Completion / Submission of Authority to Award (ATA) Package	
Bid Documents	
Davis - Bacon Wage Certification / Quarterly Compliance	
Preconstruction Coordination	
GREEN PROJECT RESERVE (GPR) GUIDANCE	
Develop Business Case using EPA GPR guidance	
PROJECT CLOSE OUT DOCUMENTS	
Final Pay Request Form, supporting invoices and DBE utilization forms - including all supporting invoices	
Certification letter to DOW stating that project was built in accordance with approved plans / specs.	
Initiation of Operation letter, signed by LFUCG	
As-builts to DOW	
Coordinate final inspection by DOW	
Lien release from Contractor	
Documentation of any final, adjusting change orders	
Submission of certificate of completion from LFUCG and consultant	



Lexington-Fayette Urban County Government
DEPARTMENT OF FINANCE & ADMINISTRATION

Jim Gray
Mayor

Jane C. Driskell
Commissioner

CLARIFICATION #1

RFP Number: 45-2011

Date: December 20, 2011

Subject: **Engineering Services for New Blue Sky Pump Station/Force
Main Construction & Existing WWTP Closure & Demolition**

Please address inquiries to:
Betty Landrum (859) 258-3320

TO ALL PROSPECTIVE BIDDERS:

Please be advised of the following clarifications to the above referenced RFP:

Questions	Answers
<p>The term "work" is included throughout the ESA, which may imply or infer that there is an expectation on the part of LFUCG that construction-type services and/or standards are being provided or will apply. Will LFUCG consider eliminating the term "work" or otherwise clarifying this issue?</p>	<p>LFUCG will consider this request but may not necessarily change or clarify this issue as part of a final ESA.</p>
<p>Section 6.2, page 6. Consultant wishes to clarify that if LFUCG reuses documents related to the ESA for another purpose not related to the services in the RFP that it will not be held responsible. Will LFUCG consider adding the following or a substantially similar statement to the end of this section "Any reuse of documents for any purpose other than the intended use shall be at OWNER's sole risk and without liability to CONSULTANT"?</p>	<p>LFUCG is agreeable to including additional language which would clarify that the Consultant is not liable should LFUCG use nonstandard components of drawings/plans on other LFUCG projects. However, there are components of this project and documentation that will be provided by the Consultant which the LFUCG anticipates using in future projects and for which LFUCG reasonably expects the Consultant to stand behind. For example, if LFUCG is requesting a feasibility assessment or flow numbers from the Consultant, LFUCG will be relying on that information in addressing future work/services and will not waive or release related rights or claims it has against the Consultant.</p>
<p>Section 6.7, page 7. Consultant indicates that there is a possibility that it may be subject to a Freedom of Information Act or Open Records Act request regarding the services. Will LFUCG consider adding a statement to this section clarifying that a consultant may release information if required by law?</p>	<p>LFUCG is agreeable to including language similar to the above in any final ESA, but will also require clarification language requiring notification of any such document requests.</p>

<p>Section 6.9.2, page 8. Consultant believes that the language is too broad and may be interpreted in a manner under which the underlying insurance would not cover the claim. Will LFUCG consider clarifying and/or amending this language?</p>	<p>LFUCG will consider this request but may not necessarily change the provision as part of a final ESA and would only do so if it believed it was ultimately obtaining sufficient protection.</p>
<p>6.9.5.1. Required insurance coverage. Is there a limitation on the type of professional liability insurance requested (i.e., may it be either occurrence based or claims made)?</p>	<p>As long as LFUCG retains the additional provisions pertaining to professional liability insurance included in the ESA it will accept either type of insurance.</p>
<p>Section 6.9.6. Consultant is concerned that it may be held liable for the actions of persons outside of its control under this provision. Will LFUCG consider amending or clarifying the language within this provision to address this concern?</p>	<p>LFUCG will consider this request but may not necessarily change the provision as part of a final ESA and would only do so if it believed it was ultimately obtaining sufficient protection.</p>



Brian Marcum, Director
Division of Central Purchasing

All other terms and conditions of the RFP and specifications are unchanged. This letter should be signed, attached to and become a part of your RFP.

COMPANY: _____

ADDRESS: _____

SIGNATURE OF PROPOSER: _____