

Lexington-Fayette Urban County Government

200 E. Main St
Lexington, KY 40507



Docket

Tuesday, March 5, 2024

3:00 PM

packet

Council Chamber

Urban County Council Work Session

I. Public Comment - Issues on Agenda**II. Requested Rezonings/ Docket Approval****III. Approval of Summary**

- a [0249-24](#) Table of Motions: Council Work Session, February 27, 2024

Attachments: [TOM 02.27.24](#)

IV. Budget Amendments**V. Budget Adjustments - For Information Only****VI. New Business****VII. Continuing Business/ Presentations**

- a [0247-24](#) A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement related to Neighborhood Development Funds with Alpha Kappa Alpha Sorority, Inc. (\$900); Allegro Dance Project, Inc. (\$1,800); Lafayette Track and Field Boosters (\$1,200); Unity in the Community, Inc. (\$550); Growth Point Development, Inc. (\$1,350); Community Inspired Lexington, Inc. (\$1,750); and the Ky. Center for Grieving Children and Families, Inc. (\$754), for the Office of the Urban County Council, at a cost not to exceed the sum stated. [Council Office, Hall]

Attachments: [NDF List 3.5.24](#)

[0247-24 - Resolution NDF List 3-5-24 4882-4913-0154 v.1.docx](#)

[Contract #075-2024-Lafayette Track and Field](#)

[Contract #075-2024 - Growth Point Development](#)

[R-097-2024](#)

[Contract #075-2024 - Ky Center for Grieving Children](#)

[Contract #075-2024 -Community Inspired Lexington](#)

- b [0250-24](#) Summary: Social Services and Public Safety Committee, January 23, 2024

Attachments: [01-23-24 SSPS Summary and Motions \(Autosaved\) \(AutoRecovered\)](#)

[SOI](#)

- c [0194-24](#) Play Golf Lexington Award

VIII. Council Reports

IX. Mayor's Report

X. Mayor's Report - Price Contract Bid Recommendations

XI. Public Comment - Issues Not on Agenda

XII. Adjournment

Administrative Synopsis - New Business Items

- a** **0203-24** A Resolution authorizing and approving the purchase of 130 West New Circle Rd., Suite 170 and 134 West New Circle Rd. for the operations of the Div. of Water Quality; and authorizing and directing the Mayor to sign any documents deemed necessary and acceptable by the Dept. of General Services and the Dept. of Law regarding the purchase, at a cost not to exceed \$6,000,000. [Div. of Water Quality, Martin]
- Attachments:** [130_134 West New Circle Acquisition Blue Sheet Memo](#)
[130-134 E New Circle Rd map](#)
[Property Fact Sheets](#)
[Appraisal 130 134 W. New Circle Rd](#)
[Intent to Purchase - W. New Circle Road 2.09.24](#)
[0203-24- Purchase of 130-134 W New Circle 4872-4501-8282 v.1.docx](#)
[R-091-2024](#)
[Deed #8570](#)
[Contract #041-2024](#)
- b** **0205-24** A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute Change Order No. 1 to the Grant Agreement with North Lexington Holdings II, LLC, for a Stormwater Quality Incentive Grant Project, decreasing the Contract by the sum of \$48,255.00, from \$48,255.00 to \$0.00. [Div. of Water Quality, Martin]
- Attachments:** [Blue Sheet](#)
[Change Order Contract](#)
[FY 2021 NLH II LLC at 525 N Limestone - Council Map rev.5.3.21](#)
[0205-24- Change Order 1 North Lexington Holdings 4856-3145-5658 v.1.doc](#)
[R-110-2024](#)
[Contract #097-2021 \(2\)](#)
- c** **0206-24** A Resolution authorizing the Div. of Police to purchase maintenance and support for the Faro 3D Crime Scene Scanner from Faro Technologies, Inc., a sole source provider, and authorizing the Mayor to execute an Agreement with Faro Technologies, Inc., related to the procurement of these services, at a cost estimated not to exceed \$2,360. [Div. of Police, Weathers]

Attachments: [Cover Memo - FARO Technologies Inc](#)
[FARO Technologies Inc. - Maintenance Agreement](#)
[FARO Technologies Inc. - SOLE SOURCE CERTIFICATION](#)
[0206-24 FARO Technologies Resolution 2024 4866-0543-8889 v.1.docx](#)
[R-111-2024](#)
[Contract #055-2024](#)

- d** **0213-24** A Resolution authorizing the Mayor, on behalf of the Urban County Government, to execute an Agreement awarding a Class B (Education) Incentive Grant to Fayette County Public Schools, for a Stormwater Quality Project, at a cost not to exceed \$39,900. [Div. of Water Quality, Martin]
- Attachments:** [Blue Sheet](#)
[FY 2024 FCPS Class B Edu - Council Map](#)
[FY24 Class BE FCPS GAA with Attachments A Grantee signed](#)
[0213-24-Incentive Grant with FCPS 4857-1245-7898 v.1.docx](#)
[R-112-2024](#)
[Contract #068-2024](#)
- e** **0214-24** A Resolution authorizing the Mayor, on behalf of the Urban County Government, to execute an Agreement awarding a Class B (Infrastructure) Incentive Grant to Partin Lex Acquisitions, LLC, for a Stormwater Quality Project, at a cost not to exceed \$186,983.63. [Div. of Water Quality, Martin]
- Attachments:** [Blue Sheet](#)
[FY 2024 Dan Parin, Partin Lex Acquisitions, LLC \(2514 Regency Road\) Clas](#)
[FY24 Class BI Partin Lex Acquisitions, LLC GAA ATTACHMENT A Grantee](#)
[0214-24-WQ Incentive Grant with Partin Lex Acquisitions 4878-1098-6154 v.1](#)
[R-113-2024](#)
[Contract #069-2024](#)
- f** **0215-24** An Ordinance of the Lexington-Fayette Urban County Government authorizing the issuance of its Various Purpose General Obligation Bonds, Series 2024A, in one or more subseries, in an aggregate principal amount of \$38,060,000 (which amount may be increased by an amount of up to ten percent (10%) or decreased by an unlimited amount); approving a form of Series 2024A Bonds; authorizing designated officers to execute and deliver the Series 2024A Bonds; authorizing and directing the filing of notice with the State Local Debt Officer; providing for the payment and security of the Series 2024A Bonds; maintaining a sinking fund; creating a bond payment fund for the Series 2024A Bonds; authorizing acceptance of the bid(s) of the bond purchaser of the Series

2024A Bonds; and repealing inconsistent ordinances. [Dept. of Finance, Hensley]

Attachments: [Memo FY24 GO 2024A Sale and Issuance](#)
[Ordinance \(New Money - 2024A - LFUCG - 2024A - GO \(2024\)\(30920931.3\) O-031-2024](#)

g **0216-24**

An Ordinance of Lexington-Fayette Urban County Government authorizing the issuance of Lexington-Fayette Urban County Government Various Purpose General Obligation refunding Bonds, Series 2024B, in one or more subseries, in an aggregate principal amount of \$7,720,000, (which amount may be increased or decreased by an amount of up to ten percent (10%)) for the purpose of refunding all of the outstanding principal amount of Lexington-Fayette Urban County Government General Obligation Bonds Various Purpose General Obligation Refunding Bonds, Series 2014A; approving a form of bond; authorizing designated officers to execute and deliver the bonds; providing for the payment and security of the bonds; creating a bond payment fund and escrow funds; maintaining the heretofore established sinking fund; authorizing a Certificate of Award for the acceptance of the bid of the bond purchaser for the purchase of the Series 2024B Bonds; authorizing an Escrow Trust Agreement; and repealing inconsistent ordinances. [Dept. of Finance, Hensley]

Attachments: [Memo FY24 GO Refunding 2024B Sale and Issuance](#)
[Ordinance \(Series 2014A GO Refunding\) - LFUCG - 2024\(41857157.1\) O-032-2024](#)

h **0217-24**

A Resolution of the Lexington-Fayette Urban County Government authorizing the advertisement for bids and the distribution of a Preliminary Official Statement for the purchase of the principal amount of its (i) Various Purpose General Obligation Bonds, Series 2024A, in an aggregate principal amount of \$38,060,000 (which amount may be increased by an amount of up to ten percent (10%) or decreased by an unlimited amount) and (ii) Various Purpose General Obligation refunding bonds, Series 2024B, in an aggregate principal amount of \$7,720,000 (which amount may be increased or decreased by an amount of up to ten percent (10%)). [Dept. of Finance, Hensley]

Attachments: [Memo FY24 Resolution Advertisement & Bids](#)
[Resolution-Ad for Bids \(New Money and Refunding\) - LFUCG - 2024A - GO - R-114-2024](#)

i **0223-24**

A Resolution authorizing and directing the Mayor, on behalf of the

Urban County Government, to execute the Purchase of Service Agreement with Friends of Wolf Run, Inc. for services related to the Wolf Run Watershed Water Quality Basins and Update Project, for the Div. of Environmental Services, at a cost not to exceed \$9,600. [Div. of Environmental Services, Carey]

Attachments: [bluesheet memo FOWR Wolf Run 319\(h\) Grant Assistance edited PSA FWR .3 . 4861-0063-8623 and all exhibits](#)
[0223-24- PSA with FWR 4871-4160-1450 v.1.docx](#)
[R-115-2024](#)
[Contract #049-2024](#)

- j **0224-24** A Resolution authorizing the Mayor, on behalf of the Urban County Government, to execute a Test Security Agreement with Ergometrics, Inc. for testing applicants applying for Community Corrections Sergeant Promotional Processes, at a cost not to exceed \$5,160. [Div. of Human Resources, George]

Attachments: [Bluesheet Memo 24-0038](#)
[Ergometrics Agreement](#)
[224-24 4892-1690-3337 v.1.docx](#)
[R-116-2024](#)
[Contract #077-2024](#)

- k **0225-24** A Resolution authorizing the Mayor, on behalf of the Urban County Government, to execute a Quitclaim Deed and any other documents necessary to transfer a portion of non-utilized right-of-way located adjacent to the property at 3541 Cephass Way to the abutting property owners. [Dept. of Environmental Quality and Public Works, Albright]

Attachments: [Cephass - Bluesheet Memo](#)
[Cephass ROW - Memo to Law](#)
[CEPHASS WAY 3541 Exhibit](#)
[3541 Cephass Way Legal Description](#)
[QUITCLAIM DEED](#)
[RESO 0225-24 Quitclaim Deed for Non-Utilized ROW to 3541 Cephass Way 4](#)
[R-092-2024](#)

- l **0227-24** A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement with the Cabinet for Health and Family Services accepting \$50,000 in Federal funds from the Ky. Opioid Response Effort, in order to support the Community Paramedicine Program, the acceptance of which does not obligate the Urban County Government to the expenditure of funds, authorizing the Mayor to execute any

necessary amendments related to these funds, and also authorizing the Mayor to transfer unencumbered funds with the Grant Budget established for this Grant. [Div. of Fire and Emergency Services, Wells]

Attachments: [24-Blue Sheet KORE Fire](#)
[Draft PON2 729 2400002022 1 PO CNTRCT FORM -Unsigned](#)
[0227-24 \(KORE Grant\) 4888-7533-0730 v.1.doc](#)
[R-093-2024](#)
[Contract #319-2024](#)

- m **0228-24** A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute and submit a Grant Application to the Ky. Justice and Public Safety Cabinet seeking an award of \$99,038 in Federal funds from the 2022 Project Safe Neighborhood Grant, which shall be used for the purchase of computer hardware and database software, to provide any additional information requested in connection with this Grant Application, and to accept this Grant if the application is approved, the acceptance of which does not obligate the Urban County Government to the expenditure of funds, and authorizing the Mayor to transfer unencumbered funds within the Grant Budget for these Grants. [Div. of Police, Weathers]

Attachments: [24-Blue Sheet Memo PSN Grant](#)
[0228-24 \(PSN Grant\) 4862-1319-2362 v.1.docx](#)
[R-117-2024](#)

- n **0229-24** A Resolution authorizing the Mayor, on behalf of the Urban County Government, to execute and submit a Grant Application to the Ky. Energy and Environment Cabinet, Dept. of Environmental Protection, to provide any additional information requested in connection with this Grant Application, and to accept this Grant if awarded, which Grant funds are in the amount of \$110,000 in Commonwealth of Ky. funds, for the Dept. of Environmental Quality and Public Works - Div. of Waste Management, to support a One-Day Household Hazardous Waste Recycling Event, the acceptance of which obligates the Urban County Government to the expenditure of \$27,500 as a local match, and authorizing the Mayor to transfer encumbered funds within the Grant Budget. [Div. of Waste Management, Thurman]

Attachments: [24-Blue Sheet Memo HHW](#)
[2024-25 HHW Grant Application](#)
[RFP Pkg 44-2022](#)
[0229-24 \(Household Hazardous Waste Grant\) 4863-3666-1930 v.1.docx](#)
[R-118-2024](#)
[Contract #058-2024](#)
[Contract #058-2024 \(2\)](#)
[Contract #058-2024 \(3\)](#)

- o **0230-24** A Resolution authorizing the Mayor to execute an Agreement, the final form of which shall be subject to approval of the Dept. of Law, with Northern Ky. Legal Aid Society, Inc., d/b/a Legal Aid of the Bluegrass, at a cost not to exceed \$200,000 (\$100,000 in FY 24), for the provision of housing stabilization services and payment of rental assistance on behalf of eligible families participating in eviction diversion mediation, and further authorizing the Mayor to execute any other needed Amendments or Agreements related to the use of these funds. [Dept. of Housing Advocacy and Community Development, Lanter]

Attachments: [Bluesheet LABG Rent Assistance 2.26.24](#)
[PSA \(Legal Aid\) 4881-6204-3299 v.2](#)
[230-24 Agreement with Legal Aid 4878-4832-9897 v.1.docx](#)
[R-094-2024](#)

- p **0231-24** A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute the Engineering Services Agreement (awarded pursuant to RFP No. 1-2024) with Tetra Tech, Inc. For the development of the Comprehensive Climate Action Plan for the Lexington-Fayette County metropolitan statistical area, for the Div. of Environmental Services, at a cost not to exceed \$505,000. [Div. of Environmental Services, Carey]

Attachments: [24- Blue Sheet Memo ESA Tetra Tech](#)
[Engineering Agreement with Tt for CCAP w exhibits signed](#)
[COI Tetra Tech Inc - LexingtonFayette Urban County - 24021929593377 - 57/](#)
[0231-24- ESA with Tetra Tech for MSA 4860-4688-8618 v.1.docx](#)
[R-119-2024](#)
[Contract #048-2024](#)

- q **0232-24** A Resolution authorizing the Mayor to execute an Agreement, the final form of which shall be subject to approval of the Dept. of Law, with Goodwill Industries of Ky., Inc., at a cost not to exceed \$400,000 (\$150,000 in FY 24), for the provision of housing stabilization services and payment of rent and security deposit

assistance on behalf of eligible families referred by the McKinney Vento Homeless Office of Fayette County Public Schools, and further authorizing the Mayor to execute any other needed Amendments or Agreements related to the use of these funds. [Dept. of Housing Advocacy and Community Development, Lanter]

Attachments: [Bluesheet Goodwill Rent Assistance 2.26.24 \(002\)](#)
[MOA \(Goodwill\) 4881-6204-3299 v.1 4866-5264-2725 v.1 \(002\)](#)
[232-24 Agreement with Goodwill 4867-8199-3641 v.1.docx](#)
[Contract #085-2024](#)
[R-095-2024](#)

r **0233-24** A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement with the Ky. Transportation Cabinet, for the acceptance of \$426,648 in State Reimbursable Funding (FD04), for the Innovation Dr. and Georgetown Rd. Improvement Project, the acceptance of which obligates the Urban County Government to the expenditure of \$200,000 as a local match, with such local match subject to reimbursement by Commerce Lexington, Inc., and authorizing the Mayor to transfer unencumbered funds within the Grant Budget. [Dept. of Environmental Quality and Public Works, Albright]

Attachments: [24-Blue Sheet Memo Innovation Dr](#)
[BA 12834](#)
[KYTC Agreement for Mayor Signature](#)
[0233-24 4880-5678-6089 v.1.docx](#)
[R-120-2024](#)
[Contract #057-2024](#)

s **0234-24** A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Memorandum of Agreement (awarded pursuant to RFP No. 4-2024) with Solar Energy Solutions, LLC, for its participation as installer in the Solarize Lexington Program, at a cost not to exceed \$1,088,733.30 for Grants awarded pursuant to the Solarize Lexington Program. [Div. of Environmental Services, Carey]

Attachments: [bluesheet memo SES Solarize Lex Program MOA](#)
[MOA - Solarize Lexington with Installer SES w exhibits and signed by SES](#)
[0234-24- MOU with Solarize Lex 4853-5377-9882 v.1.doc](#)
[R-096-2024](#)
[Contract #036-2024](#)

t **0236-24** A Resolution authorizing the Div. of Police to purchase Trimble X7 Crime Scene Scanner T10 Tablet Control Panel and Forensics

Suite software from Seiler Geospatial, a sole source provider, and authorizing the Mayor, on behalf of the Urban County Government, to execute any necessary Agreement with Seiler Geospatial, related to the procurement, at a cost not to exceed \$995. [Div. of Police, Weathers]

Attachments: [Cover Memo - Seiler Geospatial](#)
[SEILER Geospatial - Quote #00095037](#)
[Sole Source Letter - Seiler \(Trimble\)](#)
[SOLE SOURCE CERTIFICATION - Seiler Geospatial \(Trimble Scanner\)](#)
[236-24 4856-7018-7690 v.1.docx](#)
[R-121-2024](#)
[Contract #056-2024](#)



Lexington-Fayette Urban County Government

Master

200 E. Main St
Lexington, KY 40507

File Number: 0249-24

File ID: 0249-24

Type: Summary

Status: Approved

Version: 1

Contract #:

In Control: Urban County Council

File Created: 02/29/2024

File Name: Table of Motions: Council Work Session, February 27, 2024

Final Action: 03/05/2024

Title: Table of Motions: Council Work Session, February 27, 2024

Notes:

Sponsors:

Enactment Date:

Attachments: TOM 02.27.24

Enactment Number:

Deed #:

Hearing Date:

Drafter:

Effective Date:

History of Legislative File

| Ver- sion: | Acting Body: | Date: | Action: | Sent To: | Due Date: | Return Date: | Result: |
|---------------|--------------------------------------|------------|----------|----------|-----------|-----------------|---------|
| 1 | Urban County Council Work Session | 03/05/2024 | Approved | | | | Pass |

Text of Legislative File 0249-24

Title

Table of Motions: Council Work Session, February 27, 2024

**URBAN COUNTY COUNCIL
WORK SESSION
TABLE OF MOTIONS
February 27, 2024**

At-Large Council Member James Brown called the meeting to order at 3:00 p.m. Council Members Ellinger II, Fogle, Lynch, LeGris, Monarrez, Sheehan, Gray, F. Brown, Baxter, Sevigny, Reynolds, and Plomin were present. Mayor Linda Gorton, Vice Mayor Wu, and Council Member Worley were absent.

I. Public Comment – Issues on Agenda

II. Requested Rezoning/Docket Approval

III. Approval of Summary

Motion by Gray to approve the February 13, 2024 Work Session Summary. Seconded by Sevigny. Motion passed without dissent.

IV. Budget Amendments

V. Budget Adjustments – For Information Only

VI. New Business

Motion by Baxter to approve New Business. Seconded by Sheehan. Motion passed without dissent.

VII. Continuing Business/Presentations

Motion by Ellinger II to approve Neighborhood Development Funds. Seconded by Fogle. Motion passed without dissent.

J. Brown provided a summary of the January 30, 2024 Budget, Finance, and Economic Development Committee Meeting.

VIII. Council Reports

Social Services & Public Safety Committee Chair Reynolds referred an update from the Domestic and Sexual Violence Prevention Coalition to the Social Services & Public Safety Committee.

IX. Mayor's Report

X. Mayor's Report – Price Contract Bid Recommendations

XI. Public Comment – Issues Not on Agenda

XII. Adjournment

Motion by Gray to adjourn at 4:14 p.m. Seconded by LeGris. Motion passed without dissent.



Lexington-Fayette Urban County Government

Master

200 E. Main St
Lexington, KY 40507

File Number: 0247-24

File ID: 0247-24

Type: Resolution

Status: Approved

Version: 1

Contract #: 075-2024

In Control: Urban County Council

File Created: 02/29/2024

File Name: NDF List 3/5/24

Final Action: 03/07/2024

Title: A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement related to Neighborhood Development Funds with Alpha Kappa Alpha Sorority, Inc. (\$900); Allegro Dance Project, Inc. (\$1,800); Lafayette Track and Field Boosters (\$1,200); Unity in the Community, Inc. (\$550); Growth Point Development, Inc. (\$1,350); Community Inspired Lexington, Inc. (\$1,750); and the Ky. Center for Grieving Children and Families, Inc. (\$754), for the Office of the Urban County Council, at a cost not to exceed the sum stated. [Council Office, Hall]

Notes: Stamped and filed in the CCO 3/28/2024. MS

Sponsors:

Enactment Date: 03/07/2024

Attachments: NDF List 3.5.24, 0247-24 - Resolution NDF List 3-5-24 4882-4913-0154 v.1.docx, Contract #075-2024-Lafayette Track and Field, Contract #075-2024 - Growth Point Development, R-097-2024, Contract #075-2024 - Ky Center for Grieving Children, Contract #075-2024 -Community Inspired Lexington

Enactment Number: R-097-2024

Deed #:

Hearing Date:

Drafter:

Effective Date:

History of Legislative File

| Ver- sion: | Acting Body: | Date: | Action: | Sent To: | Due Date: | Return Date: | Result: |
|---------------|-----------------------------------|------------|------------------------------------|----------------------|------------|-----------------|---------|
| 1 | Urban County Council Work Session | 03/05/2024 | Approved and Referred to Docket | Urban County Council | 03/07/2024 | | Pass |
| 1 | Urban County Council | 03/07/2024 | Received First Reading | Urban County Council | 03/07/2024 | | |
| 1 | Urban County Council | 03/07/2024 | Suspended Rules for Second Reading | | | | Pass |
| 1 | Urban County Council | 03/07/2024 | Approved | | | | Pass |

Text of Legislative File 0247-24

Title

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement related to Neighborhood Development Funds with Alpha Kappa Alpha Sorority, Inc. (\$900); Allegro Dance Project, Inc. (\$1,800); Lafayette Track and Field Boosters (\$1,200); Unity in the Community, Inc. (\$550); Growth Point Development, Inc. (\$1,350); Community Inspired Lexington, Inc. (\$1,750); and the Ky. Center for Grieving Children and Families, Inc. (\$754), for the Office of the Urban County Council, at a cost not to exceed the sum stated. [Council Office, Hall]

..Summary

Organization:

Alpha Kappa Alpha Sorority, Inc.
Samantha Anderson
PO Box 11405
Lexington, KY 40575

Purpose:

For Kentucky Statewide Founders' Day to assist with food, decorations, and other event costs

Amount:

\$ 900.00

Organization:

Allegro Dance Project, Inc.
Jeana Klevene
315 Sierra Drive
Lexington, KY 40505

Purpose:

To provide inclusive dance outreach for children with down syndrome, autism spectrum disorder, behavioral needs, physical disabilities, learning disabilities, and other specific needs

Amount:

\$ 1,800.00

Organization:

Lafayette Track & Field Booster Club
Cheyenne McBride
PO Box 4072
Lexington, KY 40544

Purpose:

For the 2024 KHSAA 3A Region 6 outdoor track and field championship

Amount:

\$ 1,200.00

Organization:

Unity in the Community
Jonathan Richardson
3527 Huffman Mill Pike
Lexington, KY 40511

Purpose:

Working with the undeserved community and the unhoused to provide clothing and food

Amount:

\$ 550.00

Organization:

Growth Point Development Inc
Mario Radford
152 Locust Hill Dr.
Lexington, KY 40509

Purpose:

To provide a night of hope for a local nonprofit that provides emergency shelter for children, counseling and case management support, and assist in development of independent living skills

Amount:

\$ 1,350.00

Organization:

Community Inspired Lexington Inc.
Rebecca Webb
348 E. Main St.
Lexington, KY 40507

Purpose:

For the "Hunger Doesn't Take a Spring Break" Program. Funds will be used to purchase food and supplies for feeding children during spring break

Amount:

\$ 1,750.00

Organization:

Kentucky Center for Grieving Children
Leila Salisbury
2333 Alexandria Dr.
Lexington, KY 40504

Purpose:

For the creation of healing bags for local children and teens who have lost a parent, peer, or other significant individual

Amount:

\$ 754.00

**Neighborhood Development Funds
March 5, 2024
Work Session**

| Amount | Recipient | Purpose |
|--------------------|--|---|
| \$ 900.00 | Alpha Kappa Alpha Sorority, Inc. Samantha Anderson PO Box 11405 Lexington, KY 40575 | For Kentucky Statewide Founders' Day to assist with food, decorations, and other event costs |
| \$ 1,800.00 | Allegro Dance Project, Inc. Jeana Klevene 315 Sierra Drive Lexington, KY 40505 | To provide inclusive dance outreach for children with down syndrome, autism spectrum disorder, behavioral needs, physical disabilities, learning disabilities, |
| \$ 1,200.00 | Lafayette Track & Field Booster Club Cheyenne McBride PO Box 4072 Lexington, KY 40544 | For the 2024 KHSAA 3A Region 6 outdoor track and field championship |
| \$ 550.00 | Unity in the Community Jonathan Richardson 3527 Huffman Mill Pike Lexington, KY 40511 | Working with the undeserved community and the unhoused to provide clothing and food |
| \$ 1,350.00 | Growth Point Development Inc Mario Radford 152 Locust Hill Dr. Lexington, KY 40509 | To provide a night of hope for a local nonprofit that provides emergency shelter for children, counseling and case management support, and assist in development of independent living skills |
| \$ 1,750.00 | Community Inspired Lexington Inc. Rebecca Webb 348 E. Main St. Lexington, KY 40507 | For the "Hunger Doesn't Take a Spring Break" program. Funds will be used to purchase food and supplies for feeding children during spring break |
| \$ 754.00 | Kentucky Center for Grieving Children Leila Salisbury 2333 Alexandria Dr. Lexington, KY 40504 | For the creation of healing bags for local children and teens who have lost a parent, peer, or other significant individual |

RESOLUTION NO. _____ - 2024

A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE AN AGREEMENT RELATED TO NEIGHBORHOOD DEVELOPMENT FUNDS WITH ALPHA KAPPA ALPHA SORORITY, INC. (\$900.00); ALLEGRO DANCE PROJECT, INC. (\$1,800.00); LAFAYETTE TRACK AND FIELD BOOSTERS (\$1,200.00); UNITY IN THE COMMUNITY, INC. (\$550.00); GROWTH POINT DEVELOPMENT, INC. (\$1,350.00); COMMUNITY INSPIRED LEXINGTON, INC. (\$1,750.00); AND THE KENTUCKY CENTER FOR GRIEVING CHILDREN AND FAMILIES, INC. (\$754.00), FOR THE OFFICE OF THE URBAN COUNTY COUNCIL, AT A COST NOT TO EXCEED THE SUM STATED.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized and directed to execute agreements related to Neighborhood Development Funds, which are attached hereto and incorporated herein by reference, with Alpha Kappa Alpha Sorority, Inc., Allegro Dance Project, Inc., Lafayette Track and Field Boosters, Unity in the Community, Inc., Growth Point Development, Inc., Community Inspired Lexington, Inc., The Kentucky Center for Grieving Children and Families, Inc. for the Office of the Urban County Council.

Section 2 – That amounts, not to exceed the sums stated, be and hereby are approved for payment to Alpha Kappa Alpha Sorority, Inc. (\$900.00); Allegro Dance Project, Inc. (\$1,800.00); Lafayette Track and Field Boosters (\$1,200.00); Unity in the Community, Inc. (\$550.00); Growth Point Development, Inc. (\$1,350.00); Community Inspired Lexington, Inc. (\$1,750.00); and The Kentucky Center For Grieving Children and Families, Inc. (\$754.00), from account #1101-121002-71214, from various Council Districts, pursuant to the terms of the agreements.

Section 3 – That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL

0247-24:GET:4882-4913-0154, v. 1

AGREEMENT

THIS AGREEMENT, made and entered into on the 11th day of March, 2024, by and between the LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, an Urban County Government of the Commonwealth of Kentucky, created pursuant to KRS Chapter 67A (Hereinafter "Government"), on behalf of its Office of the Urban County Council, and Lafayette Track & Field Booster Club (Hereinafter "Organization"), of PO Box 4072, Lexington, KY 40544, Fayette County.

WITNESSETH:

WHEREAS, the Urban County Council may allocate Neighborhood Development Funds (NDFs) to any incorporated non-profit organization for any lawful public purpose in the best interest of and for the use and benefit of the community; and

WHEREAS, Organization is a qualified incorporated non-profit organization that has provided outstanding activities for the citizens of Fayette County; and

WHEREAS, Organization accordingly enhances the environment of Lexington; and

WHEREAS, Organization has requested funding for a specific lawful public purpose that is in the best interest of and for the use and benefit of the community.

NOW FOR AND IN CONSIDERATION OF THE MUTUAL PROMISES AND COVENANTS HEREIN EXPRESSED, GOVERNMENT AND ORGANIZATION AGREE AS FOLLOWS:

1. **Amount and Intended Use of Neighborhood Development Funds.** Government hereby grants Organization the sum of \$1200 (One Thousand Two Hundred Dollars and No Cents) for the following lawful public purpose:

[For the 2024 KHSAA 3A Region 6 outdoor track and field championship]
2. **Finalization of Agreement.** Organization shall return this Agreement to the Council Administrator's Office on or before April 10th, 2024. If Organization fails to sign and return this Agreement within 30 days, Organization shall be deemed to have forfeited the Neighborhood Development Funds and Organization shall be deemed ineligible to receive Neighborhood Development Funds for a period of one (1) year.
3. **Receipt of Funds.** Upon return of the signed Agreement to the Council Administrator's Office, the Council Administrator shall issue the check to the Organization. The check shall be timely deposited by the Organization within 60 days of receipt. If the Organization fails to deposit the check within 60 days of receipt, the Organization shall be deemed ineligible to receive Neighborhood Development Funds for a period of one (1) year. Under no circumstances shall a check that the Organization fails to deposit within sixty (60) days of receipt be re-issued by the Government.
4. **Required Documentation.** Organization shall submit all relevant receipts and financial documentation to Councilmember Sevigny's office, documenting the use of the granted funds for the specified lawful public purpose, within six (6) months of receiving the Neighborhood Development Fund check. If Organization fails to provide the required documentation, the Organization shall be deemed ineligible to receive Neighborhood Development Funds for a period of one (1) year.

5. Organization shall provide equal opportunity in employment for all qualified persons; prohibit discrimination in employment because of race, color, creed, national origin, sex, sexual orientation, gender identity, or age between 40 and 70; promote equal employment through a positive, continuing program of equal employment and cause each of its subcontracting agencies to do so. This program of equal employment opportunity shall apply to every aspect of its employment policies and practices.
6. In any written or oral communications, the Organization shall identify the Lexington-Fayette Urban County Government as the source of the above-referenced funds; the Organization shall not specifically identify an individual Councilmember as being responsible for the funds donated by the Lexington-Fayette Urban County Government.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement of Lexington, Fayette County, Kentucky, this the day and year first above written.

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

By: *Linda Gorton*
Linda Gorton, MAYOR

ATTEST:

[Signature]
CLERK OF URBAN COUNTY COUNCIL

By: *Cheyenne McBride*
(Cheyenne McBride)
(Lafayette Track & Field Booster Club)

AGREEMENT

THIS AGREEMENT, made and entered into on the 11th day of March, 2024, by and between the LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, an Urban County Government of the Commonwealth of Kentucky, created pursuant to KRS Chapter 67A (Hereinafter "Government"), on behalf of its Office of the Urban County Council, and Growth Point Development Inc (Hereinafter "Organization"), of 152 Locust Hill Dr., Lexington, KY 40509, Fayette County.

WITNESSETH:

WHEREAS, the Urban County Council may allocate Neighborhood Development Funds (NDFs) to any incorporated non-profit organization for any lawful public purpose in the best interest of and for the use and benefit of the community; and

WHEREAS, Organization is a qualified incorporated non-profit organization that has provided outstanding activities for the citizens of Fayette County; and

WHEREAS, Organization accordingly enhances the environment of Lexington; and

WHEREAS, Organization has requested funding for a specific lawful public purpose that is in the best interest of and for the use and benefit of the community.

NOW FOR AND IN CONSIDERATION OF THE MUTUAL PROMISES AND COVENANTS HEREIN EXPRESSED, GOVERNMENT AND ORGANIZATION AGREE AS FOLLOWS:

1. **Amount and Intended Use of Neighborhood Development Funds.** Government hereby grants Organization the sum of \$1350 (One Thousand Three Hundred Fifty Dollars and No Cents) for the following lawful public purpose:

[To provide a night of hope for a local nonprofit that provides emergency shelter for children, counseling and case management support, and assist in development of independent living skills]

2. **Finalization of Agreement.** Organization shall return this Agreement to the Council Administrator's Office on or before April 10th, 2024. If Organization fails to sign and return this Agreement within 30 days, Organization shall be deemed to have forfeited the Neighborhood Development Funds and Organization shall be deemed ineligible to receive Neighborhood Development Funds for a period of one (1) year.
3. **Receipt of Funds.** Upon return of the signed Agreement to the Council Administrator's Office, the Council Administrator shall issue the check to the Organization. The check shall be timely deposited by the Organization within 60 days of receipt. If the Organization fails to deposit the check within 60 days of receipt, the Organization shall be deemed ineligible to receive Neighborhood Development Funds for a period of one (1) year. Under no circumstances shall a check that the Organization fails to deposit within sixty (60) days of receipt be re-issued by the Government.
4. **Required Documentation.** Organization shall submit all relevant receipts and financial documentation to Councilmember Gray's office, documenting the use of the granted funds for the specified lawful public purpose, within six (6) months of receiving the Neighborhood Development Fund check. If Organization fails to provide the required documentation, the Organization shall be deemed ineligible to receive Neighborhood Development Funds for a period of one (1) year.

5. Organization shall provide equal opportunity in employment for all qualified persons; prohibit discrimination in employment because of race, color, creed, national origin, sex, sexual orientation, gender identity, or age between 40 and 70; promote equal employment through a positive, continuing program of equal employment and cause each of its subcontracting agencies to do so. This program of equal employment opportunity shall apply to every aspect of its employment policies and practices.
6. In any written or oral communications, the Organization shall identify the Lexington-Fayette Urban County Government as the source of the above-referenced funds; the Organization shall not specifically identify an individual Councilmember as being responsible for the funds donated by the Lexington-Fayette Urban County Government.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement of Lexington, Fayette County, Kentucky, this the day and year first above written.

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

By: *Linda Gorton*
Linda Gorton, MAYOR

ATTEST:

Abbye Allan
CLERK OF URBAN COUNTY COUNCIL

By: *Mario Radford*
(Mario Radford)
(Growth Point Development Inc)

RESOLUTION NO. 097 - 2024

A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE AN AGREEMENT RELATED TO NEIGHBORHOOD DEVELOPMENT FUNDS WITH ALPHA KAPPA ALPHA SORORITY, INC. (\$900.00); ALLEGRO DANCE PROJECT, INC. (\$1,800.00); LAFAYETTE TRACK AND FIELD BOOSTERS (\$1,200.00); UNITY IN THE COMMUNITY, INC. (\$550.00); GROWTH POINT DEVELOPMENT, INC. (\$1,350.00); COMMUNITY INSPIRED LEXINGTON, INC. (\$1,750.00); AND THE KENTUCKY CENTER FOR GRIEVING CHILDREN AND FAMILIES, INC. (\$754.00), FOR THE OFFICE OF THE URBAN COUNTY COUNCIL, AT A COST NOT TO EXCEED THE SUM STATED.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized and directed to execute agreements related to Neighborhood Development Funds, which are attached hereto and incorporated herein by reference, with Alpha Kappa Alpha Sorority, Inc., Allegro Dance Project, Inc., Lafayette Track and Field Boosters, Unity in the Community, Inc., Growth Point Development, Inc., Community Inspired Lexington, Inc., The Kentucky Center for Grieving Children and Families, Inc. for the Office of the Urban County Council.

Section 2 – That amounts, not to exceed the sums stated, be and hereby are approved for payment to Alpha Kappa Alpha Sorority, Inc. (\$900.00); Allegro Dance Project, Inc. (\$1,800.00); Lafayette Track and Field Boosters (\$1,200.00); Unity in the Community, Inc. (\$550.00); Growth Point Development, Inc. (\$1,350.00); Community Inspired Lexington, Inc. (\$1,750.00); and The Kentucky Center For Grieving Children and Families, Inc. (\$754.00), from account #1101-121002-71214, from various Council Districts, pursuant to the terms of the agreements.

Section 3 – That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: March 7, 2024

Linda Gorton

MAYOR

ATTEST:

Abella

CLERK OF URBAN COUNTY COUNCIL

0247-24.GET:4882-4913-0154, v. 1

AGREEMENT

THIS AGREEMENT, made and entered into on the 11th day of March, 2024, by and between the LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, an Urban County Government of the Commonwealth of Kentucky, created pursuant to KRS Chapter 67A (Hereinafter "Government"), on behalf of its Office of the Urban County Council, and Kentucky Center for Grieving Children (Hereinafter "Organization"), of 2333 Alexandria Dr., Lexington, KY 40504, Fayette County.

WITNESSETH:

WHEREAS, the Urban County Council may allocate Neighborhood Development Funds (NDFs) to any incorporated non-profit organization for any lawful public purpose in the best interest of and for the use and benefit of the community; and

WHEREAS, Organization is a qualified incorporated non-profit organization that has provided outstanding activities for the citizens of Fayette County; and

WHEREAS, Organization accordingly enhances the environment of Lexington; and

WHEREAS, Organization has requested funding for a specific lawful public purpose that is in the best interest of and for the use and benefit of the community.

NOW FOR AND IN CONSIDERATION OF THE MUTUAL PROMISES AND COVENANTS HEREIN EXPRESSED, GOVERNMENT AND ORGANIZATION AGREE AS FOLLOWS:

1. **Amount and Intended Use of Neighborhood Development Funds.** Government hereby grants Organization the sum of \$754 (Seven Hundred Fifty-Four Dollars and No Cents) for the following lawful public purpose:

[For the creation of healing bags for local children and teens who have lost a parent, peer, or other significant individual]

2. **Finalization of Agreement.** Organization shall return this Agreement to the Council Administrator's Office on or before April 10th, 2024. **If Organization fails to sign and return this Agreement within 30 days, Organization shall be deemed to have forfeited the Neighborhood Development Funds and Organization shall be deemed ineligible to receive Neighborhood Development Funds for a period of one (1) year.**
3. **Receipt of Funds.** Upon return of the signed Agreement to the Council Administrator's Office, the Council Administrator shall issue the check to the Organization. The check shall be timely deposited by the Organization within 60 days of receipt. **If the Organization fails to deposit the check within 60 days of receipt, the Organization shall be deemed ineligible to receive Neighborhood Development Funds for a period of one (1) year.** Under no circumstances shall a check that the Organization fails to deposit within sixty (60) days of receipt be re-issued by the Government.
4. **Required Documentation.** Organization shall submit all relevant receipts and financial documentation to Councilmember LeGris's office, documenting the use of the granted funds for the specified lawful public purpose, within six (6) months of receiving the Neighborhood Development Fund check. **If Organization fails to provide the required documentation, the Organization shall be deemed ineligible to receive Neighborhood Development Funds for a period of one (1) year.**

5. Organization shall provide equal opportunity in employment for all qualified persons; prohibit discrimination in employment because of race, color, creed, national origin, sex, sexual orientation, gender identity, or age between 40 and 70; promote equal employment through a positive, continuing program of equal employment and cause each of its subcontracting agencies to do so. This program of equal employment opportunity shall apply to every aspect of its employment policies and practices.
6. In any written or oral communications, the Organization shall identify the Lexington-Fayette Urban County Government as the source of the above-referenced funds; the Organization shall not specifically identify an individual Councilmember as being responsible for the funds donated by the Lexington-Fayette Urban County Government.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement of Lexington, Fayette County, Kentucky, this the day and year first above written.

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

By: *Linda Gorton*
Linda Gorton, MAYOR

ATTEST:

[Signature]
CLERK OF URBAN COUNTY COUNCIL

By: *Leila Salisbury*
(Leila Salisbury)
(Kentucky Center for Grieving Children)

AGREEMENT

THIS AGREEMENT, made and entered into on the 11th day of March, 2024, by and between the LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, an Urban County Government of the Commonwealth of Kentucky, created pursuant to KRS Chapter 67A (Hereinafter "Government"), on behalf of its Office of the Urban County Council, and Community Inspired Lexington Inc. (Hereinafter "Organization"), of 348 E. Main St., Lexington, KY 40507, Fayette County.

WITNESSETH:

WHEREAS, the Urban County Council may allocate Neighborhood Development Funds (NDFs) to any incorporated non-profit organization for any lawful public purpose in the best interest of and for the use and benefit of the community; and

WHEREAS, Organization is a qualified incorporated non-profit organization that has provided outstanding activities for the citizens of Fayette County; and

WHEREAS, Organization accordingly enhances the environment of Lexington; and

WHEREAS, Organization has requested funding for a specific lawful public purpose that is in the best interest of and for the use and benefit of the community.

NOW FOR AND IN CONSIDERATION OF THE MUTUAL PROMISES AND COVENANTS HEREIN EXPRESSED, GOVERNMENT AND ORGANIZATION AGREE AS FOLLOWS:

1. **Amount and Intended Use of Neighborhood Development Funds.** Government hereby grants Organization the sum of \$1750 (One Thousand Seven Hundred Fifty Dollars and No Cents) for the following lawful public purpose:
[For the "Hunger Doesn't Take a Spring Break" program. Funds will be used to purchase food and supplies for feeding children during spring break]
2. **Finalization of Agreement.** Organization shall return this Agreement to the Council Administrator's Office on or before April 10th, 2024. If Organization fails to sign and return this Agreement within 30 days, Organization shall be deemed to have forfeited the Neighborhood Development Funds and Organization shall be deemed ineligible to receive Neighborhood Development Funds for a period of one (1) year.
3. **Receipt of Funds.** Upon return of the signed Agreement to the Council Administrator's Office, the Council Administrator shall issue the check to the Organization. The check shall be timely deposited by the Organization within 60 days of receipt. If the Organization fails to deposit the check within 60 days of receipt, the Organization shall be deemed ineligible to receive Neighborhood Development Funds for a period of one (1) year. Under no circumstances shall a check that the Organization fails to deposit within sixty (60) days of receipt be re-issued by the Government.
4. **Required Documentation.** Organization shall submit all relevant receipts and financial documentation to Councilmember Fogle's office, documenting the use of the granted funds for the specified lawful public purpose, within six (6) months of receiving the Neighborhood Development Fund check. If Organization fails to provide the required documentation, the Organization shall be deemed ineligible to receive Neighborhood Development Funds for a period of one (1) year.

5. Organization shall provide equal opportunity in employment for all qualified persons; prohibit discrimination in employment because of race, color, creed, national origin, sex, sexual orientation, gender identity, or age between 40 and 70; promote equal employment through a positive, continuing program of equal employment and cause each of its subcontracting agencies to do so. This program of equal employment opportunity shall apply to every aspect of its employment policies and practices.

6. In any written or oral communications, the Organization shall identify the Lexington-Fayette Urban County Government as the source of the above-referenced funds; the Organization shall not specifically identify an individual Councilmember as being responsible for the funds donated by the Lexington-Fayette Urban County Government.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement of Lexington, Fayette County, Kentucky, this the day and year first above written.

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

By: *Linda Gorton*
Linda Gorton, MAYOR

ATTEST:

Abbey Allan
CLERK OF URBAN COUNTY COUNCIL

By: *Rebecca Webb*
(Rebecca Webb)
(Community Inspired Lexington Inc.)



Lexington-Fayette Urban County Government

Master

200 E. Main St
Lexington, KY 40507

File Number: 0250-24

File ID: 0250-24

Type: Summary

Status: Received and Filed

Version: 1

Contract #:

In Control: Urban County Council

File Created: 02/29/2024

File Name: Summary: Social Services and Public Safety Committee, January 23, 2024

Final Action: 03/05/2024

Title: Summary: Social Services and Public Safety Committee, January 23, 2024

Notes:

Sponsors:

Enactment Date:

Attachments: 01-23-24 SSPS Summary and Motions (Autosaved) (AutoRecovered), SOI

Enactment Number:

Deed #:

Hearing Date:

Drafter:

Effective Date:

History of Legislative File

| Ver- sion: | Acting Body: | Date: | Action: | Sent To: | Due Date: | Return Date: | Result: |
|---------------|--------------------------------------|------------|--------------------|----------|-----------|-----------------|---------|
| 1 | Urban County Council Work Session | 03/05/2024 | Received and Filed | | | | |

Text of Legislative File 0250-24

Title

Summary: Social Services and Public Safety Committee, January 23, 2024



Social Services and Public Safety Committee

January 23, 2024

Summary and Motions

Chair Reynolds called the meeting to order at 1:01 p.m. Committee Members Ellinger, J. Brown, Fogle, Monarrez, Gray, F. Brown, Baxter, Sevigny, and Plomin were in attendance. Council Member Lynch was also present as a non-voting member.

I. Approval of November 14, 2023 Committee Meeting Summary

Motion by Ellinger to approve the November 14, 2023 Committee Summary. Seconded by Plomin. Motion passed without dissent.

I. Approval of November 14, 2023 Special Committee Meeting Summary

Motion by Ellinger to approve the November 14, 2023 Special Committee Meeting Summary. Seconded by Gray. Motion passed without dissent.

II. Source of Income Discrimination

Dave Sevigny, 10th District Council Member, began his presentation with a timeline from introduction of the *Source of Income Discrimination* item in 2022 until present. This item was first introduced to Council Members in 2022 and the Kentucky Tenants group met with almost every council member. The item died in committee that year for lack of action from previous sponsor. Council Member Sevigny took ownership of the item by placing it in this committee on April 18, 2023. Council Member Shayla Lynch became a co-sponsor of the item and the two met with Commissioner Charlie Lanter, tenants, landlords, and wrap around providers. The item was presented to the Social Services and Public Safety committee on October 10, 2023. The committee held a special meeting on November 14, 2023 for the purpose of hearing public input. Council Members Sevigny and Lynch received several letters of support which were circulated in the January 23, 2024 committee packet. During this meeting, Sevigny spoke about updates to the draft ordinance which now stands alone in the code of ordinances. He reviewed the addition of whereas clauses and what each of those meant. He pointed out the addition of a paragraph that states this shall not be construed or interpreted to supersede any federal or state law or regulation.

Motion by Sevigny to approve as amended an ordinance creating section 2-31.2 of the Lexington-Fayette Urban County Government code of ordinances, to prohibit discrimination in housing on the basis of lawful source of income or payment, all effective March 1, 2024; and report the item out of committee at the January 30th Work Session. Seconded by Gray. Motion passed 7-3 (Yes- J. Brown, Fogle, Monarrez, Gray, Sevigny, Reynolds, and Plomin; No – Ellinger, Baxter, and F. Brown).

Motion by Baxter to amend the ordinance referenced above (section 2-31.2 of the Lexington-Fayette Urban County Government code of ordinances); removing language pertaining to paying mortgages and the sale/buying of property. Seconded by Gray. Motion passed 7-3 (Yes – J. Brown, Ellinger, Monarrez, Gray, F. Brown, Baxter, and Plomin; No – Fogle, Sevigny, and Reynolds).

Motion by Ellinger to table discussion of the *Source of Income Discrimination* committee item until March 5, 2024. Seconded by F. Brown. Motion failed 5-5 (Yes – Ellinger, Monarrez, F. Brown, Baxter, and Plomin; No – J. Brown, Fogle, Gray, Sevigny, and Reynolds).

III. Assistance Programs Update

Shayla Lynch, 2nd District Council Member, introduced this item. Charlie Lanter, Commissioner of Housing Advocacy and Community Development reviewed the past, present and future of rent/utility assistance programs. Prior to 2020, there was no program to provide significant rental assistance. Most programs assisted in small amounts of \$45-800 and were frequently out of funding in the first week of each month. Community Action Council's Low Income Home Energy Assistance Program (LIHEAP) provided annual subsidies for heating bills each fall and crisis cutoff assistance in winter. LFUCG Community & Resident Services (CRS) offered a suite of programs including Emergency Financial Assistance to help with rent, mortgage, or utilities. He reviewed the budget for CRS for Emergency Financial Assistance for 2018-2024 including ARPA assistance. At present, CRS tracks calls monthly and the Housing Stabilization Program exhausted rent funds at the end of November 2023 and he noted \$54 million has been spent in total. Lanter reviewed eviction cases filed in the years 2018 through 2023 and he spoke about the overall impact. He mentioned additional funding from the fund balance that will allow them to serve 200-300 households. He reviewed what we can do that works such as continued investments in affordable housing, smaller targeted programs, and household level case management. Lanter mentioned eviction diversion and legal aid and he reviewed the differences between the two. There was some discussion about federal funding and what happens when funds run out. When asked about getting more vouchers, Lanter said Simms has pursued every option, so the likelihood is minimal. No action was taken on this item.

IV. Items Referred to Committee

Motion by Sevigny to remove *Source of Income Discrimination* from the list of committee referrals. Seconded by Gray. Motion passed without dissent.

Motion by Reynolds to remove *Community Risk Assessment Standards* from the list of committee referrals. Seconded by Baxter. Motion passed without dissent.

Motion by Reynolds to remove *Community and Resident Services: Evaluation of assistance programs...* from the list of committee referrals. Seconded by Gray. Motion passed without dissent.

The meeting was adjourned at 2:38 p.m.

AN ORDINANCE CREATING SECTION 2-31.2 OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT CODE OF ORDINANCES, TO PROHIBIT DISCRIMINATION IN HOUSING ON THE BASIS OF LAWFUL SOURCE OF INCOME OR PAYMENT, ALL EFFECTIVE MARCH 1, 2024.

WHEREAS, the Lexington-Fayette Urban County Government Council seeks to enhance the health, safety, and general welfare of the public through adopting this ordinance; and

WHEREAS, the Urban County Government is a proponent of taking measures to reduce or eliminate discrimination in housing, and of promoting fair and equal housing opportunities to its residents; and

WHEREAS, the adoption of this ordinance should result in making additional housing opportunities available to the residents of Lexington-Fayette County; and

WHEREAS this ordinance does not intend, and shall not be construed, to: (a) require a housing provider to give a preference to anyone or to rent to an otherwise unqualified tenant, (b) limit a housing provider's ability to choose the most qualified and appropriate candidate; (c) or unreasonably delay the housing provider's ability to rent property.

BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That Section 2-31.2 of the Code of Ordinances, Lexington-Fayette Urban County Government, be and hereby is created to read as follows:

Sec. 2-31.2. Discrimination in housing due to lawful source of income or payment.

- (1) It is the policy of the Lexington Fayette Urban County Government to safeguard all persons within Fayette County from discrimination in housing on the basis of lawful source of income or payment as evidenced by the refusal to consider any lawful source of income or payment in the same manner as ordinary wage income.
- (2) For purposes of this section, "lawful source of income or payment" shall mean:
 - (a) any form of lawful income or payment that can be verified, which a person can use to pay rental or other payments associated with the rental, lease, or occupancy of any real estate used for residential purposes within Fayette County; and
 - (b) may include lawful income paid to or on behalf of a renter including, but not limited to, income derived from wages, salaries, or other compensation for employment, court-ordered payments, income

derived from social security, grants, pensions, or any form of federal, state, or local public assistance and/or housing assistance, including Housing Choice vouchers, and any other forms of lawful income. "Lawful source of income or payment" does not include income derived in an illegal manner.

- (3) The prohibitions in this section against discrimination based on lawful source of income or payment shall not be construed to prohibit a housing provider from determining the ability of a potential renter to pay rent by verifying in a commercially reasonable and nondiscriminatory manner the source and amount of income or creditworthiness of the potential renter. However, the use of a financial or income standard for the rental of housing that fails to account for any rental payments or portions of rental payments that will be made by other individuals, organizations, or governmental agencies on the same basis as rental payments to be made directly by the tenant or prospective tenant shall be a prohibited, unlawful practice.
- (4) This ordinance shall not be construed or interpreted to supersede any federal or state law or regulation that expressly conflicts with any provision of this ordinance, or that prohibits the application or enforcement of any part of this ordinance.
- (5) The Lexington-Fayette Urban County Human Rights Commission shall have jurisdiction to receive, investigate, conciliate, hold hearings, and issue orders relating to complaints filed alleging discrimination in housing specifically as it pertains to lawful source of income or payment, and otherwise exercise the enforcement powers consistent with this Article of the Code of Ordinances.

Section 2 – That if any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unlawful by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 3 - That this Ordinance shall become effective on March 1, 2024.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL

Published:

0120-24:DJB:4862-5937-4231, v. 9



Lexington-Fayette Urban County Government

Master

200 E. Main St
Lexington, KY 40507

File Number: 0194-24

File ID: 0194-24

Type: Presentation

Status: Agenda Ready

Version: 1

Contract #:

In Control: Urban County Council

File Created: 02/13/2024

File Name: Play Golf Lexington Award

Final Action: 03/05/2024

Title:

Notes:

Sponsors:

Enactment Date:

Deed #:

Hearing Date:

Drafter:

Effective Date:

History of Legislative File

| Ver- sion: | Acting Body: | Date: | Action: | Sent To: | Due Date: | Return Date: | Result: |
|---------------|--------------------------------------|------------|--------------------|----------|-----------|-----------------|---------|
| 1 | Urban County Council Work Session | 03/05/2024 | Received and Filed | | | | |

Text of Legislative File 0194-24



Lexington-Fayette Urban County Government

Master

200 E. Main St
Lexington, KY 40507

File Number: 0355-22

File ID: 0355-22

Type: Agenda Item

Status: Agenda Ready

Version: 1

Contract #:

In Control: Urban County
Council Work
Session

File Created: 04/07/2022

File Name: page break

Final Action:

| |
|---------------|
| Title: |
|---------------|

Notes:

Sponsors:

Enactment Date:

Deed #:

Hearing Date:

Drafter:

Effective Date:

History of Legislative File

| Ver- sion: | Acting Body: | Date: | Action: | Sent To: | Due Date: | Return Date: | Result: |
|---------------|--------------|-------|---------|----------|-----------|-----------------|---------|
|---------------|--------------|-------|---------|----------|-----------|-----------------|---------|

Text of Legislative File 0355-22



Lexington-Fayette Urban County Government

Master

200 E. Main St
Lexington, KY 40507

File Number: 0203-24

File ID: 0203-24

Type: Resolution

Status: Approved

Version: 1

Contract #: 041-2024

In Control: Urban County Council

File Created: 02/16/2024

File Name: Property Acquisition 130/134 W. New Circle Rd.

Final Action: 03/07/2024

Title: A Resolution authorizing and approving the purchase of 130 West New Circle Rd., Suite 170 and 134 West New Circle Rd. for the operations of the Div. of Water Quality; and authorizing and directing the Mayor to sign any documents deemed necessary and acceptable by the Dept. of General Services and the Dept. of Law regarding the purchase, at a cost not to exceed \$6,000,000. [Div. of Water Quality, Martin]

Notes: Signed and filed in the CCO. 3/18/2024. MS

Deed for 130 W. New Circle Road Suite 170 and 134 W. New Circle Road filed in the CCO 4/15/2024. MS

Sponsors:

Enactment Date: 03/07/2024

Attachments: 130_134 West New Circle Acquisition Blue Sheet Memo, 130-134 E New Circle Rd map, Property Fact Sheets, Appraisal 130 134 W. New Circle Rd, Intent to Purchase - W. New Circle Road 2.09.24, 0203-24-Purchase of 130-134 W New Circle 4872-4501-8282 v.1.docx, R-091-2024, Deed #8570, Contract #041-2024

Enactment Number: R-091-2024

Deed #: 8570

Hearing Date:

Drafter: Christina King

Effective Date:

History of Legislative File

| Ver- sion: | Acting Body: | Date: | Action: | Sent To: | Due Date: | Return Date: | Result: |
|---------------|-----------------------------------|------------|------------------------------------|----------------------|------------|-----------------|---------|
| 1 | Urban County Council Work Session | 03/05/2024 | Approved and Referred to Docket | Urban County Council | 03/07/2024 | | Pass |
| 1 | Urban County Council | 03/07/2024 | Received First Reading | Urban County Council | 03/07/2024 | | |
| 1 | Urban County Council | 03/07/2024 | Suspended Rules for Second Reading | | | | Pass |
| 1 | Urban County Council | 03/07/2024 | Approved | | | | Pass |

Text of Legislative File 0203-24

Title

A Resolution authorizing and approving the purchase of 130 West New Circle Rd., Suite 170 and 134 West New Circle Rd. for the operations of the Div. of Water Quality; and authorizing and directing the Mayor to sign any documents deemed necessary and acceptable by the Dept. of General Services and the Dept. of Law regarding the purchase, at a cost not to exceed \$6,000,000. [Div. of Water Quality, Martin]

Summary

Authorization to approve the purchase of real property located at 130/134 West New Circle Road in the amount of \$6,000,000 and all related closing costs for the future consolidation of the Division of Water Quality operations. Budget Amendment in process. (L0203-24) (Martin/Albright)

Budgetary Implications: Yes

Advance Document Review:

Law: Yes, Completed by Evan Thompson 2/15/2024

Risk Management: No

Fully Budgeted: BA in process

Account Number: 4002-303401-3401-90111

This Fiscal Year Impact: \$6,000,000

Annual Impact: \$

Project:

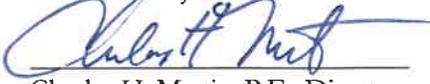
Activity:

Budget Reference:

Current Balance: BA in process



TO: Mayor Linda Gorton
Urban County Council

FROM: 
Charles H. Martin, P.E., Director
Division of Water Quality

DATE: February 15, 2024

SUBJECT: Property Acquisition – 130/134 West New Circle Road

Request

The purpose of this memorandum is to recommend the purchase of real property located at 130/134 West New Circle Road. The purchase price of this real property is \$6,000,000. The source of funding is the Sewer User Fund.

Purpose of Request

This purchase is recommended for the future consolidation of Division of Water Quality operations. Once the property is purchased and renovated, Division of Water Quality operations from 125 Lisle Industrial Ave., 900 Enterprise Drive and 951 Enterprise Drive will be relocated to this location. Space at the current locations is leased at an FY25 cost of \$708,069. The existing leases require escalating annual costs on varying terms. In the context of FY25 rent and the purchase price, the total future rent savings equals the purchase price in less than nine years.

Project Cost in FY24 and Future Years

\$6,000,000 purchase price – FY24 \$2,000,000 renovation estimate – FY25

\$93,500 in estimated annual utility costs.

Are the funds budgeted:

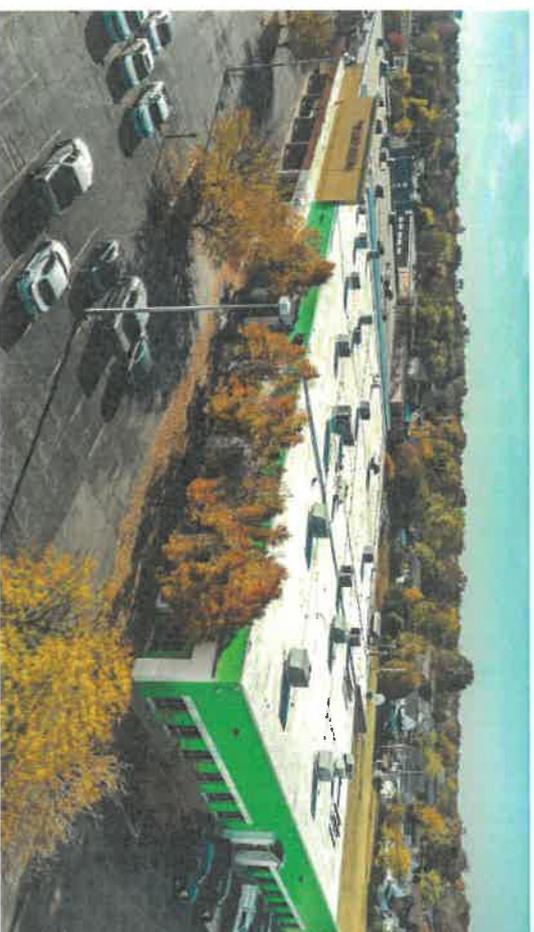
Funds are available in the Sewer Trust. Budget Amendment requests pending.

Martin / Albright





PROPERTY SUMMARY



SALE PRICE

[REDACTED]

OFFERING SUMMARY

| | |
|-----------------------|------------------------------|
| BUILDING SIZE: | 67,700 SF |
| LOT SIZE: | 8.43 Acres |
| PRICE / SF: | [REDACTED] |
| YEAR BUILT: | 1968 |
| ZONING: | B-3 Highway Service Business |

PROPERTY OVERVIEW

SVN Stone Commercial Real Estate is pleased to present this 67,700 SF space available for sale in Lexington, KY. This space was formerly the local headquarters for a telephone service company and offers 40,000 SF of office space and 22,800 SF of warehouse space. Additionally, a large paved side parking lot is fenced and contains covered parking structures that can be utilized as-is or potentially built on if needed. This opportunity offers great visibility along New Circle Road, vast parking, and high daily traffic counts. This space would be ideal for a company headquarters, retail big box, medical, government, call center, or other creative use.

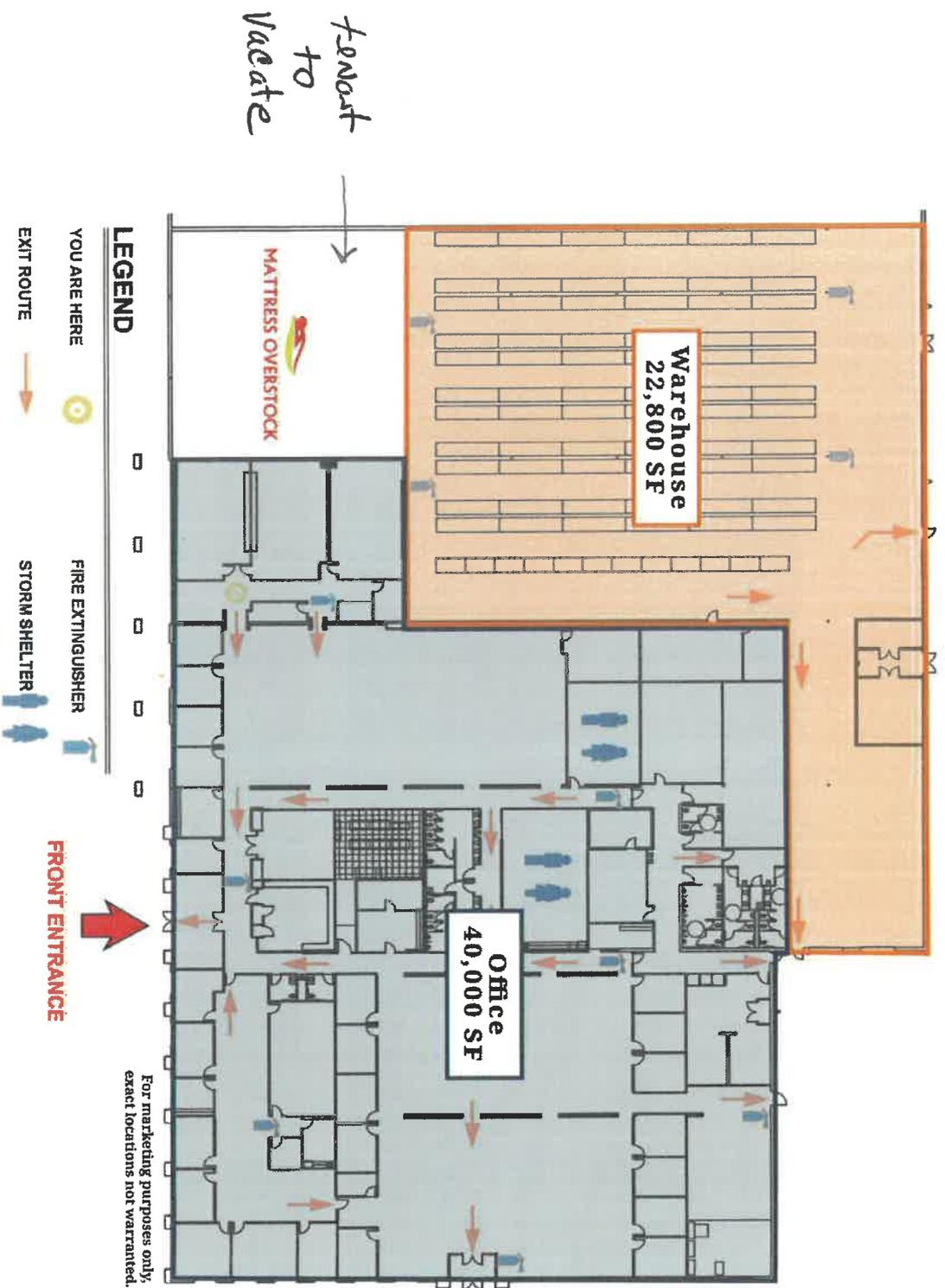
For additional information, please contact Nathan Dilly at 859.420.5492 // nathan.dilly@svn.com or Neal Metcalfe at 859.312.8069 // neal.metcalfe@svn.com.

PROPERTY HIGHLIGHTS

- 67,700 SF Office / Warehouse For Sale
- 4,900 SF is leased by Mattress Overstock
- 38,814 VPD
- Excess land for yard use, parking, or additional development
- 0.84 acre out parcel potential

NEAL METCALFE
O: 859.306.0614 | C: 859.312.8069
neal.metcalfe@svn.com

NATHAN DILLY
O: 859.306.0604 | C: 859.420.5492
nathan.dilly@svn.com



For marketing purposes only,
exact locations not warranted.

NEAL METCALFE
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neal.metcalfe@svn.com

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nathan.dilly@svn.com

LEXINGTON KY OFFICE HQ OR RETAIL OPPORTUNITY | 130 W New Circle Road Lexington, KY 40505

SVN | STONE COMMERCIAL REAL ESTATE

**Appraisal Report
Of:**

**Office/Warehouse Building
130 Ste. 170 & 134 W. New Circle Road
Lexington, Kentucky 40505**

**Date of Appraisal
December 11, 2023**

**Prepared for:
MS. Elizabeth Sebren
Lexington Fayette Urban County Government
Water Quality
200 E. Main Street
Lexington, KY 40507**

**Prepared by:
E. Clark Toleman, MAI, SRA
333 West Vine Street, Suite 300
Lexington, Kentucky 40507**

E. Clark Toleman, MAI, SRPA



Real Estate Appraisal Services

VINE CENTER 333 W. VINE ST., SUITE 300 • LEXINGTON, KENTUCKY 40507
TEL. (859) 253-0314 • FAX (859) 253-0653

December 12, 2023

Ms. Elizabeth Sebren, Administrative Specialist Principal
LFUCG, Water Quality
200 E. Main Street
Lexington, KY 40507

Appraisal Report
Office/ Warehouse Building
130 Ste. 170 & 134 W. NCR
Lexington, Kentucky 40505

Dear Ms. Sebren

Following your request, I have carried out an investigation of the relevant market data, highest and best use analysis and detailed inspection of this property for the purpose of estimating market value of the property as of appraisal date in fee simple interest. Attached is an Appraisal Report, which contains the market data as well as our analysis, reasoning and judgment, which forms the basis for this market value opinion.

Considering this analysis and conclusions contained herein, an overall value estimate of the Fee Simple Estate as of December 11, 2023 based on the current market conditions for this property is indicated to be:

Six Million Two Hundred and Seventy-Five Thousand
\$6,275,000

This Market Value Estimate is subject to the Statement of Limiting Conditions and Assumptions, and the Certification included as part of this report. We are pleased to provide you with our professional appraisal services. If we may be of further assistance, please do not hesitate to call.

Respectfully submitted,

A handwritten signature in blue ink, appearing to be "ECT", with a long horizontal flourish extending to the right.

E. Clark Toleman, MAI SRA

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2. SUMMARY OF IMPORTANT FACTS AND CONCLUSIONS

Property Location: 130, Ste. 170 and 134 W. NCR, Lexington KY

Date of Appraisal: December 11, 2023

Property Rights Appraised: Fee Simple

Land Area: 8.43 Acres

Building Area: 67,700SF

Zoning: B-3 Highway Business

Highest and Best Use:

Unimproved: Commercial

As Improved: Office/ Warehouse/ Retail Space

Marketing Period: 3-6 Months

Value Estimate by Sales Comparison Approach \$6,100,000

Value Estimate by Income Approach \$6,450,000

Overall Market Value Estimate \$6,275,000

3. PURPOSE OF THE APPRAISAL

The purpose of this appraisal is to estimate Market Value of the subject property as of December 11, 2023.

Market Value is defined as:

The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus, Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby: (1) buyer and seller are typically motivated; (2) both parties are informed or well advised, and each acting in what he considers his own best interest; (3) a reasonable time is allowed for exposure to open markets; (4) payment is made in terms of cash in U,S, dollars or in terms of financial arrangements comparable thereto; and (5) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

Market Value is therefore the actual real dollar value of the subject property would bring at an appraisal date under “normal” conditions with the seller and buyer acting reasonably. The contemporary concept emphasizes cash value. This is necessary in the investigation of “market” sales to equate any non-typical financing terms to conditions that are typical at an appraisal date. The value assumes exposure in a competitive market for a reasonable time.

From USPAP 2012-2013

Market Exposure Time

In accordance with the *Uniform Standards of Professional Appraisal Practice* the reasonable market and exposure time for the subject property is estimated. Marketing period and exposure time is defined by the standards as being:

Marketing Period

Given the existing market information from an historic perspective, as well as the anticipated supply line of directly competing product, the appraisers believe that the subject property, **at the concluded value of this appraisal** would require a marketing time of 3-6 months.

Exposure Time

The estimated length of time that the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal.

Exposure time is a retrospective opinion based on an analysis of past events assuming a competitive and open market.

Based on the indicated exposure periods, the value conclusion represents a market price achievable within 3 to 6 months' exposure prior to the effective date.

Intended Use of the Appraisal

This appraisal is prepared for and on behalf of Lexington Fayette Urban County Government, Water Quality for a possible purchase of the property.

4. DATE OF APPRAISAL

This Appraisal is made as of December 11, 2023 with all economic, statistical and market data correlated to this date. The inspection of the property was made on this date and all physical characteristics are described relative to this date unless otherwise stated within this report.

5. PROPERTY RIGHTS APPRAISED

The subject property has one existing lease which can be terminated by owner with one month notice with the larger area now unoccupied with the property rights appraised for this tract being Fee Simple Interest.

6. IDENTIFICATION AND LEGAL REFERENCE

Subject is known as 130 Suite 170 and 134 W. New Circle Road. This property has a Fayette County PVA parcel number of 13872150 and 38158940. This property is further described in a deed dated March 10, 2017 recorded in deed book 3474 page 350, and in a plat cabinet M slide 535.

7. SCOPE OF APPRAISAL

The "scope" of the appraisal is the process used by the appraiser in collection, confirming and reporting data used in the appraisal of the subject property. The scope of the assignment is

to prepare an appraisal of the identified rights in the proposed subject property as of the effective appraisal date. No extraordinary assumption or hypothetical conditions have been considered.

An extensive search was conducted for sales and rental data in order to process the normally recognized approaches to value and known as the cost, sales comparison, and income approaches to value. In this case only the sales cost approach and income approach were deemed applicable and reliable in valuing the subject property.

Regional, city, and neighborhood data were gathered from studies by the U.S. Census Bureau, information in local libraries, public offices, and various other sources. Information regarding the subject property was gathered from various sources including the Fayette County Property Valuation Administrator's Office, Fayette County Planning Commission, County Clerk's Office, and other municipal offices.

In addition, the appraisal process included interviews with area real estate brokers, developers, property owners and other real estate professionals. The primary focus of the data search related to sales of comparable land sales, and small improved property in the immediate area of subject property.

The research also considered the impact of supply and demand factors in the local commercial land market, development trends, highest and best use analysis, capital market constraints, and location characteristics.

8. AREA AND CITY DATA

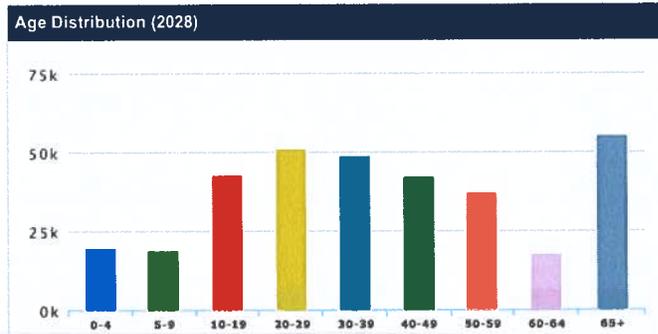
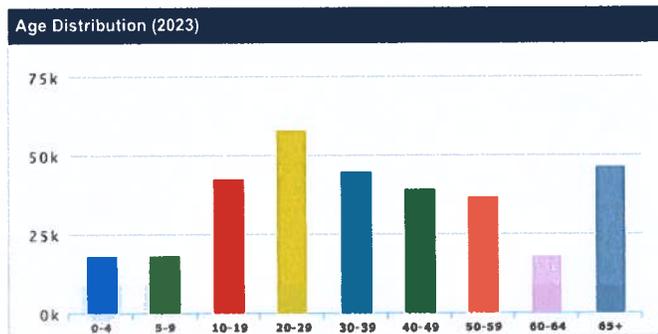
Subject is located in Lexington, Kentucky, Fayette County being the second largest city in Kentucky with a county wide population of approximately 322,000. The six counties surrounding Lexington have a total market area population of approximately 766,833. The following statistical information is provided for the general area of Lexington.

State of Kentucky-Demographics

Demographics Report (Lexington-Fayette County, Kentucky)

| Population (2023) | |
|-------------------|----------------|
| TOTAL | 324,191 |

| Population (2028) | |
|-------------------|----------------|
| TOTAL | 334,850 |



| | TOTAL | % |
|---------------------------|----------------|--------------|
| Labor Force | 178,515 | n/a |
| Employed | 172,827 | 96.81 |
| Unemployed | 5,466 | 3.06 |
| In Armed Forces | 222 | n/a |
| Not In Labor Force | 86,110 | n/a |

| | TOTAL | % |
|---------------------------|----------------|--------------|
| Labor Force | 185,268 | n/a |
| Employed | 176,042 | 95.02 |
| Unemployed | 8,998 | 4.86 |
| In Armed Forces | 228 | n/a |
| Not In Labor Force | 87,970 | n/a |

| Total Households (2023) | | |
|-------------------------|----------------|--------------|
| TOTAL | 137,004 | n/a |
| Households | 137,004 | n/a |
| Families | 76,285 | 55.68 |

| Total Households (2028) | | |
|-------------------------|----------------|--------------|
| TOTAL | 140,654 | n/a |
| Households | 140,654 | n/a |
| Families | 79,775 | 56.72 |

AREA AND CITY DATA (cont'd)

Office Spaces

Total: 10,491,677 SF

Data provided by Yardi Matrix, properties over 50k SF, includes office with retail

By square footage range:

| Range | Total square feet | Share of total |
|-------------------|-------------------|------------------------|
| 50k to 100k SqFt | 3,065,522 SqFt | 29.22% of total office |
| 100k to 500k SqFt | 4,578,155 SqFt | 43.64% of total office |
| > 1M SFSqFt | 2,848,000 SqFt | 27.15% of total office |

By class:

| Class | Total square feet | Share of total |
|---------|-------------------|------------------------|
| Class A | 2,950,398 SqFt | 28.12% of total office |
| Class B | 7,026,628 SqFt | 66.97% of total office |
| Class C | 134,651 SqFt | 1.28% of total office |

Class A office space holds a 28.12% share of the overall Lexington, KY office market, while Class B office assets make up approximately 66.97%.

AREA AND CITY DATA (cont'd)

Trend Analysis

Overall vacancy rates trended downward year over year between 2021 and 2022. The one exception is Industrial vacancy, which increased to 9.15% for Q4 2022.

| | 2021 - Q4 | 2021-Q4 | 2022-Q4 | 2022 - Q4 |
|------------------------------------|------------------|------------------|------------------|------------------|
| RETAIL | | | | |
| | Vacancy Rate (%) | Vacant (SF) | Vacancy Rate (%) | Vacant (SF) |
| Regional Mall | 5.39% | 87,489 | 2.00% | 31,489 |
| Neighborhood Center | 6.41% | 392,312 | 5.73% | 312,987 |
| Community and Power Centers | 8.60% | 275,608 | 7.07% | 214,430 |
| Other (Freestanding) | 1.81% | 57,838 | 2.21% | 69,836 |
| Total | 5.75% | 813,247 | 4.76% | 628,742 |
| OFFICE - CBD | | | | |
| | Vacancy Rate (%) | Vacant (SF) | Vacancy Rate (%) | Vacant (SF) |
| Class A | 12.74% | 217,055 | 9.99% | 170,372 |
| Class B | 10.41% | 190,760 | 9.69% | 176,779 |
| Total | 11.53% | 407,815 | 9.84% | 347,151 |
| OFFICE - SUBURBAN | | | | |
| | Vacancy Rate (%) | Vacant (SF) | Vacancy Rate (%) | Vacant (SF) |
| Class A | 13.69% | 344,414 | 11.70% | 292,881 |
| Class B | 13.02% | 797,988 | 13.99% | 854,663 |
| Total | 13.22% | 1,142,402 | 13.32% | 1,147,544 |
| INDUSTRIAL | | | | |
| | Vacancy Rate (%) | Vacant (SF) | Vacancy Rate (%) | Vacant (SF) |
| Bulk Warehouse | 1.53% | 131,842 | 1.63% | 139,832 |
| Distribution | 0.53% | 20,243 | 1.99% | 75,918 |
| High Tech & R&D | 0.00% | - | 11.06% | 45,479 |
| Manufacturing | 2.18% | 65,770 | 26.35% | 794,124 |
| Flex | 2.87% | 78,383 | 7.97% | 166,358 |
| Total | 1.60% | 296,238 | 9.15% | 1,221,711 |

9. NEIGHBORHOOD DATA

Subject is located approximately two miles north of downtown Lexington on the south side of New Circle Road between North Broadway and North Limestone, on the commercial corridor on the northern beltway around Lexington. The development character of this area is formed by intense commercial development on both sides of New Circle Road from Newtown Pike to Richmond Road including retail, auto sales, restaurants, office, motels and shopping centers. The area inside and outside New Circle is composed of residential neighbors. The traffic count on this portion of New Circle Road is approximately 38,800 vehicles per day. The area is fully developed with new development created on redeveloped sites. North Broadway is an access route to an interchange with I-64/I-75. This area was originally developed in the 1960s and one of the earliest commercial areas to develop outside of the downtown area with much redevelopment development over its history.

10. HISTORY OF SUBJECT PROPERTY

Subject was developed as a Kmart Center in the 1960s and redeveloped for Kentucky Alltell Inc. in 2005 which became Windstream Kentucky East, LLC, and having a lease that extended to February 2023. This lease included 40,000 square feet of office space and 22,800 sf of warehouse space and 3.10 acres lot. The final rent for this portion of the property was \$656,574 per year. An additional 4,900 square feet of retail showroom space was leased in October 2011 to James K. Sergent and James H. Patterson doing business as Mattress Overstock for a rent of \$5,000 per month in a lease renewal expiring in 2025.. This lease can be ended by landlord with 30 day notice. The subject sold in March 2017 to the William Ziering Trust for \$7,200,000. The property is currently listed for sale by SVN at a price of \$6,950,000.

PHOTOGRAPHS OF SUBJECT PROPERTY



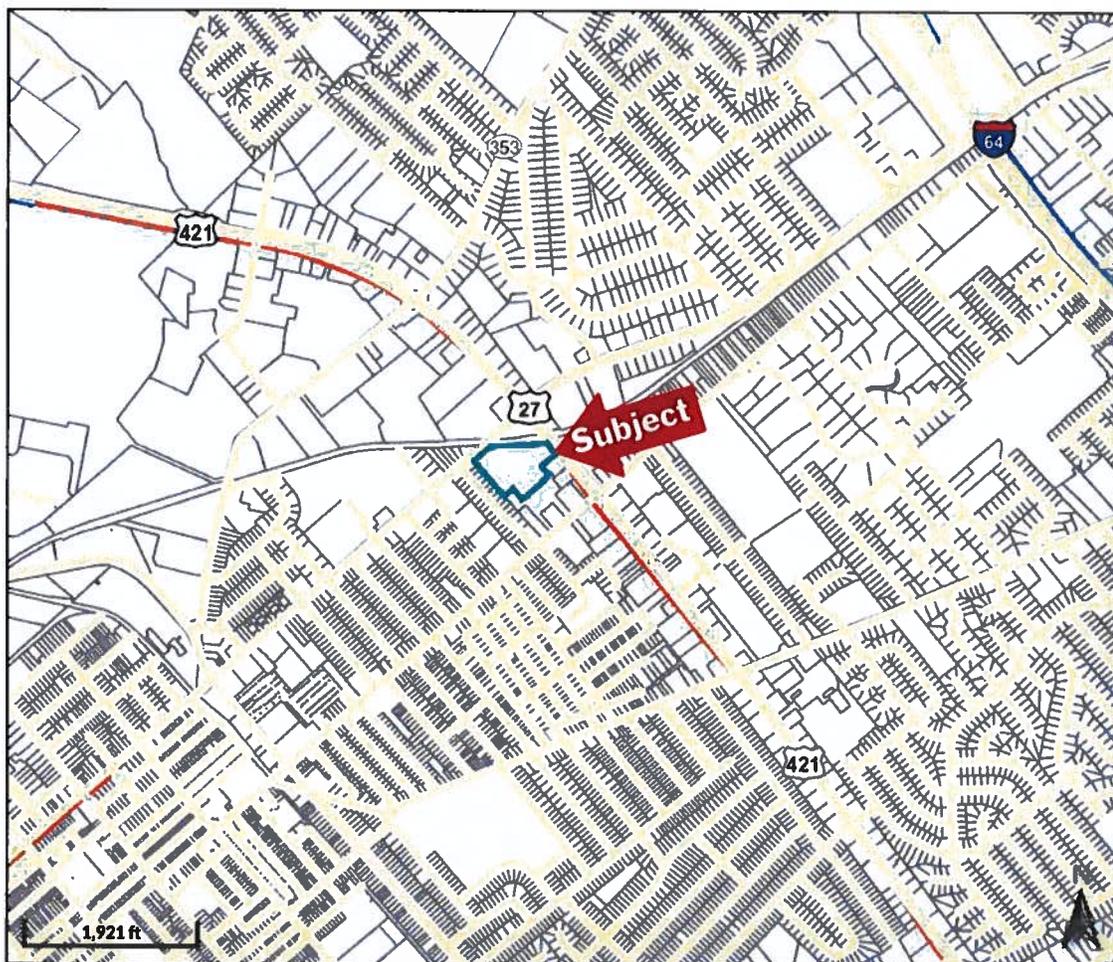
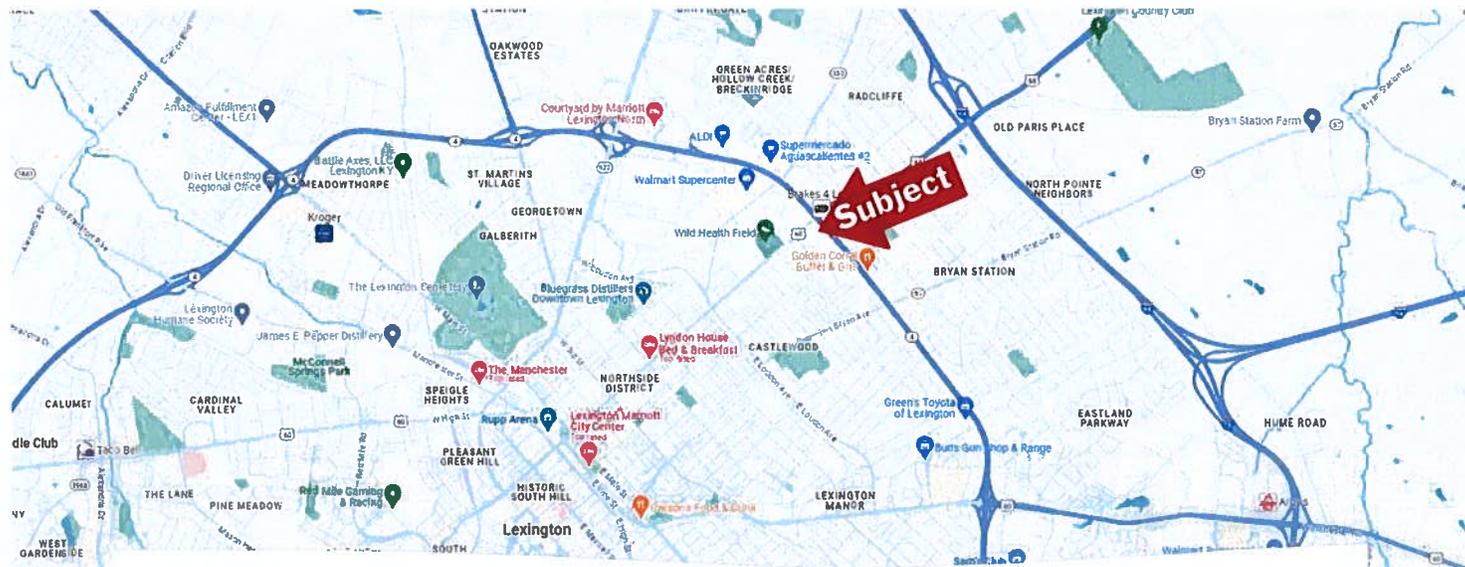
PHOTOGRAPHS (Continued)



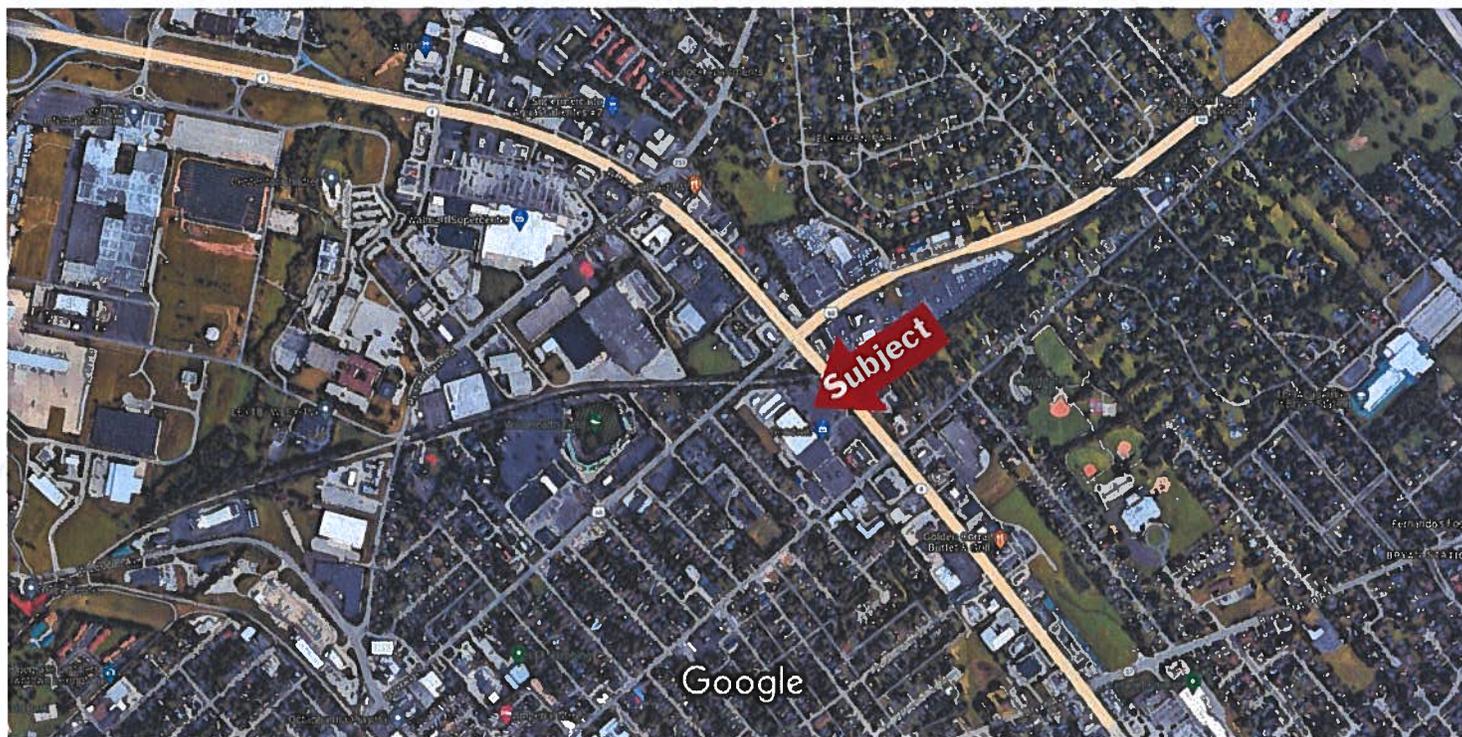
PHOTOGRAPHS (cont'd)



LOCATION MAP



Neighborhood Aerial Map



Imagery ©2023 Google, Imagery ©2023 CNES / Airbus, Maxar Technologies, U.S. Geological Survey, USDA/FPAC/GEO, Map data ©2023

500 ft

(b) Building Improvements

Subject building was built in 1968 as a big box department store with a total area of 67,700 square feet with 40,000 square feet converted to office space in 2005. Approximately 22,800 square feet is warehouse, and 4,200 square feet in retail space. This building is of masonry construction on concrete slab having no basement. The office area contains partitioned as well as open offices with conference, storage, mechanical and employee kitchen with drop ceiling drywall and glass wall partitions. The warehouse space has 16 height space heat and metal halide lighting. The entire area has a sprinkler system, with roof mounted heat and air conditioning system for the office and retail space. Overall quality is average class C and condition is good.

Office Building

| | |
|---------------------------|---|
| Type: | Office/ warehouse/retail Class C, average quality |
| Age: | 55 Years Actual, 15 year effective, 30 year remaining Economic Life |
| Gross Building Area: | 67,700 SF |
| Method of Construction: | Concrete block/steel frame roof structure |
| Foundation: | Concrete with Slab |
| Exterior Walls: | Concrete with glass store front |
| Roof: | Membrane |
| Ceiling height: | 11 feet, Drop Ceilings office, 16 feet warehouse |
| HVAC: | Heat & Airconditioning Roof mounted office/retail Space in warehouse |
| Typical Interior Finish – | |
| Floors: | Concrete, carpet office/retail |
| Walls: | Drywall in office, concrete block in warehouse |
| Ceilings: | Acoustic Tile in office and retail, open warehouse |
| Sprinkler System: | Wet system |
| Overall Quality: | Average |
| Overall Condition: | Good |
| Functional Utility: | Good |

(c) Site Improvements

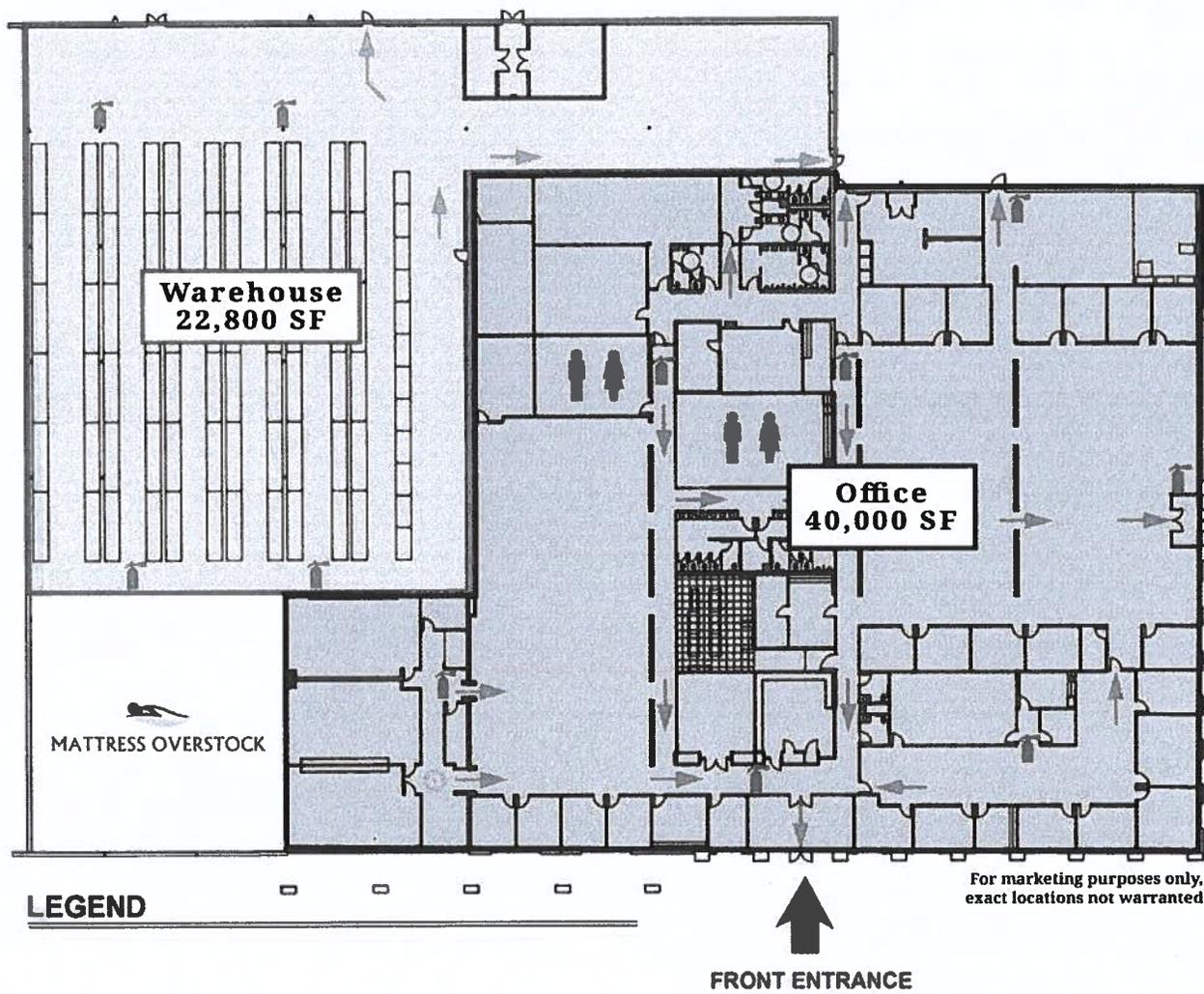
Subject site improvements include asphalt paving for driveways and parking, sidewalks, lot lighting and 78 car canopy that is fenced. All site improvements are in good condition.

(d) Zoning: Subject is zoned B-3 for highway business which allows a wide range of commercial development. Subject current use is in compliance with this zone.

(e) Tax Assessment: Subject property is currently assessed in two tracts for property tax with assed value for 130, suite 170 NCR of \$4,200,000, and \$1,100,000 for 134 NCR by the Fayette County PVA.

(f) Flood Plain: Subject is outside any existing flood zone.

Building Floor Plan



12. ANALYSIS OF HIGHEST AND BEST USE

In order to estimate the value of a property, its highest and best use, as though vacant and as improved, must first be determined. For the purpose of this report, the highest and best use is defined as:

1. The reasonable and probably use that supports the highest present value of vacant land or improved property, as defined, as of the date of the appraisal.
2. The reasonably probable and legal use of land or sites as though vacant, found to be physically possible, legally permissible, financially feasible and maximally productive.
3. The most profitable use.

Implied in these definitions is that the determination of highest and best use takes into account the contribution of a specific use to the community and community development goals as well as the benefits of that use to individual property owners. Therefore, in certain situations, the highest and best use of the land may be for parks, greenbelts, preservation, conservation, wildlife habits and the like.

This definition is taken from the Dictionary of Real Estate Appraisal as published by the Appraisal Institute.

As Though Vacant

Physically Possible – This is a lot on the south side of New Circle Road, with 360 feet of frontage irregular in shape, slightly sloping with a total area of 8.43 acres \pm .

Legally Permissible – Current zoning is B-3 for highway business commercial uses.

Financially Feasible – This property would be most feasible to be developed as commercial including retail, office, strip shopping center.

Maximally Productive – Of the legally permissible and financially feasible uses for the site, the most likely would be for high traffic commercial uses.

Conclusion

The subject site contains a total of 8.43 acres with irregular shape, and level to sloping topography. The site has potential for a variety of uses related to highway business uses including retail, strip shopping center, big box department store, motel, call center, automobile sales, and restaurant.

As Developed

Subject property is an office building, with warehouse and retail area that was converted from a prior big box department store in 2005. The building is in very good condition and has continued utility as an office building, and is considered to develop the lot as the highest and best use.

13. THE APPRAISAL PROCESS

The basis of the appraisal process is the collection, analysis, and application of market data relative to the subject property. Market data is applied to this property by the Sales Comparison Approach.

The cost approach is a summation of all components that the property encompasses. The property is broken down into its primary components with the unimproved land value estimated the comparison of the subject to similar land sales. The improvements are then valued by estimating the cost new and then deducting the accrued depreciation. The contributory value of all improvements is then added to the land value for an overall value estimate. The cost approach is most representative of market value when the improvements are relatively new, in good condition, and develop the land to its highest and best use.

The sale comparison approach to value is a direct comparison of subject property to comparable sales. The comparison can be made on basis of various units of value such as: per unit, per square foot, acre, etc. Adjustments can be made for differences that may exist between subject and sale properties, but when highly comparable sales data is available adjustment are minimal. The validity of the sales comparison approach is dependent on available comparable data since it is a direct market comparison, and is highly reliable when similar property sales are available.

The income approach values property based on its utility to generate a net operating income. The property and market are analyzed so that income and expenses may be estimated. The market also indicates the relationship between net income and value with comparable sales analyzed for an indication of capitalization rates. A capitalization rate can also be estimated by indirect methods based on market expectation of return, mortgage rates and trends of appreciation and depreciation. This approach is the indicator for income producing, investment properties.

The reliability of the Income Approach is also dependent on the quality of market data, and this approach essential for investment type properties.

The conclusion of the appraisal process is the analysis of each of the approaches as it relates to the subject property and the appraisal problem. The correlation process considers the range of value indicated by the approaches as well as the individual market estimates with a final value estimate indicated.

The final value estimate is therefore based on the market information that has been analyzed with the final market value being representative and a function of the market process.

Subject is developed as an office building with rental potential and improvements that contribute to the highest and best use of the land with the Sales Comparison and Income Approaches considered the most applicable approaches to value.

14. VALUE ESTIMATE BY THE INCOME APPROACH

The Income Capitalization Approach is defined as an “approach through which an appraiser derive a value indication for income producing property by converting anticipated benefits, i.e. cash flows and reversions, into property value.” (The dictionary of Real Estate Appraisal, 5th edition. Page 99). In the case of the subject property, the analysis is based on a Direct Capitalization technique and a Discounted Cash Flow model.

Direct Capitalization

Direct Capitalization is defined as: “A method used to convert an estimate of a single year’s income expectancy, or an annual average of several years’ income expectancies, into an indication of value in one direct step, either by dividing the income estimate by an appropriate income rate or by multiplying the income estimate by an appropriate factor.”

Discounted Cash Flow Analysis

Discounted Cash Flow Analysis is defined as: “A set of procedures in which the quantity, variability, timing and duration of periodic income, as well as the quantity and timing of reversions and are specified and discounted to a present yield rate.”

Steps Involved in Developing the Income Approach:

1. Estimate Potential Gross Income (PGI). This is accomplished by an examination of the current leases as well as comparable market rentals in competing market area.
2. Estimate an allowance for vacancy and collection loss. In direct capitalization, the vacancy and collection loss should reflect either the stabilized occupancy for the subject market with short term leases, or in properties with minimal of low-risk tenants with long term leases, a vacancy and collection loss factor may not be applicable. In the DCF analysis, the vacancy and collection and collection loss must be estimated for each year of the holding period. This is accomplished by analyzing existing leases, their expiration, potential tenant turnover and estimated absorption throughout the holding period.
3. Calculate the Effective Gross Income (EGI) by deducting the estimated vacancy a collection loss and adding to this any additional income from sources other than rental income. Additional sources of income include laundry, vending, parking and/or tenant reimbursements for expenses.
4. Estimate the expenses or industry standards.
5. Calculate Net Operating Income (NOI) for the property by deducting the total estimate expenses.
6. Capitalize the estimated NOI by the selected Capitalization Rate in Direct Capitalization, or discount the estimated cash flows to present value and add the estimated value at reversion to result in a value indication by the Discounted Cash Flow Analysis.

INCOME ANALYSIS

Subject property consists of 40,000 square feet of office space, 22,800 sf of warehouse and 4,900 sf of retail area, with a total of 67,700 sf. The building is office space containing 33,253 square feet and has potential to be leased for potential rental income

Comparable office and warehouse space will be surveyed within the Lexington suburban market and considered as an indicator of gross rent potential.

OFFICE SPACE- WAREHOUSE SPACE

| Location | Building Size | Built | Asking Rent |
|-----------------------------|---------------|-------|-----------------|
| 2375 Professional Ht. H. | 12,329 SF | 1973 | \$12.00 PSF Net |
| 2401-2409 Regency Rd. | 25,000 SF | 1976 | \$13.50 PSF |
| 2417 Regenct Rd. | 9,880 SF | 1983 | \$12.00 PS |
| 161 Prosperous Pl. | 10,260 SF | 1994 | \$12.00 PSF |
| 1591 Winchester Rd. | 3,643 SF | 2003 | \$14.25 PSF |
| 1101 Winchester Rd. | 12,428 SF | 1972 | \$12.00 PSF |

WAREHOUSE SPACE

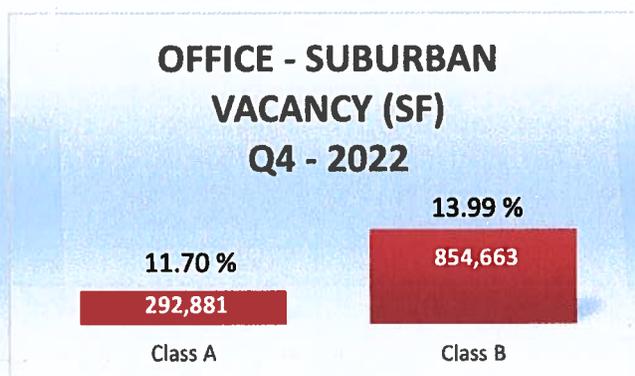
| | | | |
|-------------------------------|---------------|-------------|---------------------|
| <u>133 Trade Street</u> | <u>17,875</u> | <u>1978</u> | <u>\$8.50</u> |
| <u>251 Price Road</u> | <u>24,500</u> | <u>1950</u> | <u>\$8.00</u> |
| 182 Turner Commons | 38,200 | 1950 | \$7.50 |
| 1209 E. New Circle Rd. | 37,400 | 1976 | \$6.00 |
| 1300 E. New Circle Rd. | 33,504 | 1984 | \$11.00/Flex |

Summary: These rental rates are representative for office and warehouse space in the subject market with a range for office space from \$12.00 to \$14.25 per square foot net to the lessor for space from 3,643 to 25,000 square feet. Warehouse rentals range from \$6.00 to \$8.50 for warehouse and \$11.00 for flex space which includes a portion of office area. The terms generally include a 3 to 5 year lease. The most recent lease on subject office and warehouse space was \$12.50 psf for office area and \$5.50psf for the warehouse portion including 3.1 acres of land, with tenant paying landlord 10% of operating expenses. The

retail space is currently leased for \$12.24 psf with landlord paying property insurance and property taxes plus all other operating expenses.

Considering subjects location, age, size, quality, and condition a potential gross rental rate for the office space is indicated to be \$12 per square foot, with warehouse rate indicated to be \$8.00 and the retail \$14.00.

Vacancy Rate Analysis



| OFFICE CBD | # BUILDINGS | GLA (SF) | OCCUPIED (SF) | OCCUPANCY RATE | VACANT (SF) | VACANCY RATE |
|---------------|----------------|------------------|------------------|-------------------|----------------|-----------------|
| Class A | 9 | 1,705,511 | 1,535,139 | 90.01% | 170,372 | 9.99% |
| Class B | 42 | 1,824,130 | 1,647,351 | 90.31% | 176,779 | 9.69% |
| TOTAL | 51 | 3,529,641 | 3,182,490 | 90.16% | 347,151 | 9.84% |

| OFFICE SUBURBAN | # BUILDINGS | GLA (SF) | OCCUPIED (SF) | OCCUPANCY RATE | VACANT (SF) | VACANCY RATE |
|--------------------|----------------|------------------|------------------|-------------------|------------------|-----------------|
| Class A | 53 | 2,502,936 | 2,210,055 | 88.30% | 292,881 | 11.70% |
| Class B | 187 | 6,110,699 | 5,256,036 | 86.01% | 854,663 | 13.99% |
| TOTAL | 240 | 8,613,635 | 7,466,091 | 86.68% | 1,147,544 | 13.32% |

INCOME VALUATION WORKSHEET

The following is a stabilized analysis of income and experiences based on the potential rent and expenses.

**Income Breakdown – Office : 40,000 SF @ \$12.00 PSF Retail: 4,900 SF@ \$14.00 PSF
Warehouse:22,800 SF @ \$8.00 PSF**

| | <u>Annual Income</u> |
|--|-----------------------------------|
| Potential Gross Income | \$731,000 |
| Vacancy and Collection Loss @ 10%: | (\$73,100) |
| Effective Gross Income (EGI) | \$657,900 |
| Total Income | \$657,900 |
| Expense Breakdown | |
| Property Taxes | \$75,858 |
| Property & Liability Insurance Premium | \$25,000 |
| Maintenance Repairs | \$15,000 |
| Replacement Reserve (\$.10 PRSF) | \$6,770 |
| Management Fee (3% of Net Rents) | \$19,737 |
| Utilities | Tenant |
| Total Operating Expenses | <u>\$142,365 (22%) (2.10 PSF)</u> |
| Net Operating Income (NOI) | \$515,535 |

Expense Analysis

Vacancy and Collection Loss

The surveys, which have been completed, have indicated that most investors in this type of property are forecasting long-term vacancy and credit loss of between 5% and 20% depending upon the credit quality of the typical tenant. Based on rental rates at market level, it is assumed that the property would attain stabilized occupancy levels. A survey of the local market indicates higher vacancy in lower quality buildings while the better-quality buildings and locations operating at greater than 75% with a majority at 85%+. Based on the overall quality and appeal of the subject and giving consideration to its size and location and the long-term lease with initial term of 5 years a vacancy at of 10% is applied.

Management and Leasing Lease type, tenant type and occupant quantity all affect management expense. When ownership is expected to occupy all or most of the property, both management and leasing fees could be nil. If leases are negotiated on a net basis, where tenants are responsible for payment of most or all expenses, then managerial tasks are minor and management expenses decreases. However, the opposite is true for gross leases.

Professional management services can usually be hired for 3% to 7% of effective gross income depending on the level of service provided. All management fees are included in administrative costs. When the same company provides management and leasing services, discounts are customary. If long-term leases with very creditworthy tenants were already written, expected leasing fees might be none. In this case, the subject is considered an owner-amenity type property. Leases burdening the remainder are expected to be negotiated on an absolute net basis. Accordingly, management fees for the subject building are estimated at 3.0%.

Repairs and Maintenance Maintenance is a planned, scheduled task like those required by an elevator. A repair is a sporadic item that needs attention now like an inoperative heating plant in the mid of winter. These expenses are the tenant's responsibility.

Reserves for Replacements In concept, funds are deducted from income and deposited into a safe, interest-bearing account so monies will be reserved for future component replacement. Reserves are controversial because few owners actually set the funds aside. Moreover, the IRS only recognizes expenses in the year expended, not the year when funds are deposited into a reserve account. Whether funds are, or are not, deducted should not impact value. If funds are not deducted, then risk climbs because there is greater chance ownership will not have the money when needed. In compensation of increased risk, an appropriate overall cap rate should be higher. The risk for reserves was considered when developing the overall cap rate. Many of the expenses for replacement of items with a short economic life are passed along to the tenant; this is typical for our market and this type of property. Reserves of 0.10 psf annually is appropriate for this type of property for items to be replaced by the owner of the property and not the responsibility of tenants.

Tenant Improvements Tenant improvements are customary for larger, investment-grade real estate like similar to subject property. They are non-reoccurring expenditures made to adopt or

modify a space to suit the needs of an occupant at the onset of new lease or lease renewal. These type expenses are to be reimbursed by tenant.

Income Approach

Capitalization

In the appraisal profession, capitalization is the process of converting income into value. One method extracts a capitalization rate (also called a cap rate) from sales of similar property via the following formula. An extracted rate is then divided into the subject's net operating income (NOI) resulting in a value indication for the real estate being appraised.

$$\text{Net Operating Income} / \text{Sale Price} = \text{Cap Rate}$$

Implicit within a cap rate are all investor expectations about risk, return and change. This methodology is simple to use, easy to explain and directly reflects market behavior. Its simplicity is also a weakness because implicit expectations may not be scrutinized.

Mortgage-Equity Technique

Real estate is customarily acquired with both debt and equity capital. The mortgage-equity technique recognizes this and constructs an overall capitalization rate (Ro). An overall cap rate can be calculated as a weighted average composed of the mortgage ratio (M), blended with the cost of the debt capital (Rm), plus the equity ratio (E) tempered by the return or rate necessary to attract equity capital (Re).

The equity cap rate (Re), shown below, is just a first year cash-on-cash return. Four other major ownership benefits – rental growth, equity growth due to loan repayment, income tax benefits and value growth all escalate total return. When these other factors are explicitly recognized, total return to equity over the entire ownership period, called equity yield (Ye), is usually much higher than the initial or going-in overall cap rate (Ro).

Mortgage interest rates vary by property type and lender risk perceptions. Loan terms shown below are reasonably representative of market norms for borrowers with good credit. Borrowers with tarnished credit histories can expect to pay higher rates with lower loan to value ratios. However, a property's market value is not influenced by the tainted credit history of its current or prospective owner.

Debt capital is now available for real estate like the subject at a fixed interest rate and level monthly payments for an initial multi-year period. Throughout the level payment period, the interest rate is expected to remain stable. Thereafter, the interest rate and payment are both expected to adjust annually. Different buyers have different purchasing criteria, so a range of reasonable equity returns and an approximate midpoint are illustrated. Current loan terms and first year demands on equity are shown below.

| Debt | | Equity | |
|---------------------------------|--------|--------------------------|-----------|
| Mortgage Ratio (M) | 75% | Equity Ratio (E) | 25% |
| Interest Rate | 5% | Reasonable First Year | |
| Initial Fixed Rate Period (Yrs) | 5 to 7 | Equity Return (Re) Range | 9% to 11% |
| Amortization Period (Yrs) | 25 | First Year Equity Return | |
| Loan Constant (Rm) | 7.015% | (Re), Say | 10% |

Using the above information, the following mortgage-equity
Technique constructs an overall cap rate (Ro).

$$\begin{array}{l} (M) \quad x \quad (Rm) \quad = \quad (M) (Rm) \quad \Rightarrow \quad 75\% \quad x \quad 7.015\% \quad = \quad 5.26\% \\ (E) \quad x \quad (Re) \quad = \quad \underline{(E) (Re)} \quad \Rightarrow \quad 25\% \quad x \quad 10.00\% \quad = \quad \underline{2.50\%} \end{array}$$

$$\begin{array}{l} \text{Summation} \quad = \quad Ro \quad \Rightarrow \quad Ro \quad = \quad 7.76\% \\ \text{Say} \quad Ro \quad = \quad 7.8\% \end{array}$$

Capitalization rates for professional-office class of real estate has a range of 6% to 9.5% depending on the condition/age and quality of the tenant, plus the supply and demand of the local market. The following is a survey of existing cap rates for this region.

Survey of Capitalization Rates

PwC Investor Survey, Q2 2023

| | Regional Mall | | CBD Office | | Warehouse | | Apartment | |
|---|---------------|--------------|-------------|-------------|-------------|-------------|-------------|-------------|
| | Q2 2023 | Q1 2023 | Q2 2023 | Q1 2023 | Q2 2023 | Q1 2023 | Q2 2023 | Q1 2023 |
| Discount Rate^a | | | | | | | | |
| Range (%) | 6.00 – 13.00 | 6.00 – 13.00 | 6.00 – 9.00 | 6.00 – 9.00 | 5.25 – 8.00 | 5.25 – 7.50 | 5.75 – 8.00 | 5.50 – 9.00 |
| Average (%) | 7.90 | 7.85 | 7.23 | 7.05 | 6.48 | 6.36 | 6.63 | 6.71 |
| Change (bps) | | +5 | | +18 | | +12 | | -9 |
| Overall Cap Rate (OAR)^a | | | | | | | | |
| Range (%) | 5.00 – 12.50 | 5.00 – 12.50 | 4.25 – 7.50 | 4.25 – 7.50 | 3.00 – 7.00 | 3.00 – 7.00 | 3.75 – 8.00 | 3.50 – 8.00 |
| Average (%) | 7.28 | 7.28 | 5.88 | 5.78 | 4.96 | 4.82 | 5.25 | 5.01 |
| Change (bps) | | 0 | | +10 | | +14 | | +24 |
| Residual Cap Rate | | | | | | | | |
| Range (%) | 5.00 – 12.50 | 5.00 – 12.50 | 5.00 – 8.50 | 5.00 – 8.50 | 4.00 – 6.50 | 4.00 – 6.50 | 4.00 – 8.00 | 4.00 – 8.00 |
| Average (%) | 7.43 | 7.40 | 6.33 | 6.30 | 5.31 | 5.18 | 5.58 | 5.38 |
| Change (bps) | | +3 | | +3 | | +13 | | +20 |

^aRate on unleveraged, all-cash transactions. *Definitions:* bps — basis points. Discount Rate — a rate of return on capital used to convert future payments or receipts into present value; assumes an all-cash transaction, based on annual year-end compounding. Overall Cap Rate (OAR) — initial rate of return in an all-cash transaction. Residual Cap Rate — an overall capitalization rate used to estimate the resale price of a property; usually applied to the anticipated stabilized income for the year beyond the holding period; also called terminal capitalization rate. Survey involves institutional-grade properties. *Source:* PwC's Investor Survey; personal survey conducted by PwC during June 2023. For subscription information, please visit <https://investorsurvey.pwc.com/>.

Market rates and bond yields

| | Jun 2023 | Dec 2022 | Jun 2022 | Dec 2021 | Jun 2021 | Jun 2020 |
|------------------------------|----------|----------|----------|----------|----------|----------|
| Reserve bank discount rate | 5.25 | 4.00 | 0.25 | 0.25 | 0.25 | 0.25 |
| Prime rate (monthly average) | 8.25 | 7.00 | 4.38 | 3.25 | 3.25 | 3.35 |
| Federal funds rate | 5.08 | 3.83 | 1.38 | 0.08 | 0.08 | 0.08 |
| 3-month Treasury bills | 5.17 | 4.22 | 1.49 | 0.06 | 0.05 | 0.16 |
| 6-month Treasury bills | 5.24 | 4.49 | 2.11 | 0.15 | 0.06 | 0.17 |
| U.S. 5-year bond | 4.13 | 3.68 | 3.19 | 1.23 | 0.87 | 0.32 |
| U.S. 10-year bond | 3.81 | 3.53 | 3.14 | 1.47 | 1.45 | 0.68 |
| U.S. 30-year bond | 3.85 | 3.64 | 3.25 | 1.85 | 2.06 | 1.43 |
| Municipal tax exempts (Aaa)* | — | — | — | — | — | 2.01 |
| Municipal tax exempts (A)* | — | — | — | — | — | 2.50 |
| Corporate bonds (Aaa)* | — | — | — | — | — | 2.44 |
| Corporate bonds (A)* | — | — | — | — | — | 3.02 |
| Corporate bonds (Baa)* | — | — | — | — | — | 3.64 |

*Source: Moody's Bond Record.

Income Approach

Value Indication

In review, risk associated with physical attributes is normal due to proper maintenance of the building. The current rental rates for subject with potential for increasing income. For the most part, supply and demand show absorption of the supply of suburban office properties with Moderate demand. Overall, risk is deemed moderate, although the subject location is in a rural area off interstate direct access and is on a land lease which terminates in 75 years. There are also occupancy restrictions imposed by the Kentucky Horse Park regulations, which is considered to decrease potential tenants and increase risk. Considering these unique factors an increase of the capitalization by one and a half points is considered representative for these conditions.

All issues necessary to produce a value indication via this approach have been presented and explained. After careful consideration of all factors pertaining to and influencing the income approach, the following formula capitalizes or converts net income into value.

$$\frac{\text{NOI}}{\text{Ro}} = \text{Value} = \frac{\$515,535}{8\%} = \$6,444,187$$

*Indicated Market Value
By Income Approach, (rounded)*

\$6,450,000

15. VALUE ESTIMATE BY SALES COMPARISON APPROACH

The Sales Comparison Approach to value compares the subject to similar properties that have sold or are under contract in the same or similar market. This approach is based on the principle of substitution, which states that no commodity has a value greater than a similar commodity offering similar uses, similar utility and similar function that can be purchased within a reasonable time frame. In other words, the market value of a property is set by the price of acquiring a substitute property, which could provide the owner with similar utility. The principle of substitution also is crucial in reconciling all three approaches to value, as it provides linkage in the underlying determination of the subject's market value.

Units of Comparison

Using a common unit of comparison is an effective device to adjust for differences in physical characteristics while controlling for scale or some other factor. This control allows the appraisers to determine the impact of differences in attributes between the subject and comparable sale properties.

As for the subject, the appraisers discussed recent market transactions with area brokers, as well as evaluating the physical attributes of the subject's user type. In both instances, the predominant unit of comparison was sale price per acre. The following analysis will use this unit.

Elements of Comparison

There are eight major comparison categories that must be considered in the direct sales comparison approach. These include the following:

Date of Sale

Property Rights Conveyed
Financing
Conditions of Sale
Expenditures Made After Sale
Market Trends
Location of sale Property
Physical Attributes
Economic Attributes

Each of these categories will be addressed in the subsequent analysis, as it relates to the subject.

The following comparable sales are considered as a basis for comparison to subject property for an indication of unit price for subject.

Building Comparable No. 1
Address: 2376 Sir Barton Way
 Lexington, KY 40509

Photograph



| | | | |
|-----------------------------|---------------------|----------------------|--------------------------|
| Land Size: | 3.186 AC | | |
| Number Primary Buildings: | One | Building: | Suburban office building |
| Number Total Suites: | Multiple | Age: | 18 years |
| Total Size Building | 29,240 SF | # Stories: | Two |
| Building Composition/Use: | Office Building | Const. Quality: | Average/Steel/Metal |
| General Description: | Two Story | Zoning: | P-1 |
| Site Improvements: | Paving | Land/Building Ratio: | 4.7 to 1 |
| Accessory Buildings: | None | Grantor: | Corolla Management Corp |
| Occupancy: | Professional Office | Grantee: | Quality Logistics LLC |
| Personal Property in Sale: | None | Recorded: | Deed Book 3776 Page 634 |
| Atypical Features: | None | | |
| Overall Physical Condition: | Good | | |
| Sale Price & Date: | \$3,100,000 | | |
| | 08/19/2020 | Sale Price per SF | \$106.02 psf |

Comments: This is a two-story free standing class B office building that was built in 2005 in the Hamburg neighborhood. This building is of tilt-up construction with floor area of 14,620 square feet and is well locate near the Winchester Road / I-75 interchange.

Building Comparable No. 2
 Address: 800 Corporate Drive
 Lexington, KY 40503

Photograph



| | | | |
|-----------------------------|-------------------------|----------------------|-------------------------|
| Land Size: | 2.49 AC | Building | |
| Number Primary Buildings: | One | Design: | Steel Frame/Brick |
| Number Total Suites: | Multiple | Age: | 43 Years |
| Total Size Building | 26,098 SF | # Stories: | Two |
| Building Composition/Use: | Office Building | Const. Quality: | Average |
| General Description: | Class B Office | Zoning: | P-1 |
| Site Improvements: | Paving | Land/Building Ratio: | 4.16 to 1 |
| Accessory Buildings: | None | Grantor: | Bright Ideas LLC |
| Occupancy: | Office | Grantee: | CNL Property Group LLC |
| Personal Property in Sale: | None | Recorded: | Deed Book 3950 Page 511 |
| Atypical Features: | None | Sale Price per SF: | \$82.38 psf |
| Overall Physical Condition: | Recently Renovated | | |
| Sale Price & Date: | \$2,150,000 06/28/22 | | |

Comments: This sale property is a two-story office building of class B steel frame and brick construction built in 1980 with 26,098 sf of finished office space. This building was recently renovated and in good condition with 13,624 sf on each floor. Sale is located in Corporate Center at the intersection of Harrodsburg Road and New Circle Road.

Building Comparable No. 3
 Address: 4071 Tates Creek Road
 Lexington, KY 40517

Photograph



| | | |
|-----------------------------|---------------------------|----------------------------------|
| Land Size: | 2.19 ac | Building |
| Number Primary Buildings: | One | Design: Steel/Curtin-wall |
| Number Total Suites: | Three | Age: 34 years |
| Total Size Building: | 32,124 SF | # Stories:Three |
| Building Composition/Use: | Office Class C | Const. quality: Average |
| General Description: | Office Building | Zoning: P-1 |
| Site Improvements: | Paving | Land/building ratio: 2.97 to 1 |
| Accessory Buildings: | None | Grantor: Tates Creek Office Cte. |
| Occupancy: | Professional Office | Grantee: Ridgefield Investments |
| Personal Property in Sale: | None | Recorded: Deed Book 3976 Page729 |
| Atypical Features: | None | |
| Overall Physical Condition: | Good | |
| Sale Price & Date: | \$4,050,000 10/06/2022 | Sale Price per SF: \$126.07 psf |

Comments: This is a three story class C office building approximately 34 years old and has approximately 11,000 sf per floor. Construction is steel frame with Curtin wall. The property is situated in the Tates Creek Shopping Center at Tates Creek Road and Man O War Blvd.

Building Comparable No. 4
Address: 2405 Harrodsburg Road
 Lexington, KY 40504

Photograph



| | | |
|------------------------------------|---------------------------|--|
| Land Size: | 1.14 ac | |
| Number Primary Buildings: | One | Building |
| Number Total Suites: | Multiple | Design: Steel Frame/Brick |
| Total Size Building: | 15,151 SF | # Stories: One |
| Building Composition/Use: | Office/ | Const. quality: Average |
| General Description: | Professional/Office | Zoning: P-1 |
| Site Improvements: | Paving | Land/building ratio: 3.27 to 1 |
| Accessory Buildings: | None | Grantor: SBC Investments, LLP |
| Occupancy: | Office | Grantee: MLG Real Estate, LLC |
| Personal Property in Sale: | None | Recorded: Deed Book 3979 Page 110 |
| Atypical Features: | None | Age: 28 years |
| Overall Physical Condition: | Good | |
| Sale Price & Date: | \$2,100,000 10/17/2022 | Sale Price per SF: \$138.60 PSF |

Comments: This property consists of a one-story class C office building with a total area of 15,150 square feet. Construction is masonry, and in good condition located on Harrodsburg Road just north of Pasadena Drive.

Building Comparable **No. 5**
Address: **120 Prosperous Place**
 Lexington, KY 40509

Photograph



| | | |
|------------------------------------|----------------------------|--|
| Land Size: | 2.87 ac | |
| Number Primary Buildings: | One | Building |
| Number Total Suites: | Three | Design: Steel Frame/Curtin Wall |
| Total Size Building: | 47,754 SF | # Stories: One |
| Building Composition/Use: | Office | Const. quality: Average |
| | | Age: 26 years |
| General Description: | Professional Office | Zoning: P-1 |
| Site Improvements: | Paving | Land/building ratio: 2.6 to 1 |
| Accessory Buildings: | None | Grantor: Turner Property 2, LLC |
| Occupancy: | Warehouse | Grantee: Vision Engineering, LLC |
| Personal Property in Sale: | None | Recorded: Deed Book 3989 Page 125 |
| Atypical Features: | None | |
| Overall Physical Condition: | Good | |
| Sale Price & Date: | \$5,700,000 | Sale Price per SF: \$119.28 PSF |
| | 5/12/2022 | |

Comments: This is a three-story class C office building with a total area of 47,754 SF with 15,910 SF on each floor. Construction is steel frame with Curtin Wall built in 1997 and in good condition. Sale is located at the intersection of Richmond Road and Man O War Blvd.

COMPARATIVE ANALYSIS

| Sale No. | Subject | Sale 1 | Sale 2 | Sale 3 | Sale 4 | Sale 5 |
|-------------------------------------|-------------------------------|---------------------------|---------------------------|--------------------------|-----------------------------|----------------------------|
| Location | 130 Ste.170 and 134 NCR | 2376 Sir Barton Way | 800 Corporate Drive | 4071 Tates Creek Road | 2405 Harrodsburg Road | 120 Prosperous Place |
| Sale Date | | 8/19/20 | 6/28/22 | 10/06/22 | 10/17/22 | 12/02/22 |
| Sale Price | | \$3,100,00 | \$2,500,000 | \$4,050,000 | \$2,100,000 | \$5,700,000 |
| Building Size SF | 67,700 SF | 29,240 SF | 26,098 SF | 32,124 SF | 15,151 SF | 47,754 SF |
| Unit Price PSF | | \$106.02 | \$82.38 | \$126.07 | \$138.60 | \$119.28 |
| Comparative Analysis | | | | | | |
| Property Rights | Fee Simple | Similar | Similar | Similar | Similar | Similar |
| Financing | | Market | Market | Market | Market | Market |
| Conditions of Sale | | Normal | Normal | Normal | Normal | Normal |
| Appreciation & Inflation | | +15% | +7% | +6% | +5% | +5% |
| Adjusted Unit Price | | \$121.92 | \$88.15 | \$133.63 | \$145.53 | \$125.24 |
| Location | | -20% | -20% | -20% | -20% | -20% |
| Effective Age | | -5% | +5% | Similar | Similar | Similar |
| Condition | | Similar | Similar | Similar | Similar | Similar |
| Construction | | -15% | -10% | -10% | -10% | -10% |
| Size of Improvements | | Similar | Similar | Similar | Similar | Similar |
| Site Area | 8.43 Acre | +20% | +20% | +20% | +20% | +20% |
| Utility | | -20% | -20% | -20% | -20% | -20% |
| Composite Adjustment | | 0.60 | 0.75 | 0.70 | 0.70 | 0.70 |
| Indicated Adjusted Unit Value | | \$73.15psf | \$66.11psf | \$93.54psf | \$101.87psf | \$87.67psf |

Sales Comparison Approach

Analysis and Conclusions

The subject and all cited comparable sales share several characteristics and are all located in suburban Lexington locations. These commonalities justify inclusion of these transactions in this analysis. Often, there are differences between the property appraised (“the subject”) and a comparable sale. When the dissimilarity affects value, an adjustment to the sale price of the comparable is necessary.

Property Rights Agreements or laws create partial interests in real estate. A deed restriction or life estate usually reduces rights and value. If the subject is not affected by these limitations and a comparable is, then the comparable sale price needs an upward property rights adjustment. In another situation, unfavorable leases eliminate a landlord’s right to collect market rent, so the real estate sells for a below-market price. If the property appraised has no lease adversities and a comparable does have unfavorable leases, then the comparable requires upward adjustment.

Financing Sub-market financing is a common technique used to finance the acquisition of real estate during periods of high interest rates. When non-market financing is used, the financing may be favorable to the buyer so the sale price is inflated. The escalated price can be envisioned as a composite of the worth of real estate plus the value of advantageous financing. Since value created by financing is not real property, the contribution of the advantageous financing must be deducted from total sale price to derive market value for just the realty. However, there are instances where the buyer assumes unfavorable financing, so the sale price is diminished. In the latter case, an upward adjustment must be applied to the sale price of the comparable thusly deriving the market value of the real estate. Unless a statement is made to the contrary, non-market financing was not used to acquire any comparable sale cited in this report. Therefore, no compensations are needed for financing.

Conditions of Sale An adjustment for conditions of sale is necessary when a criterion of market value is violated. It could compensate for unusual buyer or seller motivations. For instance, when a seller gives a buyer an atypical rebate, discount, credit, or something of value to induce a conveyance, the sale price is usually inflated. In this case, it is logical to deduct the worth of the giveback from the sale price. Residual sums represent the property’s market value. In another scenario, a buyer may pay a premium to facilitate an assemblage. In this instance, the premium must be deducted from the sale price to derive market value for that conveyance. Unless stated otherwise, no adjustments are necessary for conditions of sale.

Expenditure Post Sale This is a situation when a buyer is compelled to invest additional money into a property immediately after acquisition for some atypical reason. Post-sale invested sums are appropriately added to a comparable sale price, thereby producing an adjusted sale price. Examples are demolition costs or building-code compliance costs.

Market Conditions Adjustments for market conditions are commonly referred to as time adjustments, but this is misleading. Value does not change due to the passage of time;

sometimes it remains stable. Often, real estate values fluctuate due to change in supply and demand, interest rates, employment or inflation. This type adjustment compensates for change in market conditions between a sale's transaction date and a later point in time.

The Central Kentucky market has remained stable throughout the economic difficulties. This is due to the limited supply of available properties and the local planning commission restricting the available land for future development. The limited supply of land and low vacancy rates create a stable market for commercial property in Lexington avoiding the large upswings and downturns in property values and lease rates.

Location Each property was rated to the subject for locational aspects such as value growth potential, access and general desirability. Those transactions with superior locations were adjusted downward and vice versa. The location of comparable sales is very similar although sales 4 and 5 are considered superior relative to their Lexington location.

Physical Attributes A myriad of physical characteristics can affect value. Some examples are lot size, building size, physical condition of the building, functionality and visual appeal. Those sales with superior physical qualities warrant downward adjustment and vice versa. Those sales with superior physical qualities warrant downward adjustment and vice versa.

These sales are all located in Lexington and all sales are zoned for office use and sold over a period from August 2020 to December 2022. The sale price of sales ranges from \$2,100,000 to \$5,700,000 and a unit price from \$82.38 to \$138.60 per square foot.

A time adjustment for the rate of inflation and general appreciation is estimated at 5% per year. Subject locations are superior relative to the demand for office space, with a downward adjustment warranted for each sale.

Subjects effective age is more than sale number 1, and less than sale 2 and similar in age to sale 3, 4, and 5, with subject having similar condition relative to all sales.

All sales are office developments of steel and masonry or curtain-wall construction and quality is considered superior to subject as a portion of subject is warehouse space with downward adjustment relative to this factor for all sales. The size of the sale improvements is considered comparable to all sales.

Subject site area is greater than all sales relative to the useable area with a building to land ratio of 5.24 to 1 and although it is zoned B-3 the current use is as office and warehouse. An upward adjustment is therefore justified for site area. A downward adjustment is also considered for sales overall superior utility due to the mix of construction type and use of subjects improvements.

After considering subject attributes and comparative adjustments a range of unit value from \$66.11 to \$101.87 per square foot is indicated for subject. Applying greater weight to the most recent sales a unit value of \$90.00 per square foot of building area is indicated for subject with overall value indicated to be; \$6,093,000 rounded to; \$6,100,000

16. RECONCILIATION AND FINAL VALUE ESTIMATE

In analyzing the market value of the subject property, the Income Approach and Sales Comparison Approach are considered applicable approaches indicating the following Market Value Estimates:

| | |
|----------------------------|-------------|
| Sales Comparison Approach: | \$6,100,000 |
| Income Approach: | \$6,450,000 |

These approaches indicate a range of overall value from \$6,100,000 to \$6,450,000. Applying equal weight to each approach an overall value estimated for subject as of appraisal date for the fee simple interest is indicated to be:

\$6,275,000

17. CERTIFICATION

I certify that, to the best of my knowledge and belief:

- The statement of fact contained in this report is true and correct.
- The reported analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions, and is my personal, unbiased professional analyses, opinions and conclusions.
- I have no present or prospective interest in the property that is the subject of this report, and no personal interest with respect to the parties involved.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- My compensation for completing this assignment is not contingent upon the development of reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this report.
- My analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice.
- E. Clark Toleman made a personal inspection of the property that is the subject of this report.
- No one provided significant professional assistance to the person(s) signing this report.
- The reported analyses, opinions and conclusions were developed, and this report has been prepared in conformity with the requirements of the Code of Professional Ethics and the Standards of Professional Appraisal Practice of the Appraisal Institute.
- The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
- As of the date of this report, E. Clark Toleman has completed the requirements of the continuing education program of the Appraisal Institute.
- I have not provided valuation services on this property prior to this appraisal.

Based on the market information that has been analyzed, the Market Value of the Lessee's interest on December 11, 2023 is indicated to be \$6,275,000.



E. Clark Toleman, MAI, SRA
Kentucky Certified General Appraiser

18. ASSUMPTION AND LIMITING CONDITIONS

1. This Appraisal Report, which is intended to comply with the reporting requirements set forth under Standard Rule 2-2(b) of the Uniform Standards of Professional Appraisal Practice for a Summary Appraisal Report. As such, it might not include full discussions of the data, reasoning, and analyses that were used in the appraisal process to develop the appraiser's opinion of value. Supporting documentation concerning the data, reasoning, and analyses is retained in the appraiser's file. The information contained in this report is specific to the needs of the client and for the intended use stated in this report. The appraiser is not responsible for unauthorized use of this report.
2. No responsibility is assumed for legal or title considerations. Title to the property is assumed to be good and marketable unless otherwise stated in this report.
3. The property is appraised free and clear of any or all liens and encumbrances unless otherwise stated in this report.
4. Responsible ownership and competent property management are assumed unless otherwise stated in this report.
5. The information furnished by others is believed to be reliable. However, no warranty is given for its accuracy.
6. All engineering is assumed to be correct. Any plot plans and illustrative material in this report are included only to assist the reader in visualizing the property.
7. It is assumed that there are no hidden or unapparent conditions of the property, subsoil, or structures that render it more or less valuable. No responsibility is assumed for such conditions or for arranging for engineering studies that may be required to discover them.
8. It is assumed that there is full compliance with all applicable federal, state, and local environmental regulations and laws unless otherwise stated in this report.
9. It is assumed that all applicable zoning and use regulations and restrictions have been complied with, unless nonconformity has been stated, defined, and considered in this appraisal report.
10. It is assumed that all required licenses, certificates of occupancy or other legislative or administrative authority from any local, state, or national governmental or private entity or organization have been or can be obtained or renewed for any use on which the value estimates contained in this report are based.
11. Any sketch in this report may show approximate dimensions and is included to assist the reader in visualizing the property. Maps and exhibits found in this report are provided for reader reference purposes only. No guarantee as to accuracy is expressed or implied unless otherwise stated in this report. No survey has been made for the purpose of this report.
12. It is assumed that the utilization of the land and improvements is within the boundaries or property lines of the property described and that there is no encroachment or trespass unless otherwise stated in this report.
13. It is assumed that there is no environmental contamination on the site or in the improvements. There was no evidence of environmental contamination. However, it should be pointed out that the appraiser is not qualified to detect hazardous waste and/or toxic materials. Any comment by the appraiser that might suggest the possibility of the presence of such substances should not be taken as confirmation of the presence of

hazardous waste and/or toxic materials. Such determination would require investigation by a qualified expert in the field of environmental assessment. The presence of substances such as asbestos, urea-formaldehyde foam insulation or other potentially hazardous materials may affect the value of the property. The appraiser's value estimate is predicated on the assumption that there is no such material on or in the property that would cause a loss in value unless otherwise stated in this report. No responsibility is assumed for any environmental conditions, or for any expertise or engineering knowledge required to discover them. The appraiser's descriptions and resulting comments are the result of the routine observations made during the appraisal process.

14. Unless otherwise stated in this report, the subject property is appraised without a specific compliance survey having been conducted to determine if the property is or is not in conformance with the requirements of the Americans with Disabilities Act. The presence of architectural and communications barriers that are structural in nature that would restrict access by disabled individuals may adversely affect the property's value, marketability, or utility.
15. Any proposed improvements are assumed to be completed in a good workmanlike manner in accordance with the submitted plans and specifications.
16. The distribution, if any, of the total valuation in this report between land and improvements applies only under the stated program of utilization. The separate allocations for land and buildings must not be used in conjunction with any other appraisal and are invalid if so used.
17. It is assumed that the proposed subject office building will be completed within 10 months of the appraisal date.

Possession of this report, or a copy thereof, does not carry with it the right of publication. It may not be used for any purpose by any person other than the party to whom it is addressed without the written consent of the appraiser, and in any event, only with proper written qualification and only in its entirety.

Neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraiser, or the firm with which the appraiser is connected) shall be disseminated to the public through advertising, public relations, news sales, or other media without prior written consent and approval of the appraiser.

19. QUALIFICATIONS OF THE APPRAISER

E. Clark Toleman MAI, SRA

PROFESSIONAL MEMBERSHIPS:

MAI Member of the Appraisal Institute

SRPA MAI No. 7572

SRA General Certification – Kentucky Real Estate Appraisers Board No. 109

Real Estate Broker – State of Kentucky

Member of Lexington Board of Realtors

Member of Kentucky Association of Realtors

Member of National Association of Realtors

EDUCATION: West Australia Institute of Technology, Perth, Australia – Business Studies Major in Real Estate Valuation

Completed all course requirements for the Australian Institute of Valuers, the American Institute of Real Estate Appraisers and Society of Real Estate Appraisers. Appraisal seminars related to Conservation Easements, partial interests and Federal guidelines for Federal Land Acquisition.

Participate in continuing education through seminars and courses by the Appraisal Institute.

EXPERIENCE:

Full time career in all phases of Real Estate. Employed in Property Management, Office of Development, Leasing and Valuation. Real Estate Appraiser in Lexington, Kentucky since 1974. Owner and Manager of Investment Property. Self- employed and owner of E. Clark Toleman Real Estate Appraisal Services.

APPRAISAL CLIENTS:

Financial Institutions:

Bank of Lexington, First Security National Bank, Bank One, Citizens Fidelity Bank in Lexington, First National Bank of Louisville, Fifth Third Bank of Campbell County, PNC Bank, Franklin Bank, MCNB Bank, First Capital Bank, Community Trust Bank, First Southern National Bank. Recent non-bank lender clients include: Realty Investment

Company, Memphis, Tennessee; New York Life, Atlanta, Georgia, Cincinnati Insurance Co.

GOVERNMENT INSTITUTIONS:

Lexington Fayette Urban County Government, Corps of Engineers, Department of Justice, General Services Administration, U.S. Postal Service, Census Bureau, Resolution Trust Corporation, FDIC, FSLIC, Commonwealth of Kentucky, Transportation Cabinet, Bluegrass Airport Board, LexTran Board, State of Kentucky Kentucky Office of the Courts, LFUCG Division of Water Quality, University of Kentucky, Kentucky State University, Kentucky Community and Technical College System, Eastern Kentucky University, Division of Real Property State of Kentucky, Louisville Regional Airport Board, Lexington KY Airport Board.

APPRAISED FOR:

Major horse farms, full range of commercial properties, multi-family residential, condemnation cases for both Plaintiff and Defendant, IRS, utility companies, four flood control lane projects, Urban Renewal, major industrial properties and highway right of way. Appraisals conducted on conservation easements for individuals the State of Kentucky for the PACE program and the Lexington Fayette Urban County Government for the Purchase of Development Rights, on Farm Properties, Marathon Oil Co. for R/W easements, CSX Railroad, Norfolk Southern Railway, Cincinnati Insurance, Safe Co Insurance, LexTran, and Southern States.

QUALIFIED AS EXPERT IN REAL ESTATE VALUES:

Federal Court of Kentucky- Eastern and Western Division. Testified in Local Tax Appeal Cases, Circuit Court of Clark, Pike, Montgomery, Bourbon, Woodford, Jessamine, Bell, Johnson, Jefferson, Anderson, Franklin, Boone, Campbell, Scott, Lawrence, Clay, Whitley, Pulaski, Kenton, and Martin County, Kentucky, and the United States Bankruptcy Court.

50. Subject Deed

BOOK 3474 PAGE 350

SPECIAL WARRANTY DEED

THIS DEED, made effective as of the 10th day of March, 2017, by and between **NEW CIRCLE CROSSINGS, LLC**, a Kentucky limited liability company, with an address of 840 East High Street, Lexington, Kentucky 40502 ("NCC"), **DELZAN PROPERTIES, LLC**, a Kentucky limited liability company, with an address of 2040 Regency Road, Suite D, Lexington, Kentucky 40503 ("Delzan"); and **FORTUNE TRADE CENTER, LLC**, a Kentucky limited liability company, with an address of 840 East High Street, Lexington, Kentucky 40502 ("FTC") (collectively the "Grantors"), and **WILLIAM ZIERING, TRUSTEE OF THE WILLIAM ZIERING TRUST DATED JUNE 18, 2015, AND ANY AMENDMENTS THERETO**, with an address of 4633 Olive Hill Road, Fallbrook, California 92028 (the "Grantee"). Property tax bills for the current year may be addressed in care of William Ziering, Trustee of the William Ziering Trust Dated June 18, 2015, 4633 Olive Hill Road, Fallbrook, California 92028.

WITNESSETH:

WHEREAS, Grantors are owners of the "Property" (as hereinafter defined) in the following percentages, NCC 15%, Delzan 34% and FTC 51%;

NOW for and in consideration of the total sum of Seven Million Two Hundred Thousand Dollars (\$7,200,000.00) cash in hand paid by Grantee to Grantors, the receipt of which is hereby acknowledged, Grantors have this day BARGAINED and SOLD the percentage interest of the Property owned by each of Grantors, the total being a 100% interest, and do hereby GRANT and CONVEY to Grantee, its successors and assigns forever, the property located in Fayette County, Kentucky, and more particularly described on Exhibit "A" attached hereto and incorporated herein by reference (the "Property").

TO HAVE AND TO HOLD the Property, together with all rights, privileges, appurtenances and improvements thereunto belonging, unto Grantee, in fee simple, its successors and assigns forever.

Grantors do hereby release and relinquish unto Grantee, its successors and assigns, all of Grantors' right, title and interest in and to the Property, including all exemptions allowed by law, with covenant of SPECIAL WARRANTY.

Provided, however, that there is excepted from the foregoing warranty and covenants and this conveyance is made subject to the following:

1. Restrictive covenants of record in the Fayette County Clerk's office.
2. All conditions and/or restrictions, if any, affecting the said property herein conveyed and contained on any plat of record in the Fayette County Clerk's office.
3. Zoning and building restrictions, regulations and ordinances, if any.

CLERK'S NOTE:

Quality of book pages &
scanned images reflects
original document presented
006451.156448/46197241

RETURN TO PREPARER

Fayette County Clerk Recording
Related Documents
From 172
To 173, 174

4. Easements, rights-of-way and all other matters of any nature and kind reserved and recorded in the Fayette County Clerk's office.

5. The 2017-2018 and all subsequent years' ad valorem property taxes assessed against the property herein conveyed.

For purposes of compliance with KRS 382.135, Grantors and Grantee hereby certify that the consideration reflected in this Special Warranty Deed is the full consideration paid for the property herein conveyed. Grantee joins in the execution of this Deed for the sole purpose of certifying the amount of the consideration.

IN WITNESS WHEREOF, Grantors and Grantee have hereunto set their hands as of the day and year first above written.

NEW CIRCLE CROSSINGS, LLC
a Kentucky limited liability company

By: Bret A. Caller
Bret A. Caller, its Authorized Agent

DELZAN PROPERTIES, LLC
a Kentucky limited liability company

By: Bret A. Caller
Bret A. Caller, its Authorized Agent

FORTUNE TRADE CENTER, LLC
a Kentucky limited liability company

By: Bret A. Caller
Bret A. Caller, Its Manager

STATE OF OHIO
COUNTY OF HAMILTON

9 The foregoing Deed was subscribed, acknowledged and sworn to before me this day of March, 2017, by Bret A. Caller, as Authorized Agent of New Circle Crossings, LLC, a Kentucky limited liability company, for and on behalf of said company.



STEPHEN J. HORNER
Notary Public, State of Ohio
My Commission Expires 08-24-2019

Stephen J. Horner
Notary Public
My commission expires: 8/24/2019
Notary number: _____

STATE OF OHIO
COUNTY OF HAMILTON

9 The foregoing Deed was subscribed, acknowledged and sworn to before me this day of March, 2017, by Bret A. Caller, as Authorized Agent of Delzan Properties, LLC, a Kentucky limited liability company, for and on behalf of said company.



STEPHEN J. HORNER
Notary Public, State of Ohio
My Commission Expires 08-24-2019

Stephen J. Horner
Notary Public
My commission expires: 8/24/2019
Notary number: _____

STATE OF OHIO
COUNTY OF HAMILTON

9 The foregoing Deed was subscribed, acknowledged and sworn to before me this day of March, 2017, by Bret A. Caller, as Manager of Fortune Trade Center, LLC, a Kentucky limited liability company, for and on behalf of said company.



STEPHEN J. HORNER
Notary Public, State of Ohio
My Commission Expires 08-24-2019

Stephen J. Horner
Notary Public
My commission expires: 8/24/2019
Notary number: _____



February 9, 2024

Neal Metcalfe
300 East Main Street, Suite 220
Lexington, KY 40507

RE: Intent to Purchase – West New Circle Road Properties

As a follow-up to my letter dated February 7, 2024, which served as LFUCG's initial conditional offer to purchase, please allow me to formally memorialize our subsequently negotiated and agreed upon purchase price of \$6,000,000 for the properties listed below:

- 130 West New Circle Road, Suite 170
- 134 West New Circle Road

The intent of our purchase is to further facilitate Lexington Division of Water Quality's interest in expanding operational facilities in this area. Our office has initiated internal governmental processes in order to secure required legislative authorization by Urban County Council. Please anticipate these actions to conclude as early as the week of February 12, 2024. Subsequently and furthermore, we propose the closing to occur within 60 days of an executed purchase agreement.

In the interim, please find Sandra Lopez, LFUCG Real Estate Manager, as our direct point-of-contact for technical execution and administrative process associated with the property transaction. Sandra may be contacted at (859) 425-2230, or via email at slopez@lexingtonky.gov. In addition, Evan Thompson, LFUCG Attorney Senior, is available for contact at (859) 258-3500, or via email at ethompson@lexingtonky.gov.

Thanks again and please advise.

Sincerely,

Chris Ford
Commissioner
General Services



RESOLUTION NO. _____ - 2024

A RESOLUTION AUTHORIZING AND APPROVING THE PURCHASE OF 130 WEST NEW CIRCLE ROAD, SUITE 170 AND 134 WEST NEW CIRCLE ROAD FOR THE OPERATIONS OF THE DIVISION OF WATER QUALITY; AND AUTHORIZING AND DIRECTING THE MAYOR TO SIGN ANY DOCUMENTS DEEMED NECESSARY AND ACCEPTABLE BY THE DEPARTMENT OF GENERAL SERVICES AND THE DEPARTMENT OF LAW REGARDING THE PURCHASE, AT A COST NOT TO EXCEED \$6,000,000.00.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the purchase of 130 West New Circle Road, Suite 170 and 134 West New Circle Road be and hereby is authorized and approved for the operations of the Division of Water Quality. Nothing contained in this authorization to purchase shall require the purchase of the properties if the Government determines, prior to the sale, that it is in its best interests to terminate the Purchase Agreement as provided in the Agreement.

Section 2 – That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized and directed to execute any documents deemed necessary and acceptable by the Department of General Services and the Department of Law regarding the purchase.

Section 3 – That an amount, not to exceed the sum of \$6,000,000.00 be and hereby is approved for payment to William Ziering Trust, plus usual and appropriate closing costs, all from account # 4002-303401-3401-90111, at the time of closing, contingent upon the approval of a pending budget amendment.

Section 4 – That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL

0203-24:EPT_4872-4501-8282, v. 1

RESOLUTION NO. 091 - 2024

A RESOLUTION AUTHORIZING AND APPROVING THE PURCHASE OF 130 WEST NEW CIRCLE ROAD, SUITE 170 AND 134 WEST NEW CIRCLE ROAD FOR THE OPERATIONS OF THE DIVISION OF WATER QUALITY; AND AUTHORIZING AND DIRECTING THE MAYOR TO SIGN ANY DOCUMENTS DEEMED NECESSARY AND ACCEPTABLE BY THE DEPARTMENT OF GENERAL SERVICES AND THE DEPARTMENT OF LAW REGARDING THE PURCHASE, AT A COST NOT TO EXCEED \$6,000,000.00.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the purchase of 130 West New Circle Road, Suite 170 and 134 West New Circle Road be and hereby is authorized and approved for the operations of the Division of Water Quality. Nothing contained in this authorization to purchase shall require the purchase of the properties if the Government determines, prior to the sale, that it is in its best interests to terminate the Purchase Agreement as provided in the Agreement.

Section 2 – That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized and directed to execute any documents deemed necessary and acceptable by the Department of General Services and the Department of Law regarding the purchase.

Section 3 – That an amount, not to exceed the sum of \$6,000,000.00 be and hereby is approved for payment to William Ziering Trust, plus usual and appropriate closing costs, all from account # 4002-303401-3401-90111, at the time of closing, contingent upon the approval of a pending budget amendment.

Section 4 – That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: March 7, 2024

Linda Gorton

MAYOR

ATTEST:

[Signature]

CLERK OF URBAN COUNTY COUNCIL

0203-24:EPT_4872-4501-8282, v. 1

FAYETTE CO, KY FEE \$6,056.00
STATE OF KY DEED TAX - AMOUNT \$6,000.00
PRESENTED/LODGED: 04/01/2024 10:53:16 AM
BOBBIE MARSTELLA, DEPUTY CLERK 202404010153
SUSAN LAMB
COUNTY CLERK
BK: DB 4065
PG: 51-57



GENERAL WARRANTY DEED

This **GENERAL WARRANTY DEED** is made and entered into this 28th day of March, 2024, by and between **WILLIAM ZIERING, TRUSTEE OF THE WILLIAM ZIERING TRUST DATED JUNE 18, 2015, AND ANY AMENDMENTS THERETO**, 28657 North Twin Oaks Valley, Vista, California 92084 (“Grantor”) and the **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, 200 East Main Street, Lexington, Kentucky 40507 (“Grantee”); the Grantee’s address is the mailing and tax in-care-of address for the current tax year.

WITNESSETH:

That for and in consideration of payment of the sum of **SIX MILLION DOLLARS AND 00/100 CENTS (\$6,000,000.00)**, the receipt and sufficiency of which is hereby acknowledged, Grantor has **BARGAINED** and **SOLD** and does hereby **GIVE, GRANT** and **CONVEY** unto the Grantee, in fee simple, its successors and assigns forever, all the

Return to:
Cynthia Cannon-Ferguson
LFUCG, Dept. of Law
200 East Main Street, 11th Floor
Lexington, KY 40507

following described property located in Fayette County, Kentucky, and more fully described as follows, to-wit:

134 W. NEW CIRCLE ROAD
AND
130 W. NEW CIRCLE ROAD, SUITE 170

All that tract or parcel of land situated along the southern side of W. New Circle Road between N. Broadway and Limestone Street in Lexington, Fayette County, Kentucky, more fully described and bounded as follows, to-wit:

Being all of Lot 1 (consisting of 0.54 Acres) and Lot 5 (consisting of 7.59 Acres) as depicted on the Amended Final Record Plat of Chestnut Crossing, as is duly recorded on a plat of record in Plat Cabinet M, Slide 535, in the Fayette County Clerk's office, which plat is hereby referred to and made a part of this description being known and designated as 134 West New Circle Road and 130 West New Circle Road, Suite 170, respectively.

Together with the rights and easements as follows:

1. Reciprocal Easement Agreement with Covenants, Conditions and Restrictions dated July 26, 2004, by and between New Circle Crossings, LLC, and Goodwill Industries of Kentucky, Inc., of record in Deed Book 2477, Page 566, and as amended by that certain First Amendment to Reciprocal Easement Agreement with Covenants, Conditions and Restrictions dated May 2, 2005 by and between New Circle Crossings, LLC and Goodwill Industries of Kentucky, Inc., of record in Deed Book 2546, Page 706, both of record in the office of the Fayette County Clerk.
2. Those certain easements and notations listed on plats of record in Plat Cabinet K, Slide 80 and Plat Cabinet M, Slide 535, all in the office of the Fayette County Clerk;
 - a. 26' Access Easement abutting W New Circle Road; and
 - b. 26' Access Easement abutting Limestone Street.
3. Easement for Party Wall and Fire Sprinkler Main dated May 2, 2005 made and entered into by New Circle Crossing, LLC, of record in Deed Book 2546, Page 683, in the office of the Fayette County Clerk.
4. Encroachment Agreement dated May 18, 2005, by and between New Circle Crossings, LLC and Goodwill Industries of Kentucky, Inc., of record in Deed Book 2554, Page 744, in the office of the Fayette County Clerk.

Being the same property conveyed to William Ziering, Trustee of the William Ziering Trust dated June 18, 2015, and any Amendments thereto by Deed of New Circle Crossings, LLC, Delzan Properties, LLC and Fortune Trade Center, LLC dated March 10, 2017, of record in Deed Book 3474, Page 350 in Fayette County Clerk's Office.

TO HAVE AND TO HOLD the above-described property together with all rights, appurtenances, and improvements thereunto belonging unto the Grantee, its successors and assigns, forever, in fee simple.

And the Grantor does hereby release and relinquish unto the Grantee, its successors and assigns forever, all of his right, title and interest in and to the above described property, including all exemptions allowed by law, and does hereby covenant to and with said Grantee, its successors and assigns forever, that he is lawfully seized in fee simple of said property and has a good and perfect right to sell and convey the same as herein done, that said property is free and clear of all encumbrances of whatsoever nature, except as provided herein, and with said exceptions, Grantor will **WARRANT GENERALLY** the title thereto.

CONSIDERATION CERTIFICATE

The parties do hereby certify pursuant to KRS 382.135 that the consideration stated herein is the full actual consideration paid for the property transferred herein and that the estimated fair cash value of the property conveyed is \$6,000,000.00. Grantee joins in this Deed for the sole purpose of certifying the consideration, as authorized by Resolution No. 091-2024 passed by the Lexington-Fayette Urban County Council on March 7, 2024.

IN WITNESS WHEREOF, the parties have hereto signed this deed this the day and year first above written.

GRANTOR:

**WILLIAM ZIERING, TRUSTEE OF
THE WILLIAM ZIERING TRUST
DATED JUNE 18, 2015, AND ANY
AMENDMENTS THERETO**

BY: 
WILLIAM ZIERING,
TRUSTEE

STATE OF CALIFORNIA)
)
COUNTY OF SAN DIEGO)

The foregoing deed and consideration certificate was subscribed, sworn to and acknowledged before me by William Ziering, as Trustee, for and on behalf of The William Ziering Trust dated June 18, 2015, and any amendments thereto, on this 28th day of March, 2024.

See Attached
Certificates *ch*
3-29-2024 Ch

~~_____
Notary Public, California, State-at-Large
My Commission Expires: ____/____/____
Notary ID # _____~~

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of SAN DIEGO

Subscribed and sworn to (or affirmed) before me on this 29th
day of March, 2024, by William Ziering

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.



(Seal)

Signature Cindy Hawkes

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of San Diego)

On March 29, 2024 before me, Cindy Hawkes, Notary Public
(insert name and title of the officer)

personally appeared William Ziering,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Cindy Hawkes (Seal)



R-091-2024
Contract #041-2024

OFFER AND AGREEMENT TO PURCHASE REAL ESTATE

This **Offer and Agreement to Purchase Real Estate** (this "Agreement") is made as of the date of later execution hereof by the following "Seller" and "Purchaser" (the "Effective Date").

The Property: 130 W New Circle Road Suite 170 and 134 W New Circle Road, Lexington, KY 40505

Seller: William Ziering Trust
Attn: Bill Ziering
28657 N Twin Oaks Valley
Vista, CA
Phone No.: (858) 775-7197
E-Mail: William.zeiring@gmail.com

Seller's Broker: Nathan Dilly and Neal Metcalfe
SVN Stone Commercial Real Estate
270 S. Limestone
Lexington, KY 40508
Phone No.: (859) 420-5492 | (859) 312-8069
E-Mail: Nathan.dilly@svn.com; neal.metcalfe@svn.com

Purchaser: Lexington-Fayette Urban County Government
Attn: Commissioner of General Services
Address: 200 East Main Street
Lexington, KY 40507
Phone No.: (859) 258-3900
E-Mail: cford2@lexingtonky.gov

Purchaser's Broker: N/A

1. **Offer to Purchase the Property** Purchaser hereby offers to purchase the "Property" identified above (and more specifically identified in Exhibit A, attached hereto and incorporated herein by this reference), which shall include: the land and all buildings and other improvements thereon; all appurtenant rights, privileges, easements, and fixtures; and all personally attached to or built-in that, if removed, would leave the land or buildings in a damaged, incomplete or unfinished condition. This Agreement shall not be deemed an offer or binding upon Seller or Purchaser until this Agreement is fully executed and delivered by Seller and Purchaser.
2. **Purchase Price** Six Million Dollars and no cents (\$6,000,000.00)
3. **Expiration of Offer** Unless accepted by Seller's signature on this Agreement and then delivered to Purchaser by Five O'clock P.M. EST on March 14, 2024, this offer shall expire and shall be automatically null and void.
4. **Earnest Money Deposit** No funds be deposited, upon Purchaser's receipt of Seller's written acceptance of this Agreement, as an Earnest Money Deposit to be held by SVN Stone Commercial Escrow

and credited to Purchase Price at closing. The Earnest Money Deposit shall only be removed from escrow (a) in accordance with the several provisions of this Agreement, or (b) upon written agreement of both parties, or (c) upon a court order.

5. Conditions to Purchaser's Obligations Purchaser shall enjoy a period of 30 calendar days following Seller's execution of this Agreement (the "Contingency Period") within which Purchaser shall, acting in good faith and with appropriate due diligence, determine whether the conditions to its obligations under this Agreement can be satisfied or waived. Neither Seller nor Purchaser shall have any rights, duties or obligations hereunder, and this Agreement shall be and become void ab initio, unless the following conditions precedent are satisfied or are specifically waived in writing by Purchaser within the Contingency Period:

- (a) Purchaser obtains and approves a current title commitment, containing only such exceptions as are reasonably acceptable to Purchaser.
- (b) Seller provides to Purchaser evidence to the satisfaction of Purchaser that Seller has terminated the Lease.

If the Purchaser declares this Agreement null and void due to not meeting one or more of the above conditions, then the Earnest Money Deposit shall be immediately returned to Purchaser, whereupon both Seller and Purchaser will sign and deliver a mutual release.

6. Access by Purchaser Purchaser and Purchaser's agents and contractors are hereby granted access to the Property for purposes of performing inspections and testing that Purchaser reasonably deems necessary; provided, however, that all such work shall be performed in a good and workmanlike manner at Purchaser's sole expense, and the property shall be returned to a safe condition, substantially similar to its condition prior to Purchaser's entry. Purchaser shall ensure that no liens attach to the Property as a result of such inspection and testing work. Purchaser shall provide Seller and Tenant with twenty-four (24) hours advance written notice prior to inspections so as to properly notify the Tenant.

7. Closing If Seller accepts Purchaser's offer, the consummation of the sale and purchase of the Property shall be held at such time and place as the parties may in good faith agree, but not later than forty-five (45) calendar days following Effective Date. Seller shall deliver to Purchaser at closing a fully executed Special Warranty Deed in statutory recordable form reasonably acceptable to Purchaser's counsel conveying to Purchaser good, marketable and unencumbered fee simple absolute title to the Property, and such other documents reasonably required by Purchaser's counsel including, but not limited to, an assignment of the Lease and the Guaranty of the Lease, which shall include the Seller's agreement to indemnify, defend, and hold harmless Purchaser from and against all claims, actions, proceedings, losses and liabilities, and expenses arising from Seller's failure to perform its obligations under the Lease as landlord and accruing prior to the Closing Date; a Certificate of Non-Foreign Status; a Form 1099; the executed Tenant Estoppel Certificate; executed tenant notice letters to each of the tenants advising them of the sale of the Property to Purchaser, the transfer of the tenants' security deposits to Purchaser and directing the tenants to thereafter deliver all notices to Purchaser and pay all rents or other payments directly to Purchaser; and an Owner's Affidavit. Seller shall deliver full possession of the Property at closing with delivery of Deed subject only to the Lease.

8. Closing Costs and Proration at Closing Real estate taxes will not be prorated as the Tenant pays the real estate taxes pursuant to the terms of the Lease. Rents shall be prorated as of the date of closing. Any tenant security deposits held by the Seller shall transfer to the Purchaser at closing. Seller shall pay

for preparation of the Deed and for all transfer and documentary stamp taxes for the Deed. Purchaser shall pay the cost of recording the Deed.

9. **Risk of Loss** Seller shall ensure that the condition of the Property does not deteriorate but is maintained in at least its present condition at all times prior to closing. All risk of loss or damage to the Property by fire or other casualty, condemnation (or threat thereof), or any other cause shall remain with Seller until the Closing. If, prior to closing, the Property is so damaged, then Seller shall, at Seller's cost, promptly repair said damage in a good and workmanlike manner, or, if not, then Purchaser shall have the option to declare this Agreement null and void and receive a refund of the Earnest Money Deposit, or Purchaser may complete settlement, accepting the Property as damaged together with the proceeds of any insurance or award payable as a result of such damage, at the sole and absolute discretion of the Purchaser.

10. **Default** If Seller defaults, then Purchaser shall be entitled to an immediate refund of the Earnest Money Deposit and to pursue all legal and equitable remedies, including the right of specific performance. If Purchaser defaults, then Seller shall be entitled to retain the Earnest Money Deposit and to pursue all legal and equitable remedies, including the right of specific performance.

11. **Availability of Documents** Seller shall, within seven (7) calendar days following Seller's acceptance of this Agreement, deliver to Purchaser, at no cost to Purchaser, true and accurate copies of all documents related to the Property that are in Seller's possession or control including, but not limited to, all leases, lease guarantees, title insurance policies, title reports and commitments, surveys, geotechnical information, and Phase I and other environmental assessments and reports.

12. **Representations of Seller** Seller hereby represents that Seller has no knowledge of any condemnations or assessments affecting or contemplated with respect to the Property; and/or actions, suits or proceedings pending or threatened against the Property or Seller's interest in the Property. Other than the existing lease with Mattress Overstock, Seller has not contracted with any other party for the sale or lease of the Property, and no other party holds an interest in the Property. Seller will not enter into any new lease or amend or modify any lease without Purchaser's prior written consent; nor shall Seller enter into any new agreements with any brokers in connection with any prospective tenants for new leases without Purchaser's prior written consent. The parties signing this Agreement as the "Seller" are the only parties whose signatures are necessary to convey fee title to and possession of the Property. Seller is not a "Foreign Person" within the meaning of Section 1445 of the Internal Revenue Code, as amended, and Seller will deliver an affidavit to such effect to Purchaser on or before the Closing. Seller is a trust duly formed, validly existing, and in good standing under the laws of the State of California, is qualified to conduct business in the State of Kentucky, and has the requisite power and authority to enter into this Agreement and the instruments referenced herein, and to consummate the transactions contemplated hereby. The execution, delivery, and performance of this Agreement by Seller and all agreements, instruments, and documents herein provided to be executed by Seller on the Closing Date: (i) do not violate the formation documents of Seller, or any contract, agreement, commitment, lease, order, judgment, or decree to which Seller is a party; and (ii) have been duly authorized by the consent of the trustee and beneficiaries of Seller, if applicable, and the appropriate and necessary action has been taken by such trustees and beneficiaries on the part of Seller, if applicable. The individual(s) executing this Agreement and the instruments referenced herein on behalf of Seller have the legal power, right, and actual authority to bind Seller to the terms and conditions hereof and thereof. This Agreement is valid and binding upon Seller, subject to bankruptcy, reorganization, and other similar laws affecting the enforcement of creditors' rights generally. Neither the execution, delivery, or performance of this Agreement, nor the consummation of the transactions contemplated hereby is prohibited by, or requires Seller to obtain any consent, authorization, approval, or registration under any law, statute, rule,

regulation, judgment, order, writ, injunction, or decree which is binding upon Seller which has not been previously obtained. Seller has not entered into any service, maintenance, supply, leasing, brokerage, and listing and/or other contracts relating to the Property (along with all amendments and modifications thereof, the "Service Contracts") which shall be binding upon the Purchaser after the Closing, other than the Lease. Each of the service contracts can and, at Purchaser's option, shall be terminated by Seller on or before the Closing Date. Seller has performed all its obligations under each of the Service Contracts and no fact or circumstance has occurred which, by itself or with the passage of time or the giving of notice or both, would constitute a default by any party under any of the Service Contracts. Seller has delivered to Purchaser true, correct, and complete copies of all Service Contracts. Seller is not, and shall not become, a person or entity with whom United States persons or entities are restricted or prohibited from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including those named on OFAC's specially designated and blocked persons list) or under any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action and is not and shall not engage in any dealings or transactions or be otherwise associated with such persons or entities. These representations and warranties of Seller set forth in this section shall survive the Closing and shall not be affected by any investigation, verification, or approval by any party or anyone on behalf of any party to this Agreement.

13. Real Estate Commission Nathan Dilly and Neal Metcalfe of SVN Stone Commercial Real Estate represent Seller. Seller agrees to pay to SVN Stone Commercial Real Estate at the time of closing a real estate commission equal to six percent (6%) of the total purchase price of the Property. The parties hereby warrant and represent that neither of them has contracted with other agents or brokers, or otherwise taken any action that would give rise to a claim by another broker or agent for a commission, and that there are no other brokers or agents involved in this transaction, and that no additional commissions are due any other such brokers or agents not specifically mentioned herein. To the extent permitted by law, and without waiving the defense of sovereign immunity to claims against third parties, Seller and Purchaser shall indemnify, defend and hold harmless the other from and against any claim or demand by any real estate agent for bringing about this Agreement who claims to have dealt with the indemnifying party, including all expenses incurred in defending any such claim or demand (including reasonable attorney's fees).

14. Entire Agreement This Agreement includes the entire agreement between the parties hereto. Seller hereby acknowledges and agrees that neither Purchaser nor anyone acting on Purchaser's behalf has made any statement, promise or agreement or has taken upon itself any engagement whatsoever, whether verbally or in writing, in conflict with the terms of this Agreement, or that in any way modifies, varies, alters, enlarges or invalidates any of the provisions hereof.

15. Notices Any notice, demand or request that may be required to be given under this Agreement shall be in writing and shall be either (a) delivered in person (with a signed acceptance), or (b) sent by United States Certified Mail, postage pre-paid, return receipt required, or (c) delivered by a nationally recognized courier service that obtains an acknowledgement of receipt, and, in each such instance, such notice, demand or request shall be addressed as set forth in the heading of this Agreement, or at such other address as either party may designate by notice given in accordance with this section.

16. Rules of Construction (a) Time of the Essence – TIME IS OF THE ESSENCE FOR PURPOSES OF THIS AGREEMENT. (b) Drafter – The fact that this Agreement was initially drafted by one party or the other shall have no bearing in its interpretation or construction. (c) Headings – Section headings of this Agreement are for convenience only and are not to be construed as defining or limiting in any way

the scope or intent of the provisions hereof. (d) Deposit – Any reference in this Agreement to Earnest Money Deposit shall include all interest accruing thereon. € Binding Effect – This Agreement shall extend to and be binding upon and inure to the benefit of the parties hereto, their administrators, executors, representatives, heirs, successors and assigns. (f) Counterparts – This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, but such counterparts together shall constitute but one and the same instrument. (g) Severability – In the event any provision of this Agreement is held by any court having jurisdiction over any dispute arising hereunder to be invalid or unenforceable, then such court shall reinterpret such provision so as to carry out the intent of the parties hereto in a valid and enforceable manner, and the invalidity or unenforceability of such provision, and the remainder of this Agreement, including any reinterpretation of such provision, shall remain in full force and effect. (h) Governing Law – This Agreement shall be deemed to have been delivered to and made at Lexington, Kentucky, and the terms and provisions of this Agreement shall be interpreted in accordance with and governed by the laws of the Commonwealth of Kentucky without regard to the principles of conflicts of law.

17. Miscellaneous Provisions Purchaser and or Seller may elect to treat this transaction as an exchange under IRC Section 1031 at no cost or liability to the other party. Purchaser may elect to transfer this transaction to a Corporation or Limited Liability Company.

18. Amendments and Notices to Terminate This Agreement cannot be changed orally, but only by an agreement in writing signed by Seller and by an authorized representative of Purchaser. Notwithstanding anything to the contrary contained in this Agreement, amendments to this Agreement to extend the Contingency Period and/or Closing date may be agreed upon in writing or email by each party or each party's respective attorney and notices to terminate this Agreement prior to the expiration of the Contingency Period may be given, by Purchaser as provided in this Agreement or by Purchaser or Purchaser's attorney by email to Seller and/or Seller's attorney.

19. Review of Agreement Seller represents to Purchaser that Seller has read and understands the terms of this Agreement. Purchaser represents to Seller that Purchaser has read and understands the terms of this Agreement.

IN WITNESS WHEREOF, Purchaser respectfully submits this offer to purchase the Property on the terms, and subject to the conditions set forth in this Offer and Agreement to Purchase Real Estate.

PURCHASER: Lexington-Fayette Urban County Government

By:

Title:

Date

Time (A.M./P.M.)

ACCEPTANCE

IN WITNESS WHEREOF, Seller hereby accepts Purchaser's offer to purchase the Property on the terms, and subject to the conditions, set forth in this Offer and Agreement to Purchase Real Estate.

SELLER(S): William Ziering Trust

By:

Title:

Date

Time (A.M./P.M.)

EARNEST MONEY RECEIPT

Broker, as Seller's Listing Agency, acknowledges receipt of the Earnest Money Deposit as per Section 4 of this Offer and Agreement to Purchase Real Estate.

By:

Title:

Date

Time (A.M./P.M.)

EXHIBIT A
TO
OFFER AND AGREEMENT TO PURCHASE REAL ESTATE
Between William Ziering Trust as Seller,
And Lexington-Fayette Urban County Government as Purchaser

LEGAL DESCRIPTION OF THE PROPERTY
To be provided by Seller.

4875-8462-1479, v. 2

HENRY WATZ RAINE & MARINO, PLLC
ATTORNEYS AT LAW
THE SQUARE, SUITE 314
401 WEST MAIN STREET
LEXINGTON, KENTUCKY 40507
TELEPHONE (859) 253-1320
FAX (859) 255-8316
February 6, 2025

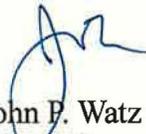
Evan P. Thompson, Esq.
LFUCG - Law Department
200 East Main Street
Lexington, KY 40507

RE: Owner Title Insurance Policy
130 W. New Circle Road, Ste. 170
134 W. New Circle Road
Lexington, KY ("Property")

Dear Evan:

Please find enclosed the original Owner Title Insurance Policy for 130 W. New Circle Road, Suite 170 and 134 W. New Circle Road, Lexington, Kentucky, which was issued after consolidation in Plat in Plat Cabinet S, Slide 569.

Sincerely,



John P. Watz
HENRY WATZ RAINE & MARINO, PLLC
jwatz@hwrmlaw.com

JPW/sew
Enclosures

Y:\JPW\LFUCG\130 & 134 W NEW CIRCLE RD\THOMPSON 02-06-2025.DOCX



ALTA OWNER'S POLICY OF TITLE INSURANCE
issued by
FIRST AMERICAN TITLE INSURANCE COMPANY

This policy, when issued by the Company with a Policy Number and the Date of Policy, is valid even if this policy or any endorsement to this policy is issued electronically or lacks any signature.

Any notice of claim and any other notice or statement in writing required to be given to the Company under this policy must be given to the Company at the address shown in Condition 17.

COVERED RISKS

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B, AND THE CONDITIONS, FIRST AMERICAN TITLE INSURANCE COMPANY, a Nebraska corporation (the "Company"), insures as of the Date of Policy and, to the extent stated in Covered Risks 9 and 10, after the Date of Policy, against loss or damage, not exceeding the Amount of Insurance, sustained or incurred by the Insured by reason of:

1. The Title being vested other than as stated in Schedule A.
2. Any defect in or lien or encumbrance on the Title. Covered Risk 2 includes, but is not limited to, insurance against loss from:
 - a. a defect in the Title caused by:
 - i. forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;
 - ii. the failure of a person or Entity to have authorized a transfer or conveyance;
 - iii. a document affecting the Title not properly authorized, created, executed, witnessed, sealed, acknowledged, notarized (including by remote online notarization), or delivered;
 - iv. a failure to perform those acts necessary to create a document by electronic means authorized by law;
 - v. a document executed under a falsified, expired, or otherwise invalid power of attorney;
 - vi. a document not properly filed, recorded, or indexed in the Public Records, including the failure to have performed those acts by electronic means authorized by law;
 - vii. a defective judicial or administrative proceeding; or
 - viii. the repudiation of an electronic signature by a person that executed a document because the electronic signature on the document was not valid under applicable electronic transactions law.
 - b. the lien of real estate taxes or assessments imposed on the Title by a governmental authority due or payable, but unpaid.
 - c. the effect on the Title of an encumbrance, violation, variation, adverse circumstance, boundary line overlap, or encroachment (including an encroachment of an improvement across the boundary lines of the Land), but only if the encumbrance, violation, variation, adverse circumstance, boundary line overlap, or encroachment would have been disclosed by an accurate and complete land title survey of the Land.
3. Unmarketable Title.
4. No right of access to and from the Land.





5. A violation or enforcement of a law, ordinance, permit, or governmental regulation (including those relating to building and zoning), but only to the extent of the violation or enforcement described by the enforcing governmental authority in an Enforcement Notice that identifies a restriction, regulation, or prohibition relating to:
 - a. the occupancy, use, or enjoyment of the Land;
 - b. the character, dimensions, or location of an improvement on the Land;
 - c. the subdivision of the Land; or
 - d. environmental remediation or protection on the Land.
6. An enforcement of a governmental forfeiture, police, regulatory, or national security power, but only to the extent of the enforcement described by the enforcing governmental authority in an Enforcement Notice.
7. An exercise of the power of eminent domain, but only to the extent:
 - a. of the exercise described in an Enforcement Notice; or
 - b. the taking occurred and is binding on a purchaser for value without Knowledge.
8. An enforcement of a PACA-PSA Trust, but only to the extent of the enforcement described in an Enforcement Notice.
9. The Title being vested other than as stated in Schedule A, the Title being defective, or the effect of a court order providing an alternative remedy:
 - a. resulting from the avoidance, in whole or in part, of any transfer of all or any part of the Title to the Land or any interest in the Land occurring prior to the transaction vesting the Title because that prior transfer constituted a:
 - i. fraudulent conveyance, fraudulent transfer, or preferential transfer under federal bankruptcy, state insolvency, or similar state or federal creditors' rights law; or
 - ii. voidable transfer under the Uniform Voidable Transactions Act; or
 - b. because the instrument vesting the Title constitutes a preferential transfer under federal bankruptcy, state insolvency, or similar state or federal creditors' rights law by reason of the failure:
 - i. to timely record the instrument vesting the Title in the Public Records after execution and delivery of the instrument to the Insured; or
 - ii. of the recording of the instrument vesting the Title in the Public Records to impart notice of its existence to a purchaser for value or to a judgment or lien creditor.
10. Any defect in or lien or encumbrance on the Title or other matter included in Covered Risks 1 through 9 that has been created or attached or has been filed or recorded in the Public Records subsequent to the Date of Policy and prior to the recording of the deed or other instrument vesting the Title in the Public Records.



DEFENSE OF COVERED CLAIMS

The Company will also pay the costs, attorneys' fees, and expenses incurred in defense of any matter insured against by this policy, but only to the extent provided in the Conditions.

First American Title Insurance Company

Kenneth D. DeGiorgio, President

Lisa W. Comehl, Secretary

For Reference:

File #: 2024-02024(2)

Policy #: 50150221-0017031e

Issued By:

Henry, Watz, Raine & Marino, PLLC

401 West Main Street, Suite 314

Lexington, KY 40507



EXCLUSIONS FROM COVERAGE

The following matters are excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. a. any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) that restricts, regulates, prohibits, or relates to:
 - i. the occupancy, use, or enjoyment of the Land;
 - ii. the character, dimensions, or location of any improvement on the Land;
 - iii. the subdivision of land; or
 - iv. environmental remediation or protection.
- b. any governmental forfeiture, police, regulatory, or national security power.
- c. the effect of a violation or enforcement of any matter excluded under Exclusion 1.a. or 1.b.
Exclusion 1 does not modify or limit the coverage provided under Covered Risk 5 or 6.
2. Any power of eminent domain. Exclusion 2 does not modify or limit the coverage provided under Covered Risk 7.
3. Any defect, lien, encumbrance, adverse claim, or other matter:
 - a. created, suffered, assumed, or agreed to by the Insured Claimant;
 - b. not Known to the Company, not recorded in the Public Records at the Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - c. resulting in no loss or damage to the Insured Claimant;
 - d. attaching or created subsequent to the Date of Policy (Exclusion 3.d. does not modify or limit the coverage provided under Covered Risk 9 or 10); or
 - e. resulting in loss or damage that would not have been sustained if consideration sufficient to qualify the Insured named in Schedule A as a bona fide purchaser had been given for the Title at the Date of Policy.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights law, that the transaction vesting the Title as shown in Schedule A is a:
 - a. fraudulent conveyance or fraudulent transfer;
 - b. voidable transfer under the Uniform Voidable Transactions Act; or
 - c. preferential transfer:
 - i. to the extent the instrument of transfer vesting the Title as shown in Schedule A is not a transfer made as a contemporaneous exchange for new value; or
 - ii. for any other reason not stated in Covered Risk 9.b.
5. Any claim of a PACA-PSA Trust. Exclusion 5 does not modify or limit the coverage provided under Covered Risk 8.
6. Any lien on the Title for real estate taxes or assessments imposed or collected by a governmental authority that becomes due and payable after the Date of Policy. Exclusion 6 does not modify or limit the coverage provided under Covered Risk 2.b.
7. Any discrepancy in the quantity of the area, square footage, or acreage of the Land or of any improvement to the Land.



CONDITIONS

1. DEFINITION OF TERMS

In this policy, the following terms have the meanings given to them below. Any defined term includes both the singular and the plural, as the context requires:

- a. "Affiliate": An Entity:
 - i. that is wholly owned by the Insured;
 - ii. that wholly owns the Insured; or
 - iii. if that Entity and the Insured are both wholly owned by the same person or entity.
- b. "Amount of Insurance": The Amount of Insurance stated in Schedule A, as may be increased by Condition 8.d. or decreased by Condition 10 or 11; or increased or decreased by endorsements to this policy.
- c. "Date of Policy": The Date of Policy stated in Schedule A.
- d. "Discriminatory Covenant": Any covenant, condition, restriction, or limitation that is unenforceable under applicable law because it illegally discriminates against a class of individuals based on personal characteristics such as race, color, religion, sex, sexual orientation, gender identity, familial status, disability, national origin, or other legally protected class.
- e. "Enforcement Notice": A document recorded in the Public Records that describes any part of the Land and:
 - i. is issued by a governmental agency that identifies a violation or enforcement of a law, ordinance, permit, or governmental regulation;
 - ii. is issued by a holder of the power of eminent domain or a governmental agency that identifies the exercise of a governmental power; or
 - iii. asserts a right to enforce a PACA-PSA Trust.
- f. "Entity": A corporation, partnership, trust, limited liability company, or other entity authorized by law to own title to real property in the State where the Land is located.
- g. "Insured":
 - i.
 - (a). The Insured named in Item 1 of Schedule A;
 - (b). the successor to the Title of an Insured by operation of law as distinguished from purchase, including heirs, devisees, survivors, personal representatives, or next of kin;
 - (c). the successor to the Title of an Insured resulting from dissolution, merger, consolidation, distribution, or reorganization;
 - (d). the successor to the Title of an Insured resulting from its conversion to another kind of Entity; or
 - (e). the grantee of an Insured under a deed or other instrument transferring the Title, if the grantee is:
 - (1). an Affiliate;
 - (2). a trustee or beneficiary of a trust created by a written instrument established for estate planning purposes by an Insured;
 - (3). a spouse who receives the Title because of a dissolution of marriage;
 - (4). a transferee by a transfer effective on the death of an Insured as authorized by law; or
 - (5). another Insured named in Item 1 of Schedule A.
 - ii. The Company reserves all rights and defenses as to any successor or grantee that the Company would have had against any predecessor Insured.
- h. "Insured Claimant": An Insured claiming loss or damage arising under this policy.
- i. "Knowledge" or "Known": Actual knowledge or actual notice, but not constructive notice imparted by the Public Records.
- j. "Land": The land described in Item 4 of Schedule A and improvements located on that land at the Date of Policy that by State law constitute real property. The term "Land" does not include any property beyond that described in Schedule A, nor any right, title, interest, estate, or easement in any abutting street, road, avenue, alley, lane, right-of-way, body of water, or waterway, but does not modify or limit the extent that a right of access to and from the Land is insured by this policy.



- k. "Mortgage": A mortgage, deed of trust, trust deed, security deed, or other real property security instrument, including one evidenced by electronic means authorized by law.
- l. "PACA-PSA Trust": A trust under the federal Perishable Agricultural Commodities Act or the federal Packers and Stockyards Act or a similar State or federal law.
- m. "Public Records": The recording or filing system established under State statutes in effect at the Date of Policy under which a document must be recorded or filed to impart constructive notice of matters relating to the Title to a purchaser for value without Knowledge. The term "Public Records" does not include any other recording or filing system, including any pertaining to environmental remediation or protection, planning, permitting, zoning, licensing, building, health, public safety, or national security matters.
- n. "State": The state or commonwealth of the United States within whose exterior boundaries the Land is located. The term "State" also includes the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, and Guam.
- o. "Title": The estate or interest in the Land identified in Item 2 of Schedule A.
- p. "Unmarketable Title": The Title affected by an alleged or apparent matter that would permit a prospective purchaser or lessee of the Title or a lender on the Title to be released from the obligation to purchase, lease, or lend if there is a contractual condition requiring the delivery of marketable title.

2. CONTINUATION OF COVERAGE

This policy continues as of the Date of Policy in favor of an Insured, so long as the Insured:

- a. retains an estate or interest in the Land;
- b. owns an obligation secured by a purchase money Mortgage given by a purchaser from the Insured; or
- c. has liability for warranties given by the Insured in any transfer or conveyance of the Insured's Title.

Except as provided in Condition 2, this policy terminates and ceases to have any further force or effect after the Insured conveys the Title. This policy does not continue in force or effect in favor of any person or entity that is not the Insured and acquires the Title or an obligation secured by a purchase money Mortgage given to the Insured.

3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT

The Insured must notify the Company promptly in writing if the Insured has Knowledge of:

- a. any litigation or other matter for which the Company may be liable under this policy; or
- b. any rejection of the Title as Unmarketable Title.

If the Company is prejudiced by the failure of the Insured Claimant to provide prompt notice, the Company's liability to the Insured Claimant under this policy is reduced to the extent of the prejudice.

4. PROOF OF LOSS

The Company may, at its option, require as a condition of payment that the Insured Claimant furnish a signed proof of loss. The proof of loss must describe the defect, lien, encumbrance, adverse claim, or other matter insured against by this policy that constitutes the basis of loss or damage and must state, to the extent possible, the basis of calculating the amount of the loss or damage.

5. DEFENSE AND PROSECUTION OF ACTIONS

- a. Upon written request by the Insured and subject to the options contained in Condition 7, the Company, at its own cost and without unreasonable delay, will provide for the defense of an Insured in litigation in which any third party asserts a claim covered by this policy adverse to the Insured. This obligation is limited to only those stated causes of action alleging matters insured against by this policy. The Company has the right to select counsel of its choice (subject to the right of the Insured to object for reasonable cause) to represent the Insured as to those covered causes of action. The Company is not liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs, or expenses incurred by the Insured in the defense of any cause of action that alleges matters not insured against by this policy.
- b. The Company has the right, in addition to the options contained in Condition 7, at its own cost, to institute and prosecute any action or proceeding or to do any other act that, in its opinion, may be



necessary or desirable to establish the Title, as insured, or to prevent or reduce loss or damage to the Insured. The Company may take any appropriate action under the terms of this policy, whether or not it is liable to the Insured. The Company's exercise of these rights is not an admission of liability or waiver of any provision of this policy. If the Company exercises its rights under Condition 5.b., it must do so diligently.

- c. When the Company brings an action or asserts a defense as required or permitted by this policy, the Company may pursue the litigation to a final determination by a court having jurisdiction. The Company reserves the right, in its sole discretion, to appeal any adverse judgment or order.

6. DUTY OF INSURED CLAIMANT TO COOPERATE

- a. When this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding and any appeals, the Insured will secure to the Company the right to prosecute or provide defense in the action or proceeding, including the right to use, at its option, the name of the Insured for this purpose.

When requested by the Company, the Insured, at the Company's expense, must give the Company all reasonable aid in:

- i. securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement; and
- ii. any other lawful act that in the opinion of the Company may be necessary or desirable to establish the Title or any other matter, as insured.

If the Company is prejudiced by any failure of the Insured to furnish the required cooperation, the Company's liability and obligations to the Insured under this policy terminate, including any obligation to defend, prosecute, or continue any litigation, regarding the matter requiring such cooperation.

- b. The Company may reasonably require the Insured Claimant to submit to examination under oath by any authorized representative of the Company and to produce for examination, inspection, and copying, at such reasonable times and places as may be designated by the authorized representative of the Company, all records, in whatever medium maintained, including books, ledgers, checks, memoranda, correspondence, reports, e-mails, disks, tapes, and videos, whether bearing a date before or after the Date of Policy, that reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Insured Claimant must grant its permission, in writing, for any authorized representative of the Company to examine, inspect, and copy all the records in the custody or control of a third party that reasonably pertain to the loss or damage. No information designated in writing as confidential by the Insured Claimant provided to the Company pursuant to Condition 6 will be later disclosed to others unless, in the reasonable judgment of the Company, disclosure is necessary in the administration of the claim or required by law. Any failure of the Insured Claimant to submit for examination under oath, produce any reasonably requested information, or grant permission to secure reasonably necessary information from third parties as required in Condition 6.b., unless prohibited by law, terminates any liability of the Company under this policy as to that claim.

7. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY

In case of a claim under this policy, the Company has the following additional options:

- a. *To Pay or Tender Payment of the Amount of Insurance*
To pay or tender payment of the Amount of Insurance under this policy. In addition, the Company will pay any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment or tender of payment and that the Company is obligated to pay. Upon the exercise by the Company of this option provided for in Condition 7.a., the Company's liability and obligations to the Insured under this policy terminate, including any obligation to defend, prosecute, or continue any litigation.
- b. *To Pay or Otherwise Settle with Parties other than the Insured or with the Insured Claimant*
 - i. To pay or otherwise settle with parties other than the Insured for or in the name of the Insured Claimant. In addition, the Company will pay any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay; or



- ii. To pay or otherwise settle with the Insured Claimant the loss or damage provided for under this policy. In addition, the Company will pay any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay.

Upon the exercise by the Company of either option provided for in Condition 7.b., the Company's liability and obligations to the Insured under this policy for the claimed loss or damage terminate, including any obligation to defend, prosecute, or continue any litigation.

8. CONTRACT OF INDEMNITY; DETERMINATION AND EXTENT OF LIABILITY

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by an Insured Claimant who has suffered loss or damage by reason of matters insured against by this policy. This policy is not an abstract of the Title, report of the condition of the Title, legal opinion, opinion of the Title, or other representation of the status of the Title. All claims asserted under this policy are based in contract and are restricted to the terms and provisions of this policy. The Company is not liable for any claim alleging negligence or negligent misrepresentation arising from or in connection with this policy or the determination of the insurability of the Title.

- a. The extent of liability of the Company for loss or damage under this policy does not exceed the lesser of:
 - i. the Amount of Insurance; or
 - ii. the difference between the fair market value of the Title, as insured, and the fair market value of the Title subject to the matter insured against by this policy.
- b. Except as provided in Condition 8.c. or 8.d., the fair market value of the Title in Condition 8.a.ii. is calculated using the date the Insured discovers the defect, lien, encumbrance, adverse claim, or other matter insured against by this policy.
- c. If, at the Date of Policy, the Title to all of the Land is void by reason of a matter insured against by this policy, then the Insured Claimant may, by written notice given to the Company, elect to use the Date of Policy as the date for calculating the fair market value of the Title in Condition 8.a.ii.
- d. If the Company pursues its rights under Condition 5.b. and is unsuccessful in establishing the Title, as insured:
 - i. the Amount of Insurance will be increased by 15%; and
 - ii. the Insured Claimant may, by written notice given to the Company, elect, as an alternative to the dates set forth in Condition 8.b. or, if it applies, 8.c., to use either the date the settlement, action, proceeding, or other act described in Condition 5.b. is concluded or the date the notice of claim required by Condition 3 is received by the Company as the date for calculating the fair market value of the Title in Condition 8.a.ii.
- e. In addition to the extent of liability for loss or damage under Conditions 8.a. and 8.d., the Company will also pay the costs, attorneys' fees, and expenses incurred in accordance with Conditions 5 and 7.

9. LIMITATION OF LIABILITY

- a. The Company fully performs its obligations and is not liable for any loss or damage caused to the Insured if the Company accomplishes any of the following in a reasonable manner:
 - i. removes the alleged defect, lien, encumbrance, adverse claim, or other matter;
 - ii. cures the lack of a right of access to and from the Land; or
 - iii. cures the claim of Unmarketable Title,all as insured. The Company may do so by any method, including litigation and the completion of any appeals.
- b. The Company is not liable for loss or damage arising out of any litigation, including litigation by the Company or with the Company's consent, until a State or federal court having jurisdiction makes a final, non-appealable determination adverse to the Title.
- c. The Company is not liable for loss or damage to the Insured for liability voluntarily assumed by the Insured in settling any claim or suit without the prior written consent of the Company.
- d. The Company is not liable for the content of the Transaction Identification Data, if any.



- 10. REDUCTION OR TERMINATION OF INSURANCE**
All payments under this policy, except payments made for costs, attorneys' fees, and expenses, reduce the Amount of Insurance by the amount of the payment.
- 11. LIABILITY NONCUMULATIVE**
The Amount of Insurance will be reduced by any amount the Company pays under any policy insuring a Mortgage to which exception is taken in Schedule B or to which the Insured has agreed, assumed, or taken subject, or which is executed by an Insured after the Date of Policy and which is a charge or lien on the Title, and the amount so paid will be deemed a payment to the Insured under this policy.
- 12. PAYMENT OF LOSS**
When liability and the extent of loss or damage are determined in accordance with the Conditions, the Company will pay the loss or damage within 30 days.
- 13. COMPANY'S RECOVERY AND SUBROGATION RIGHTS UPON SETTLEMENT AND PAYMENT**
- a. If the Company settles and pays a claim under this policy, it is subrogated and entitled to the rights and remedies of the Insured Claimant in the Title and all other rights and remedies in respect to the claim that the Insured Claimant has against any person, entity, or property to the fullest extent permitted by law, but limited to the amount of any loss, costs, attorneys' fees, and expenses paid by the Company. If requested by the Company, the Insured Claimant must execute documents to transfer these rights and remedies to the Company. The Insured Claimant permits the Company to sue, compromise, or settle in the name of the Insured Claimant and to use the name of the Insured Claimant in any transaction or litigation involving these rights and remedies.
 - b. If a payment on account of a claim does not fully cover the loss of the Insured Claimant, the Company defers the exercise of its subrogation right until after the Insured Claimant fully recovers its loss.
 - c. The Company's subrogation right includes the Insured's rights to indemnity, guaranty, warranty, insurance policy, or bond, despite any provision in those instruments that addresses recovery or subrogation rights.
- 14. POLICY ENTIRE CONTRACT**
- a. This policy together with all endorsements, if any, issued by the Company is the entire policy and contract between the Insured and the Company. In interpreting any provision of this policy, this policy will be construed as a whole. This policy and any endorsement to this policy may be evidenced by electronic means authorized by law.
 - b. Any amendment of this policy must be by a written endorsement issued by the Company. To the extent any term or provision of an endorsement is inconsistent with any term or provision of this policy, the term or provision of the endorsement controls. Unless the endorsement expressly states, it does not:
 - i. modify any prior endorsement,
 - ii. extend the Date of Policy,
 - iii. insure against loss or damage exceeding the Amount of Insurance, or
 - iv. increase the Amount of Insurance.
- 15. SEVERABILITY**
In the event any provision of this policy, in whole or in part, is held invalid or unenforceable under applicable law, this policy will be deemed not to include that provision or the part held to be invalid, but all other provisions will remain in full force and effect.
- 16. CHOICE OF LAW AND CHOICE OF FORUM**
- a. *Choice of Law*
The Company has underwritten the risks covered by this policy and determined the premium charged in reliance upon the State law affecting interests in real property and the State law applicable to the interpretation, rights, remedies, or enforcement of policies of title insurance of the State where the Land is located.



The State law of the State where the Land is located, or to the extent it controls, federal law, will determine the validity of claims against the Title and the interpretation and enforcement of the terms of this policy, without regard to conflicts of law principles to determine the applicable law.

b. *Choice of Forum*

Any litigation or other proceeding brought by the Insured against the Company must be filed only in a State or federal court having jurisdiction.

17. NOTICES

Any notice of claim and any other notice or statement in writing required to be given to the Company under this policy must be given to the Company at: **First American Title Insurance Company, Attn: Claims National Intake Center, 5 First American Way, Santa Ana, California 92707. Phone: 888-632-1642 (claims.nic@firstam.com).**

18. CLASS ACTION

ALL CLAIMS AND DISPUTES ARISING OUT OF OR RELATING TO THIS POLICY, INCLUDING ANY SERVICE OR OTHER MATTER IN CONNECTION WITH ISSUING THIS POLICY, ANY BREACH OF A POLICY PROVISION, OR ANY OTHER CLAIM OR DISPUTE ARISING OUT OF OR RELATING TO THE TRANSACTION GIVING RISE TO THIS POLICY, MUST BE BROUGHT IN AN INDIVIDUAL CAPACITY. NO PARTY MAY SERVE AS PLAINTIFF, CLASS MEMBER, OR PARTICIPANT IN ANY CLASS, REPRESENTATIVE, OR PRIVATE ATTORNEY GENERAL PROCEEDING.

Premium/Mun. Tax
\$18,990/\$ N/A

OWNERS POLICY OF TITLE INSURANCE
Issued by
HENRY WATZ RAINE & MARINO, PLLC
FIRST AMERICAN TITLE INSURANCE COMPANY
Schedule A

Policy No. 50150221-0017031e

Amount \$6,000,000.00

Date of Policy: January 13, 2025, at 8:00 a.m.

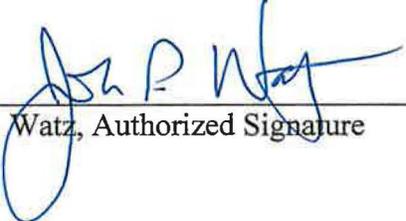
1. NAME OF INSURED:
Lexington-Fayette Urban County Government
2. The estate or interest in the land described or referred to in this Policy and covered herein is a fee simple in the property described herein by General Warranty Deed dated March 28, 2024, and recorded in Deed Book 4065, Page 51 in the office of the Fayette County Clerk.
3. Title to the fee simple estate or interest in the land is vested in:

Lexington-Fayette Urban County Government
4. The land referred to in this policy is situated in the County of Fayette, Kentucky and is identified as follows:

SEE ATTACHED LAND DESCRIPTION

HENRY WATZ RAINE & MARINO, PLLC

Countersigned: _____


John P. Watz, Authorized Signature

SCHEDULE B

Policy No. 50150221-0017031e

This policy does not insure against loss or damage (and Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taking authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession in the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstances affecting the Title that would be disclosed by accurate and complete land survey of the Land and not shown by the Public Records.
5. Any mineral or mineral rights leased, granted or retained by current or prior owners.
6. Taxes and assessments for the year 2025 and subsequent years, not yet due and payable.
7. Matters and easements referenced in plats of record in Plat Cabinet K, Slide 780 and Plat Cabinet M, Slide 535 in the Fayette County Clerk's Office.
8. Reciprocal Easement Agreement with Covenants, Conditions and Restrictions dated July 25, 2004, by and between New Circle Crossings, LLC, and Goodwill Industries of Kentucky, Inc., or record in Deed Book 2477, Page 566 in the Fayette County Clerk's Office.
9. First Amendment to Reciprocal Easement Agreement with Covenants, Conditions and Restrictions dated May 2, 2005 by and between New Circle Crossings, LLC and Goodwill Industries of Kentucky, Inc., of record in Deed Book 2546, Page 706, of record in the Office of the Fayette County Clerk.
10. Easement for Party Wall and Fire Sprinkler Main dated May 2, 2005 made and entered into by New Circle Crossings, LLC, or record in Deed Book 2546, Page 683, in the Office of the Fayette County Clerk.
11. Encroachment Agreement dated May 18, 2005, by and between New Circle Crossings, LLC and Goodwill Industries of Kentucky, Inc., of record in Deed Book 2554, Page 744, in the Office of the Fayette County Clerk.

12. Water line easement as reserved in deed dated October 15, 1951, of record in Deed Book 509, page 372, in the office of the Fayette County Clerk.
13. Clearance Permit dated October 15, 1958, granted to Kentucky Utilities Company, of record in Deed Book 655, page 419, in the office of the Fayette County Clerk.
14. Easement dated August 21, 1958 granted to Kentucky Utilities Company for poles and tree trimming of record in Deed Book 655, Page 420 in the office of the Fayette County Clerk.
15. Easement for sewer line dated April 30, 2008, granted by New Circle Crossing, LLC and Delzan Properties, LLC to Lexington-Fayette Urban County Government, of record in Deed Book 2805, Page 701, in the office of the Fayette County Clerk.
16. Communications System Easement Agreement & Release dated July 19, 2006 granted to AT&T Corp., of record in Deed Book 3021, Page 546, in the office of Fayette County Clerk.
17. All matters as shown on that certain survey of Kevin M. Phillips, Licensed Professional Land Surveyor, Registration No. 3350, with Endris Engineering, dated February 7, 2017, titled ALTA/NSPS Land Title Survey of Chestnut Crossing - Lot 1 and Lot 5, 130 West New Circle Road - Suite 170 (Lot 5) & 134 West New Circle Road (Lot 1), Lexington, Fayette County, Kentucky.
18. Matters and easements referenced in Minor Consolidation and Easement Plat of Chestnut Crossing - Lot 1 and Lot 5 of record in Plat Cabinet S, Slide 569 in the Fayette County Clerk's Office.
19. Notwithstanding that reference to acreage in the legal description in Schedule A, Numerical paragraph 5, a policy issued in connection with this commitment will not insure the quantity described as acreage.

LEGAL DESCRIPTION

Being all of Lot 5A Consolidated (8.4301 acres) as depicted on Minor Consolidation and Easement Plat of Chestnut Crossing - Lot 1 and Lot 5 as duly recorded in Plat Cabinet S, Slide 569 in the Fayette County Clerk's office, which plat is hereby referenced to and made a part of this description.

Being the same property conveyed by William Ziering, Trustee of the William Ziering Trust dated June 18, 2015, and any Amendments thereto to Lexington-Fayette Urban County Government by Deed dated March 28, 2024, of record in Deed Book 4065, Page 51 in Fayette County Clerk's Office.



Lexington-Fayette Urban County Government

Master

200 E. Main St
Lexington, KY 40507

File Number: 0205-24

File ID: 0205-24

Type: Resolution

Status: Approved

Version: 1

Contract #: 097-2021

In Control: Urban County Council

File Created: 02/20/2024

File Name: Change Order N. Lexington Holdings II, LLC
Incentive Grant #097-2021

Final Action: 03/21/2024

Title: A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute Change Order No. 1 to the Grant Agreement with North Lexington Holdings II, LLC, for a Stormwater Quality Incentive Grant Project, decreasing the Contract by the sum of \$48,255.00, from \$48,255.00 to \$0.00. [Div. of Water Quality, Martin]

Notes: In office 3/1/2024. MS

Stamped and filed in the CCO. Returned to Christina King 3/26/2024. MS

Sponsors:

Enactment Date: 03/21/2024

Attachments: Blue Sheet, Change Order Contract, FY 2021 NLH II LLC at 525 N Limestone - Council Map_rev.5.3.21, 0205-24- Change Order 1 North Lexington Holdings 4856-3145-5658 v.1.docx, R-110-2024, Contract #097-2021 (2)

Enactment Number: R-110-2024

Deed #:

Hearing Date:

Drafter: Christina King

Effective Date:

History of Legislative File

| Ver- sion: | Acting Body: | Date: | Action: | Sent To: | Due Date: | Return Date: | Result: |
|---------------|-----------------------------------|------------|---------------------------------|----------------------|------------|-----------------|---------|
| 1 | Urban County Council Work Session | 03/05/2024 | Approved and Referred to Docket | Urban County Council | 03/07/2024 | | Pass |
| 1 | Urban County Council | 03/07/2024 | Received First Reading | Urban County Council | 03/21/2024 | | |
| 1 | Urban County Council | 03/21/2024 | Approved | | | | Pass |

Text of Legislative File 0205-24

Title

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute Change Order No. 1 to the Grant Agreement with North Lexington Holdings II, LLC, for a Stormwater Quality Incentive Grant Project, decreasing the Contract

by the sum of \$48,255.00, from \$48,255.00 to \$0.00. [Div. of Water Quality, Martin]

Summary

Authorization to approve a decreasing Change Order in the amount of \$48,255.00, the full amount of the Stormwater Quality Projects Incentive Grant with North Lexington Holdings II, LLC, Contract #097-2021. The project scope has increased beyond the Grant award and the Grantee has opted to cancel the Grant. (L0205-24) (Martin/Albright)

Budgetary Implications [select]: Yes

Advance Document Review:

Law: Yes, Completed by Evan Thompson

Risk Management: No

Fully Budgeted [select]: Yes

Account Number: 4052-303204-3373-78112

This Fiscal Year Impact: (\$48,255)

Annual Impact: \$

Project: WQINCENTIVE_21

Activity: WQ_GRANT

Budget Reference:

Current Balance:



TO: Mayor Linda Gorton
Urban County Council

FROM: 
Charles H. Martin, P.E., Director
Division of Water Quality

DATE: February 6, 2024

SUBJECT: Change Order for Stormwater Quality Projects Incentive Grant Contract #097-2021

Request

Requesting approval of a decreasing change order of \$48,255.00 to the Stormwater Quality Projects Incentive Grant with North Lexington Holdings II, LLC, Contract #097-2021.

Purpose of Request

The Grantee’s project scope and costs has increased beyond the grant award, and the Grantee has opted to cancel their grant.

Funds from this cancelled grant will be returned to the Stormwater Quality Projects Incentive Grant Program for award in FY24.

Project Cost in FY24 and in Future Budget Years

The decreasing change order savings of \$48,255.00 will be returned to fund 4052 for FY24 grant awards. These grant funds will be moved to FY25 when that budget is created.

Are Funds Budgeted

Savings from this decreasing change order are budgeted in:
4052 – 303204 – 3373 – 78112 – WQINCENTIVE_21 – WQ_GRANT
However, once the change order is approved, there will be a budget amendment to move the funds into:
4052 – 303204 – 3373 – 78112 – WQINCENTIVE_24 – WQ_GRANT

Albright/Martin



| | | |
|--|------------------------|------------|
| LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT CONTRACT CHANGE ORDER | Date: | 02-Nov-22 |
| | Contract Modification: | |
| | CONTRACT #: | C-097-2021 |

PROJECT: North Lexington Holdings II, LLC Stormwater Quality Project Incentive Grant

TO: North Lexington Holdings II, LLC

| | |
|---|--------------|
| Original Contract Amount | \$48,255.00 |
| Cumulative Amount of Previous Contract Modifications | \$0.00 |
| Percent Change of Previous Contract Modifications | 0% |
| Existing Contract Amount | \$48,255.00 |
| Net (increase/decrease) in Contract Amount - (From following pages) | -\$48,255.00 |
| Percent Change of This Contract Modification | -100% |
| Original Contract Amount | \$48,255.00 |
| Cumulative Amount of all Contract Modifications | -\$48,255.00 |
| Percent Change of all Contract Modifications | -100% |
| New Contract Amount Including this Change Order | \$0.00 |

| | | | | |
|----------------|----------------------------------|----------------|------|-----------------|
| Recommended by | <u>Frank H. M... [Signature]</u> | (Proj. Engr.) | Date | <u>3/6/2024</u> |
| Accepted by | <u>[Signature]</u> | (Consultant) | Date | _____ |
| Accepted by | <u>[Signature]</u> | (Contractor) | Date | <u>2/5/2024</u> |
| Approved by | <u>[Signature]</u> | (Director) | Date | <u>2-7-24</u> |
| Approved by | <u>Nancy Albright</u> | (Commissioner) | Date | <u>2/12/24</u> |
| Approved by | _____ | (Mayor or CAO) | Date | _____ |

| LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT | | DATE: | | 02-Nov-22 | | | |
|---|-----------|------------------------|-------|-----------|--------------|----------------------------|----------------------------|
| CONTRACT MODIFICATION | | Contract Mod #: | | 1 | | | |
| | | CONTRACT #: | | #097-2021 | | | |
| Project: North Lexington Holdings II, LLC Stormwater Quality Project Incentive Grant | | | | | | | |
| TO: | | | | | | | |
| You are hereby requested to comply with the following changes from the contract plans and specifications; | | | | | | | |
| Item No. | ADD / DEL | Description of changes | Units | Quantity | Unit Price | Decrease in contract price | Increase in contract price |
| 1 | DEL | | LS | 1 | \$ 48,255.00 | \$ 48,255.00 | \$ - |
| 2 | | | | | | \$ - | \$ - |
| 3 | | | | | | \$ - | \$ - |
| 4 | | | | | | \$ - | \$ - |
| 5 | | | | | | \$ - | \$ - |
| 6 | | | | | | \$ - | \$ - |
| 7 | | | | | | \$ - | \$ - |
| 8 | | | | | | \$ - | \$ - |
| 9 | | | | | | \$ - | \$ - |
| 10 | | | | | | \$ - | \$ - |
| 11 | | | | | | \$ - | \$ - |
| 12 | | | | | | \$ - | \$ - |
| 13 | | | | | | \$ - | \$ - |
| 14 | | | | | | \$ - | \$ - |
| Total decrease | | | | | | \$ 48,255.00 | |
| Total increase | | | | | | | \$ - |
| Net (increase) in contract price | | | | | | | \$ (48,255.00) |

JUSTIFICATION FOR CHANGE

| | |
|---------------|--|
| PROJECT: | North Lexington Holdings II, LLC Stormwater Quality Project Incentive Grant |
| CONTRACT NO. | 097-2021 |
| CHANGE ORDER: | 1 |

1. Necessity for change: Stormwater Quality Projects Incentive Grant completed under budget
2. Is proposed change an alternate bid? ___Yes ___X_No
3. Will proposed change alter the physical size of the project? ___Yes ___X_No
If "Yes", explain.
4. Effect of this change on other prime contractors: N/A
5. Has consent of surety been obtained? ___Yes ___X_Not Necessary
6. Will this change affect expiration or extent of insurance coverage? ___Yes ___X_No
If "Yes", will the policies be extended? ___Yes ___No
7. Effect on operation and maintenance costs: N/A
8. Effect on contract completion date: N/A

Mayor

Date

Stormwater Quality Projects Incentive Grant Program



NORTH LEXINGTON HOLDINGS II, LLC

RESOLUTION NO. _____ - 2024

A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE CHANGE ORDER NO. 1 TO THE GRANT AGREEMENT WITH NORTH LEXINGTON HOLDINGS II, LLC, FOR A STORMWATER QUALITY INCENTIVE GRANT PROJECT, DECREASING THE CONTRACT BY THE SUM OF \$48,255.00, FROM \$48,255.00 TO \$0.00.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized and directed to execute Change Order No. 1, which is attached hereto and incorporated herein by reference, to the Grant Agreement with North Lexington Holdings II, LLC, for a Stormwater Quality Incentive Grant Project, decreasing the contract price by the sum of \$48,255.00, from \$48,255.00 to \$0.00.

Section 2 – That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL

0205-24:EPT_4856-3145-5658, v. 1

RESOLUTION NO. 110 - 2024

A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE CHANGE ORDER NO. 1 TO THE GRANT AGREEMENT WITH NORTH LEXINGTON HOLDINGS II, LLC, FOR A STORMWATER QUALITY INCENTIVE GRANT PROJECT, DECREASING THE CONTRACT BY THE SUM OF \$48,255.00, FROM \$48,255.00 TO \$0.00.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

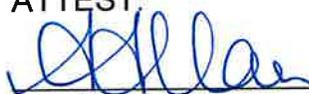
Section 1 – That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized and directed to execute Change Order No. 1, which is attached hereto and incorporated herein by reference, to the Grant Agreement with North Lexington Holdings II, LLC, for a Stormwater Quality Incentive Grant Project, decreasing the contract price by the sum of \$48,255.00, from \$48,255.00 to \$0.00.

Section 2 – That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: March 21, 2024



MAYOR

ATTEST:


CLERK OF URBAN COUNTY COUNCIL
0205-24:EPT_4856-3145-5658, v. 1

| | | |
|--|------------------------|---|
| LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT CONTRACT CHANGE ORDER | Date: | 02-Nov-22 |
| | Contract Modification: | R-110-2024 |
| | CONTRACT #: | Original R-307-2021 Contract #097-2021 |

PROJECT: North Lexington Holdings II, LLC Stormwater Quality Project Incentive Grant

TO: North Lexington Holdings II, LLC

| | |
|---|--------------|
| Original Contract Amount | \$48,255.00 |
| Cumulative Amount of Previous Contract Modifications | \$0.00 |
| Percent Change of Previous Contract Modifications | 0% |
| Existing Contract Amount | \$48,255.00 |
| Net (increase/decrease) in Contract Amount - (From following pages) | -\$48,255.00 |
| Percent Change of This Contract Modification | -100% |
| Original Contract Amount | \$48,255.00 |
| Cumulative Amount of all Contract Modifications | -\$48,255.00 |
| Percent Change of all Contract Modifications | -100% |
| New Contract Amount Including this Change Order | \$0.00 |

| | | |
|------------------------------------|----------------|-----------------------|
| Recommended by <u>Frank H. Mel</u> | (Proj. Engr.) | Date: <u>2/6/2024</u> |
| Accepted by _____ | (Consultant) | Date: _____ |
| Accepted by <u>[Signature]</u> | (Contractor) | Date: <u>2/5/2024</u> |
| Approved by <u>[Signature]</u> | (Director) | Date: <u>2-7-24</u> |
| Approved by <u>Nancy Albright</u> | (Commissioner) | Date: <u>2/12/24</u> |
| Approved by <u>Linda Gorton</u> | (Mayor or CAO) | Date: <u>3/26/24</u> |

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT
CONTRACT MODIFICATION

DATE: 02-Nov-22
 Contract Mod #: 1
 CONTRACT #: #097-2021

Project: North Lexington Holdings II, LLC Stormwater Quality Project Incentive Grant

TO:

You are hereby requested to comply with the following changes from the contract plans and specifications;

| Item No. | ADD / DEL | Description of changes | Units | Quantity | Unit Price | Decrease in contract price | Increase in contract price |
|---|-----------|------------------------|-------|----------|--------------|----------------------------|----------------------------|
| 1 | DEL | | LS | 1 | \$ 48,255.00 | \$ 48,255.00 | \$ - |
| 2 | | | | | | \$ - | \$ - |
| 3 | | | | | | \$ - | \$ - |
| 4 | | | | | | \$ - | \$ - |
| 5 | | | | | | \$ - | \$ - |
| 6 | | | | | | \$ - | \$ - |
| 7 | | | | | | \$ - | \$ - |
| 8 | | | | | | \$ - | \$ - |
| 9 | | | | | | \$ - | \$ - |
| 10 | | | | | | \$ - | \$ - |
| 11 | | | | | | \$ - | \$ - |
| 12 | | | | | | \$ - | \$ - |
| 13 | | | | | | \$ - | \$ - |
| 14 | | | | | | \$ - | \$ - |
| Total decrease | | | | | | \$ 48,255.00 | |
| Total increase | | | | | | | \$ - |
| Net (increase) in contract price | | | | | | | \$ (48,255.00) |

JUSTIFICATION FOR CHANGE

| | |
|---------------|--|
| PROJECT: | North Lexington Holdings II, LLC Stormwater Quality Project Incentive Grant |
| CONTRACT NO. | 097-2021 |
| CHANGE ORDER: | 1 |

1. Necessity for change: Stormwater Quality Projects Incentive Grant completed under budget
2. Is proposed change an alternate bid? ___ Yes X No
3. Will proposed change alter the physical size of the project? ___ Yes X No
If "Yes", explain.
4. Effect of this change on other prime contractors: N/A
5. Has consent of surety been obtained? ___ Yes X Not Necessary
6. Will this change affect expiration or extent of insurance coverage? ___ Yes X No
If "Yes", will the policies be extended? ___ Yes ___ No
7. Effect on operation and maintenance costs: N/A
8. Effect on contract completion date: N/A

Rinda Gorton

Mayor

Date

3/26/2024

Stormwater Quality Projects Incentive Grant Program



NORTH LEXINGTON HOLDINGS II, LLC



Lexington-Fayette Urban County Government

Master

200 E. Main St
Lexington, KY 40507

File Number: 0206-24

File ID: 0206-24

Type: Resolution

Status: Approved

Version: 1

Contract #: 055-2024

In Control: Urban County Council

File Created: 02/20/2024

File Name: FARO Technologies Inc. - Maintenance Agreement / Sole Source

Final Action: 03/21/2024

Title: A Resolution authorizing the Div. of Police to purchase maintenance and support for the Faro 3D Crime Scene Scanner from Faro Technologies, Inc., a sole source provider, and authorizing the Mayor to execute an Agreement with Faro Technologies, Inc., related to the procurement of these services, at a cost estimated not to exceed \$2,360. [Div. of Police, Weathers]

Notes: In office 2/26/2024. MS

Stamped and filed in the CCO. Returned to Renita Happy 3/22/2024. MS

Sponsors:

Enactment Date: 03/21/2024

Attachments: Cover Memo - FARO Technologies Inc, FARO Technologies Inc. - Maintenance Agreement, FARO Technologies Inc. - SOLE SOURCE CERTIFICATION, 0206-24 FARO Technologies Resolution 2024 4866-0543-8889 v.1.docx, R-111-2024, Contract #055-2024

Enactment Number: R-111-2024

Deed #:

Hearing Date:

Drafter: Renita Happy

Effective Date:

History of Legislative File

| Ver- sion: | Acting Body: | Date: | Action: | Sent To: | Due Date: | Return Date: | Result: |
|------------|-----------------------------------|------------|---------------------------------|----------------------|------------|--------------|---------|
| 1 | Urban County Council Work Session | 03/05/2024 | Approved and Referred to Docket | Urban County Council | 03/07/2024 | | Pass |
| 1 | Urban County Council | 03/07/2024 | Received First Reading | Urban County Council | 03/21/2024 | | |
| 1 | Urban County Council | 03/21/2024 | Approved | | | | Pass |

Text of Legislative File 0206-24

Title

A Resolution authorizing the Div. of Police to purchase maintenance and support for the

Faro 3D Crime Scene Scanner from Faro Technologies, Inc., a sole source provider, and authorizing the Mayor to execute an Agreement with Faro Technologies, Inc., related to the procurement of these services, at a cost estimated not to exceed \$2,360. [Div. of Police, Weathers]

Summary

Authorization to establish FARO Technologies Inc. as a sole source vendor and accept the Maintenance Agreement for the FARO 3D Crime Scene Scanner. The coverage period is one year, January 1, 2024, through December 31, 2024, for a cost of \$2,360. Funds are Budgeted. (L0206-24) (Weathers/Armstrong)

Budgetary Implications: YES

Advance Document Review:

Law: Yes, Jason Rothrock, January 30, 2024

Risk Management: No

Fully Budgeted: Funds are Budgeted

Account Number: 1101-505506-5561-76102

Year Impact: \$2,360

Annual Impact: \$ -0-

Project:

Activity:

Budget Reference:

Current Balance: \$395,182.63



Lexington-Fayette Urban County Government
DEPARTMENT OF PUBLIC SAFETY

Linda Gorton
Mayor

Kenneth Armstrong
Commissioner

TO: Mayor Linda Gorton
Urban County Council

Lawrence B. Weathers

FROM: Chief Lawrence B. Weathers
Lexington Police Department

CC: Commissioner Kenneth Armstrong
Department of Public Safety

DATE: February 20, 2024

SUBJECT: FARO Technologies Inc. – Maintenance Agreement & Sole Source Certification

Request

Authorization to establish FARO Technologies Inc. as a sole source vendor and accept the attached Maintenance Agreement.

Why are you requesting?

The FARO 3D Crime Scene Scanner is an extremely high resolution crime scene data collection system and mapping tool. The maintenance agreement is necessary to ensure the instrument is maintained and in certified working condition and receives required calibration.

The coverage period is for one year, from January 1, 2024 through December 31, 2024. The annual cost is \$2,360. This is also to establish FARO Technologies Inc., as a sole source vendor. The attached agreement requires Council approval and Mayor Gorton's signature.

What is the cost in this budget year and future budget years?

Funds are budgeted - \$2,360

Are the funds budgeted? Yes – 1101-505506-5561-76102

File Number: 0206-24

Director/Commissioner: Lawrence B. Weathers, Chief
Lexington Police Department

LBW/rmh



FARO Technologies Inc
 125 Technology Park, Lake Mary FL
 32746-6204
 Phone No: 407-333-9911

Account Manager: Richard Britt
Email: richard.britt@faro.com
Sales Support: Cindy Clarke
Contact Person: Chris Sizemore

Quotation No: 04321728
Quotation Date: 01/17/2024
Expiration Date: 02/16/2024

Lead Time: 2-6 weeks
Ship: Standard/Ground
Payment Terms: 30 Days net
Delivery Terms: Free Carrier

| Bill To: | Ship To: |
|---|--|
| Lexington Police Department - KY 200 E Main St Lexington,KY,40507-1310 US | Lexington Police Department - KY Lexington,United States 150 E Main St Lexington,KY,40507-1318 US |

Notes:

UNIT COSTS

| ITEM NO. | DESCRIPTION | QTY | UNIT PRICE | TOTAL AMOUNT |
|--------------|---|-----|------------|--------------|
| SMAR51007-1M | <p>FARO Zone 3D Expert Maintenance Rnwl 1M</p> <p>Zone 3D Expert one (1) month of software maintenance. This is only offered to customers that have software maintenance expiring on different months and wish to have all expirations on the same month. This part number is not to be used as a standalone warranty.</p> <p>Contract Date: 11/01/2023 - 12/31/2023</p> <p>DME50368RFY7XU9GKV</p> | 2 | \$ 90.00 | \$ 180.00 |

Check Payments:
 FARO Technologies, Inc.
 PO Box 116908
 Atlanta, GA 30368-6908

FARO Technologies Inc., 125 Technology Park, Lake Mary FL 32746-6204

Electronic Payments:
 FARO Technologies, Inc.
 ABA: 061000104
 Swift Nbr: SNTRUS3A
 USD Account #: 1000009578609

Phone No: 407-333-9911
 www.faro.com
 Nasdaq: FARO

Continued

Quotation No: 04321728

| | | | | |
|---|---|----------|--------------------|--------------------|
| <p>SMAR51007-1Y</p> | <p>FARO Zone 3D Expert Maintenance Rnwl 1Y</p> <p>Zone 3D Expert annual maintenance renewal includes product updates and upgrades (as available), including top tier technical support for one (1) year. Customer must be on the most current software release to purchase this plan.</p> <p>Contract Date: 01/01/2024 - 12/31/2024 DME5O368RFY7XU9GKV</p> | <p>1</p> | <p>\$ 990.00</p> | <p>\$ 990.00</p> |
| <p>SMAR0900-1Y</p>  <p>SCENE</p> | <p>SCENE MAINT - 1Y RNWL</p> <p>Contract Date: 01/01/2024 - 12/31/2024 991906930131125617</p> | <p>1</p> | <p>\$ 1,190.00</p> | <p>\$ 1,190.00</p> |

RECURRING COSTS

| ITEM NO. | DESCRIPTION | YRS | ANNUAL PRICE | SUBTOTAL |
|----------|-------------|-----|--------------|----------|
|----------|-------------|-----|--------------|----------|

| | |
|---------------------------------|--------------------|
| Total Unit Price: | \$ 2,360.00 |
| Total Recurring Costs: | \$ 0.00 |
| Sub Total: | \$ 2,360.00 |
| Shipping & Handling: | \$ 0.00 |
| Total Excluding Tax: | \$ 2,360.00 |
| Total Taxes: | \$ 0.00 |
| Total Due: (USD) | \$ 2,360.00 |

Check Payments:
FARO Technologies, Inc.
PO Box 116908
Atlanta, GA 30368-6908

FARO Technologies Inc., 125 Technology Park, Lake Mary FL 32746-6204

Electronic Payments:
FARO Technologies, Inc.
ABA: 061000104
Swift Nbr: SNTRUS3A
USD Account #: 1000009578609

Phone No: 407-333-9911
www.faro.com
Nasdaq: FARO

Continued

Quotation No: 04321728

****Note: Taxes on this quote are budgetary estimates and are not binding. Taxes charged will be based on applicable tax rates assessed at the time of final invoice.**

Quote, including FARO Standard Delivery Terms and Conditions, accepted

Signature: _____ Print: _____

Title: _____ Date: _____

Accounts Payable Name: _____ Email: _____

Do you require a PO number to be referenced on the invoice () No () Yes - PO #: _____

FARO Technologies Inc., 125 Technology Park, Lake Mary FL 32746-6204

Check Payments:
FARO Technologies, Inc.
PO Box 116908
Atlanta, GA 30368-6908

Electronic Payments:
FARO Technologies, Inc.
ABA: 061000104
Swift Nbr: SNTRUS3A
USD Account #: 1000009578609

Phone No: 407-333-9911
www.faro.com
Nasdaq: FARO

Continued

Quotation No: 04321728

COVID-19

FARO does not assume any risk for (i) late deliveries of goods, (ii) customers' inability or impracticability to receive or use our devices or software, and for (iii) delivery disruptions, that are due to the COVID-19 pandemic and ensuing government measures (shut downs, lock-downs, quarantines).

PURCHASE AGREEMENT AND CONDITIONS OF SALE: As a condition of this agreement, the applicable contract terms are FARO's Standard Terms and Conditions of Sale, or, if the Parties have entered into current master sales terms, such negotiated master terms.

The FARO Standard Terms and Conditions can be found at the following Web link (if such is not an active link, please copy and paste the Web address into a Web browser):

<https://www.faro.com/terms/>

You can also obtain the terms from your FARO sales representative or please email Contracts.AMER@faro.com for a copy.

The following article contains all our calibration information under their respective product headings

https://knowledge.faro.com/Essentials/Hardware/Compensation_Calibration_and_Certification_Standards_for_FARO_Devices

Check Payments:
FARO Technologies, Inc.
PO Box 116908
Atlanta, GA 30368-6908

FARO Technologies Inc., 125 Technology Park, Lake Mary FL 32746-6204

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FARO Technologies, Inc.
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USD Account #: 1000009578609

Phone No: 407-333-9911
www.faro.com
Nasdaq: FARO



JUSTIFICATION FOR SOLE SOURCE CERTIFICATION

Sole Source Purchases are defined clearly, based upon a legitimate need, and are limited to a single supplier. Sole source purchases are normally not allowed except when based upon strong technological grounds such as operational compatibility with existing equipment and related parts or upon a clearly unique and/or cost effective feature requirement. The use of sole source purchases must be justified and shall be limited only to those specific instances in which compatibility or technical performance needs are being satisfied.

Sole Source Services are defined as a service provider providing technical expertise of such a unique nature that the service provider is clearly and justifiably the only practicable source available to provide the service. The justification shall be based on the uniqueness of the service, sole availability at the location required, or warranty or defect correction service obligations of the service provider.

This form must be filled out for the request to purchase any good or non-professional service that requires a competitive procurement process (informal quotes (\$1001-\$10,000), formal quotes (\$10,001 - \$19,999.99), or formal bid (\$20,000 or more) as defined in the LFUCG's Purchasing Manual. This form must be completed in its entirety and attached to the purchase requisition.

Note: Sole Source Purchase requests for goods exceeding \$20,000 will require approval by the Urban County Council by submitting an Administrative Review Form. A copy of this form must be signed off by Central Purchasing and attached to the Administrative Review Form.

Requesting Division

Name Lieutenant Chris Sizemore Division/Dept: Police / Public Safety

Phone: 859-258-3541 Email csizemore@lexingtonpolice.ky.gov

Type of Purchase: () Goods/Materials/Equipment (✓) Services

Cost: \$2360.00

Sole Source Request for the Purchase of: FARO Scanner Maintenance & License.

One Time Purchase

✓ To Establish Sole Source Provider Contract
(subject to annual review and approval by Central Purchasing and/or Urban County Council)

Vendor Information

Business Name: FARO Technologies

Contact Name: Richard Britt

Address: 250 Technology Park, Lake Mary, FL 32746

Phone: 407-333-9911 Email: Richard.Britt@faro.com

STATEMENT OF NEED: (Add additional pages as needed)

My division/department's recommendation for sole source is based upon an objective review of the product/service required and appears to be in the best interest of the LFUCG. I know of no conflict of



JUSTIFICATION FOR SOLE SOURCE CERTIFICATION

interest on my part, and I have no personal involvement in any way with this request. No gratuities, favors, or compromising actions have taken place. Neither has my personal familiarity with particular brands, types of equipment, materials, persons or firms been a deciding influence on my request to sole source this purchase when there are other known suppliers to exist.

1. Describe the product or service and list the necessary features this product provides that are not available from any other option.

The FARO 3D Crime Scene Scanner is an extremely high resolution crime scene data collection system and mapping tool. The requested maintenance agreement is needed to ensure the instrument is maintained in certified working condition and receives required calibration.

2. Below are eligible reasons for sole source. Check one and describe.

Licensed or patented product or service. No other vendor provides this. Warranty or defect correction service obligations to the consultant. Describe why it is mandatory to use this licensed or patented product or service.

Existing LFUCG equipment, inventory, custom-built information system, custom-built data inventory system, or similar products or programs. Describe. If product is off-the-shelf, list efforts to find other vendors (i.e. web site search, contacting the manufacturer to see if other dealers are available to service this region, etc.)

Uniqueness of the service. Describe.

The LFUCG has established a standard for this manufacturer, supplier, or provider and there is only one vendor. Attach documentation from manufacturer to confirm that only one dealer provides the product.

Factory-authorized warranty service available only from this single dealer. Sole availability at the location required. Describe: Leica has unique re-calibration equipment needed to service this particular 3D scanner.

Used item with bargain price (describe what a new item would cost). Describe.

Other – The above reasons are the most common and established causes for an eligible sole source. If you have a different reason, please describe:

-



JUSTIFICATION FOR SOLE SOURCE CERTIFICATION

3. Describe efforts to find other vendors or consultants (i.e. phone inquires, web site search, contacting the manufacturer to see if other dealers are available to service region, etc.).

I have been in contact with FARO Technologies who advised they do not use outside vendors for their product or support. I have also conducted internet research which confirms this assertion.

4. How was the price offered determined to be fair and reasonable?

(Explain what the basis was for comparison and include cost analyses as applicable.)

The price for this maintenance agreement is consistent with maintenance agreements for similar systems.

5. Describe any cost savings realized or costs avoided by acquiring the goods/services from this supplier.

By continuing to re-license and support the existing hardware, the cost of procurement of new hardware is avoided. The cost of the 3D Scanner system was approximately \$84,000.

RESOLUTION NO. ____ - 2024

A RESOLUTION AUTHORIZING THE DIVISION OF POLICE TO PURCHASE MAINTENANCE AND SUPPORT FOR THE FARO 3D CRIME SCENE SCANNER FROM FARO TECHNOLOGIES, INC., A SOLE SOURCE PROVIDER, AND AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH FARO TECHNOLOGIES, INC., RELATED TO THE PROCUREMENT OF THESE SERVICES, AT A COST ESTIMATED NOT TO EXCEED \$2,360.00.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the Division of Police is authorized to purchase maintenance and support for the Faro 3D Crime Scene Scanner from Faro Technologies, Inc., a sole source provider, and the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized to execute an agreement with FARO Technologies Inc., related to the procurement.

Section 2 – That an amount, estimated not to exceed the sum of \$2,360.00, be and hereby is approved for payment to FARO Technologies Inc., from account #1101-505506-76102, pursuant to the terms of the agreement.

Section 3 - That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL
0206-24:JJR:4866-0543-8889, v. 1

RESOLUTION NO. 111 - 2024

A RESOLUTION AUTHORIZING THE DIVISION OF POLICE TO PURCHASE MAINTENANCE AND SUPPORT FOR THE FARO 3D CRIME SCENE SCANNER FROM FARO TECHNOLOGIES, INC., A SOLE SOURCE PROVIDER, AND AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH FARO TECHNOLOGIES, INC., RELATED TO THE PROCUREMENT OF THESE SERVICES, AT A COST ESTIMATED NOT TO EXCEED \$2,360.00.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the Division of Police is authorized to purchase maintenance and support for the Faro 3D Crime Scene Scanner from Faro Technologies, Inc., a sole source provider, and the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized to execute an agreement with FARO Technologies Inc., related to the procurement.

Section 2 – That an amount, estimated not to exceed the sum of \$2,360.00, be and hereby is approved for payment to FARO Technologies Inc., from account #1101-505506-76102, pursuant to the terms of the agreement.

Section 3 - That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: March 21, 2024


MAYOR

ATTEST:


CLERK OF URBAN COUNTY COUNCIL
0206-24:JJR:4866-0543-8889, v. 1



FARO Technologies Inc
 125 Technology Park, Lake Mary FL
 32746-6204
 Phone No: 407-333-9911

Account Manager: Richard Britt
Email: richard.britt@faro.com
Sales Support: Cindy Clarke
Contact Person: Chris Sizemore

Quotation No: 04321728
Quotation Date: 01/17/2024
Expiration Date: 02/16/2024

Lead Time: 2-6 weeks
Ship: Standard/Ground
Payment Terms: 30 Days net
Delivery Terms: Free Carrier

| Bill To: | Ship To: |
|---|--|
| Lexington Police Department - KY 200 E Main St Lexington,KY,40507-1310 US | Lexington Police Department - KY Lexington,United States 150 E Main St Lexington,KY,40507-1318 US |

Notes:

| UNIT COSTS | | | | |
|--------------|--|-----|------------|--------------|
| ITEM NO. | DESCRIPTION | QTY | UNIT PRICE | TOTAL AMOUNT |
| SMAR51007-1M | FARO Zone 3D Expert Maintenance Rnwl 1M Zone 3D Expert one (1) month of software maintenance. This is only offered to customers that have software maintenance expiring on different months and wish to have all expirations on the same month. This part number is not to be used as a standalone warranty. Contract Date: 11/01/2023 - 12/31/2023 DME50368RFY7XU9GKV | 2 | \$ 90.00 | \$ 180.00 |

Check Payments:
 FARO Technologies, Inc.
 PO Box 116908
 Atlanta, GA 30368-6908

FARO Technologies Inc., 125 Technology Park, Lake Mary FL 32746-6204
 Electronic Payments:
 FARO Technologies, Inc.
 ABA: 061000104
 Swift Nbr: SNTRUS3A
 USD Account #: 1000009578609

Phone No: 407-333-9911
 www.faro.com
 Nasdaq: FARO

Continued

Quotation No: 04321728

| | | | | |
|--|---|----------|--------------------|--------------------|
| <p>SMAR51007-1Y</p> | <p>FARO Zone 3D Expert Maintenance Rnwl 1Y</p> <p>Zone 3D Expert annual maintenance renewal includes product updates and upgrades (as available), including top tier technical support for one (1) year. Customer must be on the most current software release to purchase this plan.</p> <p>Contract Date: 01/01/2024 - 12/31/2024 DME5O368RFY7XU9GKV</p> | <p>1</p> | <p>\$ 990.00</p> | <p>\$ 990.00</p> |
| <p>SMAR0900-1Y</p>  <p>SCENE</p> | <p>SCENE MAINT - 1Y RNWL</p> <p>Contract Date: 01/01/2024 - 12/31/2024 991906930131125617</p> | <p>1</p> | <p>\$ 1,190.00</p> | <p>\$ 1,190.00</p> |

| RECURRING COSTS | | | | |
|--|-------------|-----|--------------|---------------------------|
| ITEM NO. | DESCRIPTION | YRS | ANNUAL PRICE | SUBTOTAL |
| <p>Total Unit Price:</p> | | | | <p>\$ 2,360.00</p> |
| <p>Total Recurring Costs:</p> | | | | <p>\$ 0.00</p> |
| <p>Sub Total:</p> | | | | <p>\$ 2,360.00</p> |
| <p>Shipping & Handling:</p> | | | | <p>\$ 0.00</p> |
| <p>Total Excluding Tax:</p> | | | | <p>\$ 2,360.00</p> |
| <p>Total Taxes:</p> | | | | <p>\$ 0.00</p> |
| <p>Total Due: (USD)</p> | | | | <p>\$ 2,360.00</p> |

Check Payments:
FARO Technologies, Inc.
PO Box 116908
Atlanta, GA 30368-6908

FARO Technologies Inc., 125 Technology Park, Lake Mary FL 32746-6204
Electronic Payments:
FARO Technologies, Inc.
ABA: 061000104
Swift Nbr: SNTRUS3A
USD Account #: 1000009578609

Phone No: 407-333-9911
www.faro.com
Nasdaq: FARO

Continued

Quotation No: 04321728

****Note: Taxes on this quote are budgetary estimates and are not binding. Taxes charged will be based on applicable tax rates assessed at the time of final invoice.**

Quote, including FARO Standard Delivery Terms and Conditions, accepted

Signature: *Linda Gorton* Linda Gorton

Title: Mayer Date: 3/22/2024

Accounts Payable Name: _____ Email: _____

Do you require a PO number to be referenced on the invoice () No () Yes - PO #: _____

Check Payments:
FARO Technologies, Inc.
PO Box 116908
Atlanta, GA 30368-6908

FARO Technologies Inc., 125 Technology Park, Lake Mary FL 32746-6204
Electronic Payments:
FARO Technologies, Inc.
ABA: 061000104
Swift Nbr: SNTRUS3A
USD Account #: 1000009578609

Phone No: 407-333-9911
www.faro.com
Nasdaq: FARO

Continued

Quotation No: 04321728

COVID-19

FARO does not assume any risk for (i) late deliveries of goods, (ii) customers' inability or impracticability to receive or use our devices or software, and for (iii) delivery disruptions, that are due to the COVID-19 pandemic and ensuing government measures (shut downs, lock-downs, quarantines).

PURCHASE AGREEMENT AND CONDITIONS OF SALE: As a condition of this agreement, the applicable contract terms are FARO's Standard Terms and Conditions of Sale, or, if the Parties have entered into current master sales terms, such negotiated master terms.

The FARO Standard Terms and Conditions can be found at the following Web link (if such is not an active link, please copy and paste the Web address into a Web browser):

<https://www.faro.com/terms/>

You can also obtain the terms from your FARO sales representative or please email Contracts.AMER@faro.com for a copy.

The following article contains all our calibration information under their respective product headings

https://knowledge.faro.com/Essentials/Hardware/Compensation_Calibration_and_Certification_Standards_for_FARO_Devices

Check Payments:
FARO Technologies, Inc.
PO Box 116908
Atlanta, GA 30368-6908

FARO Technologies Inc., 125 Technology Park, Lake Mary FL 32746-6204
Electronic Payments:
FARO Technologies, Inc.
ABA: 061000104
Swift Nbr: SNTRUS3A
USD Account #: 1000009578609

Phone No: 407-333-9911
www.faro.com
Nasdaq: FARO



Lexington-Fayette Urban County Government

Master

200 E. Main St
Lexington, KY 40507

File Number: 0213-24

File ID: 0213-24

Type: Resolution

Status: Approved

Version: 1

Contract #: 068-2024

In Control: Urban County Council

File Created: 02/22/2024

File Name: FCPS Incentive Grant

Final Action: 03/21/2024

Title: A Resolution authorizing the Mayor, on behalf of the Urban County Government, to execute an Agreement awarding a Class B (Education) Incentive Grant to Fayette County Public Schools, for a Stormwater Quality Project, at a cost not to exceed \$39,900. [Div. of Water Quality, Martin]

Notes: In office 2/26/2024. MS

Stamped and filed in the CCO. Returned to Denice 3/26/2024. MS

Sponsors:

Enactment Date: 03/21/2024

Attachments: Blue Sheet, FY 2024 FCPS_Class B Edu - Council Map, FY24 Class BE FCPS GAA with Attachments A_Grantee signed, 0213-24-Incentive Grant with FCPS 4857-1245-7898 v.1.docx, R-112-2024, Contract #068-2024

Enactment Number: R-112-2024

Deed #:

Hearing Date:

Drafter: Christina King

Effective Date:

History of Legislative File

| Ver- sion: | Acting Body: | Date: | Action: | Sent To: | Due Date: | Return Date: | Result: |
|---------------|-----------------------------------|------------|---------------------------------|----------------------|------------|-----------------|---------|
| 1 | Urban County Council Work Session | 03/05/2024 | Approved and Referred to Docket | Urban County Council | 03/07/2024 | | Pass |
| 1 | Urban County Council | 03/07/2024 | Received First Reading | Urban County Council | 03/21/2024 | | |
| 1 | Urban County Council | 03/21/2024 | Approved | | | | Pass |

Text of Legislative File 0213-24

Title

A Resolution authorizing the Mayor, on behalf of the Urban County Government, to execute an Agreement awarding a Class B (Education) Incentive Grant to Fayette County Public Schools, for a Stormwater Quality Project, at a cost not to exceed \$39,900. [Div. of Water Quality, Martin]

Summary

Authorization to approve an FY24 (Class B Education) Storm Water Quality Projects Incentive Grant in the amount of \$39,900.00 for the Fayette County Public Schools (FCPS) to provide stormwater education and outreach, focusing on 12 schools within West Hickman Creek. Funds are Budgeted. (L0213-24) (Martin/Albright)

Budgetary Implications [select]: Yes

Advance Document Review:

Law: Yes, Completed by Evan Thompson 2/22/2024

Risk Management: No

Fully Budgeted [select]: Yes

Account Number: 4052-303204-3373-78112

This Fiscal Year Impact: \$39,900.00

Annual Impact: \$ 39,900.00

Project: WQINCENTIVE_24

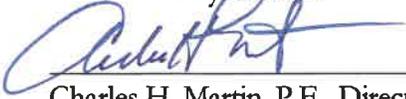
Activity: WQ_GRANT

Budget Reference:

Current Balance: \$1,405,203.97



TO: Mayor Linda Gorton
Urban County Council

FROM: 
Charles H. Martin, P.E., Director
Division of Water Quality

DATE: February 12, 2024

SUBJECT: Recommendation for an FY24 (Class B Education) Stormwater Quality Projects Incentive Grant for The Fayette County Public Schools (FCPS)

Request

The purpose of this memorandum is to request approval of an FY24 (Class B Education) Stormwater Quality Projects Incentive Grant for The Fayette County Public Schools (FCPS) in the amount of \$39,900.00.

Purpose of Request

The key outcome of this grant will focus on the twelve (12) schools within West Hickman Creek. Grant funds will be used to provide stormwater education and outreach; engage students; establish outdoor classroom stations; deliver curriculum and provide professional development training for teachers to integrate lesson plans. The project elements also include lesson plans to allow students to participate in developing site-specific stormwater inventories of their school campus; utilize the collection of field data and observations at school campuses to identify potential future stormwater programs and/or BMPs and present project information to the Hickman Creek Conservancy and coordinate potential collaborations.

Project Cost in FY24 and in Future Budget Years

The grant has been approved for FY 2024 funding by the Water Quality Fees Board in the amount of \$39,900.00.

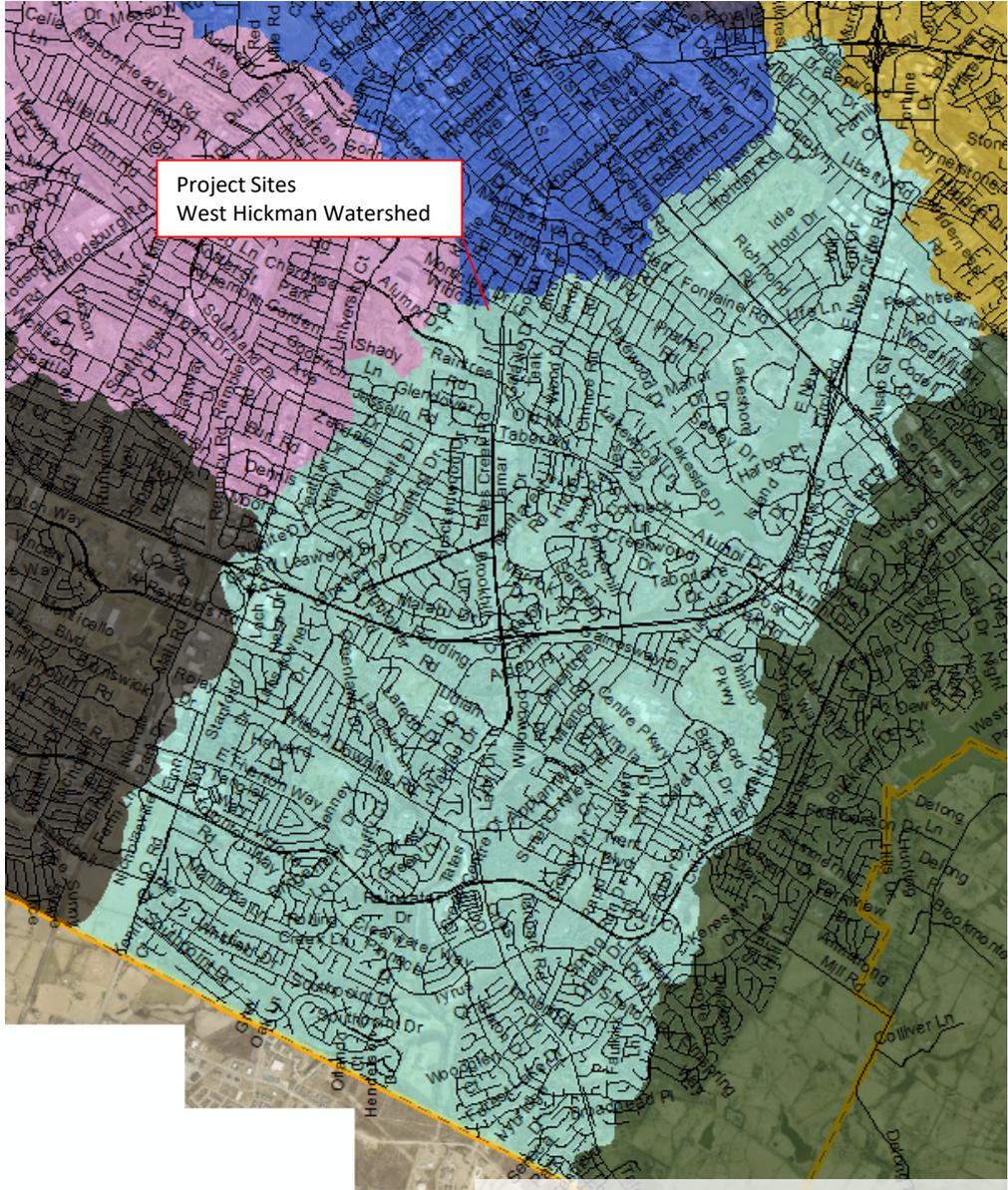
Are Funds Budgeted

Funds are budgeted in: 4052 – 303204 – 3373 – 78112 – WQINCENTIVE_24 – WQ_GRANT

Martin/Albright



Stormwater Quality Projects Incentive Grant Program



GRANT AWARD AGREEMENT

Fiscal Year 2024 Class B Education Incentive Grant Program

THIS AGREEMENT, made and entered into on the _____ day of _____, 20___, by and between the **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT (LFUCG)**, an urban county government of the Commonwealth of Kentucky, pursuant to KRS Chapter 67A (hereinafter "Government"), on behalf of its Division of Water Quality, and **FAYETTE COUNTY PUBLIC SCHOOLS, 1126 RUSSELL CAVE ROAD, LEXINGTON, KY 40505** (hereinafter "Grantee" and "Property Owner").

WITNESSETH:

WHEREAS, the Grantee is a documented fee-payer of the Government's Water Quality Management Fee; and

WHEREAS, the Grantee has proposed a need for the funds requested to develop and implement a proposed project by submitting a valid grant application; and

WHEREAS, the Grantee's grant application has been reviewed and selected for funding by the LFUCG Water Quality Fees Board in accordance with Sections 16-408 and 16-410 of the LFUCG Code of Ordinances; and

WHEREAS, the Government has funds available through the Stormwater Quality Projects Incentive Grant Program to assist qualified Grantee in the development and implementation of projects that meet the goals of the program; and

WHEREAS, the Grantee desires to implement a specific project that meets one or more Incentive Grant program goals to improve water quality, reduce stormwater runoff, and provide public or private education related to stormwater quality; and

WHEREAS, any such improvements funded by the Government shall benefit the public through installed improvements and/or educational programming;

THAT FOR AND IN CONSIDERATION OF THE MUTUAL PROMISES AND COVENANTS HEREIN EXPRESSED, GOVERNMENT AND GRANTEE AGREE AS FOLLOWS:

- (1) Government hereby grants the Grantee the sum of **\$39,900.00** (hereinafter "the Grant"), for use in implementing the project elements as listed in Attachment A which is incorporated herein by reference as if fully set out herein.
- (2) The Grantee shall provide equal opportunity in employment for all qualified persons; prohibit discrimination in employment because of race, color, creed, national origin, sex, age between 40 and 70 or disability; promote equal employment through a positive, continuing program of equal employment; and cause each of its subcontractors to do so. This program of equal employment opportunity shall apply to every aspect of its employment policies and practices.
- (3) The Grantee agrees to match the Grant above the first \$3,000.00, with contributions, labor and other services equal to or greater than 20% of the total project costs.
- (4) The Grantee agrees to use the Grant only for the activities set forth in Attachment A.

- (5) The Grantee agrees to perform periodic reporting as detailed in Paragraph (6) herein below, and produce a Project Final Report within 30 calendar days of the completion of the project elements in digital and hard copy following a standardized format to be provided by the Government summarizing all work completed and detailing the total expenditures, grant reimbursements, and match.
- (6) The Grant to the Grantee shall be disbursed in the following manner:
 - (a) The Grantee shall submit at least once every 3 months, if not specified otherwise in Attachment A, a Request for Funds to the Government's Grant Manager designated by the Director of the Division of Water Quality for the project. Each Request for Funds shall include documentation that the Grantee has already expended the requested funds or shall be in a position to expend properly the requested funds within thirty (30) days of receipt of the funds. The Request for Funds shall include full accounting of these eligible grant-related expenses, as listed in Attachment A. Copies of invoices, purchase orders, or receipts showing vendor, date, amount, and items purchased or ordered shall be provided with the Request for Funds. For project specific personnel costs and stipends, documentation of all billed hours shall include copies of employee timesheets, hourly payroll rate, and description of work performed for hours billed.
 - (b) Each Request for Funds shall be accompanied by a Project Status Report describing the progress of the project to date, including a description and schedule of all activities completed, and hardcopy or electronic copies of materials completed and/or used to date. For educational events, copies of the class rosters or sign-in sheets documenting the number of attendees and evaluation forms shall be provided.
 - (c) Each Request for Funds shall include documentation of all of the Grantee's Match Costs listed in Attachment A and claimed for the prior period. Each Request for Funds shall include a minimum of 10% cost share. For cash expenditures this shall include receipts, showing vendor paid, date, amount, and items purchased. For donated project specific personnel costs and stipends, documentation of all billed hours shall include copies of employee timesheets, hourly payroll rate, and description of work performed for hours donated. For in-kind volunteer hours this shall include sign-in sheets describing the events with signatures, name, address, time in, time out, for each participant (volunteers must be 12 years of age or older). For mileage, this shall include driver name, type of vehicle, location to and from, date, and total miles driven.
 - (d) The Government's Grant Manager shall review each Request for Funds and supporting documents for compliance with the terms of this Agreement and the guidelines of the Stormwater Quality Projects Incentive Grant Program. If the Grant Manager finds the Grantee's Request for Funds is in compliance with the terms of this Agreement and the guidelines of the Stormwater Quality Projects Incentive Grant Program and that the activity progress and management program of the Grantee satisfy the terms of the grant award, he or she shall approve the Request for Funds and forward it to the Division of Accounting for payment.
 - (e) Should the Government's Incentive Grant Program Administrator determine that the Grantee is not in compliance with the terms of this Agreement and/or the Stormwater Quality Projects Incentive Grant Program, including deficiencies in progress and management of the project, the Division of Water Quality shall notify the Mayor's Office and the appropriate district Council person and shall meet with the Grantee on matters that prevent approval of the Request for Funds. Failure to resolve any such matters to the satisfaction of the Government may lead to termination of the Agreement for cause pursuant to Paragraph (11) herein below.
 - (f) The Government shall release payment of the final 10% of the Grant only after receipt and acceptance of the Project Final Report. The Government's Grant Manager shall review the Project Final Report and provide comments to the Grantee within 15 calendar days or, if acceptable, forward approval to the Division of Accounting for payment.

- (7) The Grantee agrees to obtain written approval from the Government's Grant Manager or Program Administrator for any proposed changes to the Project Team or Project Plan as listed in Attachment A prior to implementing the changes. Failure to gain written approval prior to making changes may lead to termination of the Agreement for cause pursuant to Paragraph (11) herein below.
- (8) The term of this Agreement shall be from the date of this Agreement until completion of the project outlined herein. The Grantee agrees to complete the project within 12 months. The Grantee agrees to obtain written approval from the Government's Grant Manager and Program Administrator for any time extensions beyond the schedule. Failure to gain written approval prior to making changes may lead to termination of the Agreement for cause pursuant to Paragraph (11) herein below.
- (9) The Grantee understands that the Grant shown herein in Paragraph (1) is a not-to-exceed amount, and any additional funding needed to complete the project elements listed in Attachment A is the responsibility of the Grantee. If it becomes apparent to the Grantee or the Government that the Grantee will be unable to complete the project either in the manner or for the amount described in this Agreement, then the Grantee must immediately notify the Government's Grant Manager and Program Administrator by providing a complete and detailed written explanation of its inability to comply with the terms of the Agreement. The Grantee must further provide the Government's Grant Manager and Program Administrator with a complete and detailed written explanation of any proposed changes, and the reasons for those changes.
- (10) The Grantee asserts that it is in full compliance with all applicable provisions of the Lexington-Fayette Urban County Government's Code of Ordinances Chapter 5 – Buildings and Building Regulations, Chapter 7 – Finance and Taxation, Chapter 12 – Housing, and Chapter 16 – Sewage, Garbage, Refuse, and Weeds, or in compliance with Kentucky Department of Housing Buildings and Construction rules and requirements as is appropriate for those state institutions, parcels, or buildings which are subject to state regulations and oversight as opposed to local ordinances and regulations. If the Grantee becomes out of compliance with any of these provisions, it will contact the Government's Grant Manager and Program Administrator immediately. Failure to resolve any such matters to the satisfaction of the Government may lead to termination of the Agreement for cause pursuant to Paragraph (11) herein below.
- (11) If, through any cause, the Grantee shall fail to fulfill in timely and proper manner its obligations under this Agreement, or if the Grantee shall violate any of the covenants, agreements, or stipulations of this Agreement, including any attachment thereof, the Government shall thereupon have the right to terminate this Agreement by giving written notice to the Grantee of such termination and specifying the effective date thereof, at least five (5) calendar days before the effective date of such termination. In that event, all finished or unfinished documents, receipts, and reports prepared by the Grantee shall, at the option of the Government, become its property and the Grantee shall immediately repay to the Government all monies received pursuant to this Agreement less any amount representing just and equitable compensation for the Government's share of any satisfactory work completed pursuant to the Agreement.
- (12) This Agreement may not be modified except by written agreement of the Government and the Grantee.
- (13) The Grantee agrees to comply with all applicable local, state, and federal rules, regulations, ordinances, and laws in implementation of the project.
- (14) The Grantee agrees to allow the Government access to perform monitoring of the project elements for compliance with this Agreement.

- (15) In any written or oral communications, the Grantee agrees to identify the Lexington-Fayette Urban County Government as the source of the above referenced funds; the Grantee shall not specifically identify any individual or elected official as being responsible for the funds donated by the Government.
- (16) The Grantee agrees to allow the Government to publicize the Grantee's project through the Government's website and other media.
- (17) The Grantee agrees to reference the Lexington-Fayette Urban County Government's Water Quality Management Fee and the Stormwater Quality Projects Incentive Grant Program as a source of funding for the project on any permanent signage or educational brochures, presentations, websites, etc. produced using grant monies.
- (18) For any project which includes the installation of permanent capital infrastructure listed in Attachment A, the Grantee agrees that the Government is authorized to erect and maintain permanent signage at the location of the permanent capital infrastructure, referencing the Water Quality Management Fee and the Stormwater Quality Projects Incentive Grant Program as a source of funding for such permanent capital infrastructure. In the event that permanent signage is installed by the Government, such signage shall not be removed except upon written approval by the Government. Provided, however, that nothing herein shall require the installation of signage by the Government nor prohibit the Government from removing any signage so installed.
- (19) The Grantee agrees to prepare class rosters or sign-in sheets and provide evaluation forms to the attendees for any educational event funded by the Grant.
- (20) Equipment purchased or stormwater control facilities constructed by the Grantee with the Grant for use on this project will remain in service and maintained by the Grantee or its members for at least the Service Life listed in the Inspection, Operation, and Maintenance Plan developed for each facility, and per the terms listed in Attachment A. Equipment purchased by the Grantee with the Grant for use on this project will remain the property of the Grantee unless otherwise noted in Attachment A. For capital infrastructure, the Grantee further accepts and agrees to enter into the "Agreement to Maintain Stormwater Control Facilities Funded by an LFUCG Class B Stormwater Quality Projects Education Incentive Grant" attached hereto as Attachment B and which is incorporated herein by reference as if fully set out herein.
- (21) The Government assumes no responsibility whatsoever in the Grantee's project activities. Grantee shall, to the extent allowed by law, defend, indemnify, and hold harmless Government from and against all liability, claims, losses, actions, costs, expenses, obligations, fines, and assessments of whatever kind, including defense costs and 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, in whole or in part, from or by Grantee's or its contractor(s), agents, or assigns, negligent acts or misconduct, or errors or omissions, in connection with the activities carried out pursuant to this Agreement, the Grant award, or the Stormwater Quality Projects Incentive Grant Program.
- (22) The Grantee is solely responsible for assuring that adequate and appropriate insurance or other necessary coverage is maintained during the term of this Agreement.
- (23) The Grantee's sole remedy for a breach of this Agreement by the Government shall be limited to the amount of the Grant.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement at Lexington, Fayette County, Kentucky, this the day and year first above written.

LEXINGTON-FAYETTE URBAN COUNTY
GOVERNMENT

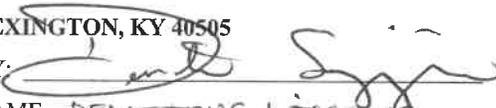
BY: _____
LINDA GORTON, MAYOR

ATTEST:

CLERK, URBAN COUNTY COUNCIL

Grantee Organization: FAYETTE COUNTY PUBLIC SCHOOLS
1126 RUSSELL CAVE ROAD

LEXINGTON, KY 40505

BY: 

NAME: DEMETRIUS LIGGINS

TITLE: SUPERINTENDENT

The foregoing Agreement was subscribed, sworn to and acknowledged before me by DEMETRIUS LIGGINS as the duly authorized representative for and on behalf of Fayette County Public Schools, on this the 31st day of January, 2024.

My commission expires: October 2, 2021


NOTARY PUBLIC

**ATTACHMENT A
to the GRANT AWARD AGREEMENT
between Lexington-Fayette Urban County Government (LFUCG) and
Fayette County Public Schools**

GRANT PROGRAM **2024 Stormwater Quality Projects Incentive Grant Program
Class B Education Projects**

- Funded through the LFUCG Water Quality Management Fee
- Administered by the LFUCG Division of Water Quality in the Department of Environmental Quality & Public Works

PROJECT TEAM AND CONTACT INFORMATION

Grantee Organization: Fayette County Public School
1126 Russell Cave Road
Lexington, KY 40505 

Primary Project Contact & Project Manager: EcoGro
Russ Turpin – ISA Certified Arborist, Environmental Educator & Senior Environmental Specialist
859-797-8174 (phone)
Russ@ecogro.net (email)

Secondary Project Contact & Project Co-Lead: Tresine Logsdon
859-619-6472 (phone)
tresine.logsdon@fayette.kyschools.us (email)

Project Site Location(s) & Property Owner(s): TBD (see Project Plan Elements)
Board of Education of Fayette CO KY (aka FCPS)
1126 Russell Cave Road
Lexington, KY 40505

Project Team Members: Russ Turpin, EcoGro – ISA Certified Arborist, Environmental Educator & Senior Environmental Specialist
Tresine Logsdon, FCPS
Energy and Sustainability Curriculum Coordinator

PROJECT PLAN ELEMENTS

The West Hickman watershed has been identified by the Kentucky Division of Water as a priority watershed for the Kentucky River Basin. This urban waterway has been designated as only partially not supporting primary contact recreation. Stormwater runoff and urban hydrology is a major cause of its degradation.

The scope of this project will focus on the twelve (12) schools within West Hickman Creek.

The general project elements include:

- 1) Provide stormwater education and outreach as a means to support LFUCG's Water Quality Management Program, the MS4 permit, and the West Hickman Watershed Management Plan.
- 2) Engage students with activities and place-based learning about stormwater, West Hickman Creek, and the West Hickman Watershed Management Plan.
- 3) Establish outdoor classroom stations for hands-on learning about stormwater.
- 4) Deliver curriculum and provide professional development training for teachers to integrate lesson plans with on-campus features and outdoor classrooms.
- 5) Conduct lesson plans so that students may participate in developing site-specific stormwater inventories of their school campus.

- 6) Utilize the collection of field data and observations at school campuses to identify potential future stormwater programs and/or BMPs.
- 7) Present project information to the Hickman Creek Conservancy and coordinate potential collaborations.

TARGET AUDIENCE

The scope of this project includes twelve FCPS schools in the West Hickman watershed. It is expected that funds for this grant will directly involve a range of 204 - 360 FCPS students, teachers and staff participating in this project. The project management team of Russ Turpin (EcoGro) and Tresine Logsdon (FCPS) will coordinate with each school to determine which teachers and groups of students may be the best fit with this project. For example, this could be working with one teacher and a typical class of 28 students to integrate a stormwater lesson plan into their regular school period. Another option is to work with an after school club or group of typically 15 students. The schools and anticipated numbers of students and FCPS personnel involved (in parenthesis) are as follows:

Elementary Schools

Breckenridge (15-28 students, 1 teacher, 1 administrator), Millcreek (15-28 students, 1 teacher, 1 administrator), Tates Creek (15-28 students, 1 teacher, 1 administrator), Veterans Park (15-28 students, 1 teacher, 1 administrator), Southern (15-28 students, 1 teacher, 1 administrator), Julius Marks (15-28 students, 1 teacher, 1 administrator), Lansdowne (15-28 students, 1 teacher, 1 administrator), and Glendover (15-28 students, 1 teacher, 1 administrator)

Middle Schools

Tates Creek (15-28 students, 1 teacher, 1 administrator), and Southern (15-28 students, 1 teacher, 1 administrator)

High Schools

Tates Creek (15-28 students, 1 teacher, 1 administrator), and Henry Clay (15-28 students, 1 teacher, 1 administrator)

PROJECT SUSTAINABILITY

- 1) ***Long-term Component for Ongoing Education and Involvement:*** The long-term component for ongoing education and involvement for this grant is Fayette County Public Schools District Sustainability Coordinator who will provide any future support, resources or networking to help existing and/or new teachers, administrators or Sustainability Coordinators implement the activities generated by this project.
- 2) ***Personnel for Long-Term Implementation:*** It is anticipated that the curriculum will be taught by the teachers of Fayette County Public Schools as part of their annual lessons.
- 3) ***Ongoing Sources of Funding for Future Program Implementation beyond the Grant Period:*** Ongoing sources of funding for future program implementation beyond the grant period will come from Go Green + Earn Green funds designed to be reinvested into student-drive sustainability improvement projects. This often takes the form of outdoor learning or classroom supplies that could support the long-term application of this project's activities.

PROJECT SUCCESS MEASURES

Within the scope and timeframe of this project, success will be measured by:

1. The number and hours of student participation.
2. The number and/or hours of teacher training and professional development.
3. The number of outdoor classroom learning stations installed.

REPORTING REQUIREMENTS

In addition to the reporting requirements outlined in the Grant Award Agreement, the following special items are noted for this project:

- 1) All handouts and educational materials shall be provided to the LFUCG Grant Manager in hard copy and electronic (PDF) format with Requests for Funds & Project Status Reports and/or the Project Final Report.
- 2) Photographs and records documenting events, programs, training, workshops, et cetera shall be provided to the LFUCG Grant Manager in electronic format with the Project Final Report.
- 3) Sign-in sheets for Professional Development events shall be maintained and provided to the LFUCG Grant Manager upon request. Participation attendance counts shall be maintained and provided to the LFUCG Grant Manager, with reporting for all other events.
- 4) Materials associated with printed teacher lesson plans and best practices for implementation within their classrooms from the field trips or other facilitated educational programs shall be provided to the LFUCG Grant Manager in hard copy and electronic (PDF) format with Requests for Funds & Project Status Reports and / or the Project Final Report.
- 5) Copies of program evaluations collected in association with the facilitated educational programs, lesson plans, outreach programs, public participation, and field trips shall be provided to the LFUCG Grant Manager in hard copy or electronic (PDF) format with the Project Final Report.
- 6) All evaluations, especially those listed under the Project Success Measures, shall be provided to the LFUCG Grant Manager with Requests for Funds & Project Status Reports and/or the Project Final Report.
- 7) All attachments to Requests for Funds & Project Status Reports shall reference the associated line from Table 2 – Eligible Expenses.

ADDITIONAL STIPULATIONS

In addition to the reporting requirements outlined in the Grant Award Agreement, the following special items are noted for this project:

1. Applicant shall obtain written approval/agreement prior to work being done on properties not owned by the Applicant.
2. Applicant shall provide detailed lesson plans as to how the students may participate in developing site-specific stormwater inventories to address water quality impairments on their school campus.
4. Both electronic and hard copies of all materials are to be provided to LFUCG, for its use, as part of the grant deliverables.
5. Applicant shall provide pictures of the outdoor classroom installations as part of the final report.
6. Applicant to provide student/teacher evaluations to help measure the program's success as part of the final report.
7. Organization proposes a larger cost share beyond that required by the grant program. Budget shall reflect the 20.9% cost share offered in the application (approximately \$9,742.00).

EQUIPMENT

Any equipment purchased with the Grant shall remain the property of the Organization.

PERMANENT FACILITIES / INFRASTRUCTURE

Ownership: The proposed facilities are expected to reside on private property in Fayette County and be owned by the Property Owner.

Future Inspection and Maintenance: The Organization (and/or Property Owner) agrees to sign and abide by the terms of the *Agreement to Maintain Stormwater Control Facilities Funded by an LFUCG Class B Stormwater Quality Projects Education Incentive Grant* included as Attachment B to the Grant Award Agreement. The property owner is solely responsible for future maintenance of the grant-funded improvements as long as the improvements are in service.

Monitoring by LFUCG: The Organization agrees to allow LFUCG staff future access to any property on which work is performed to monitor the installed features for compliance with this Agreement during the grant period. After the grant period has ended, the Organization (and/or Property Owner) agrees to allow LFUCG access for monitoring per the terms of the Maintenance Agreement. Water quality sampling via grab samples or other methods may be employed by LFUCG staff as part of its Kentucky Pollutant Discharge Elimination System (KPDES) MS4 Phase 1 Permit.

GRANT PERIOD & PROJECT SCHEDULE

The grant period starts on the date of execution by the Mayor and extends for the time period as listed in the Grant Award Agreement. Any time extensions must be approved in writing by the LFUCG Grant Manager. The project schedule shown in Table 1 is preliminary. Proposed changes to the project which alter this schedule significantly shall be discussed with the LFUCG Grant Manager prior to implementation.

TABLE 1 – PRELIMINARY PROJECT SCHEDULE

| Activity | Schedule |
|--|------------------------------|
| Approval Grant Award Agreement and Notice to Proceed (NTP) | NTP (anticipated April 2024) |
| Notify school administration within grant scope, identify primary project contact at each school, review deliverables and schedule project timeline. | May 2024 |
| Coordinate with administrators and teachers, curriculum development, initial site visits and assessments | September 2024 |
| First student engagement and curriculum delivery | October- November 2024 |
| Teacher professional development and training | December 2024 |
| Second student engagement | January - February 2025 |
| Installation of outdoor classroom elements, summary presentation to Hickman Creek Conservancy, Final Report | March 2025 |
| Final Report | 30 Days after Grant Closes |

PROJECT BUDGET – GRANT ELIGIBLE EXPENSES & ORGANIZATION COST SHARE

Table 2 lists the eligible expenses for this project. Only properly invoiced items shall be reimbursed with grant monies or counted toward the Organization’s cost share.

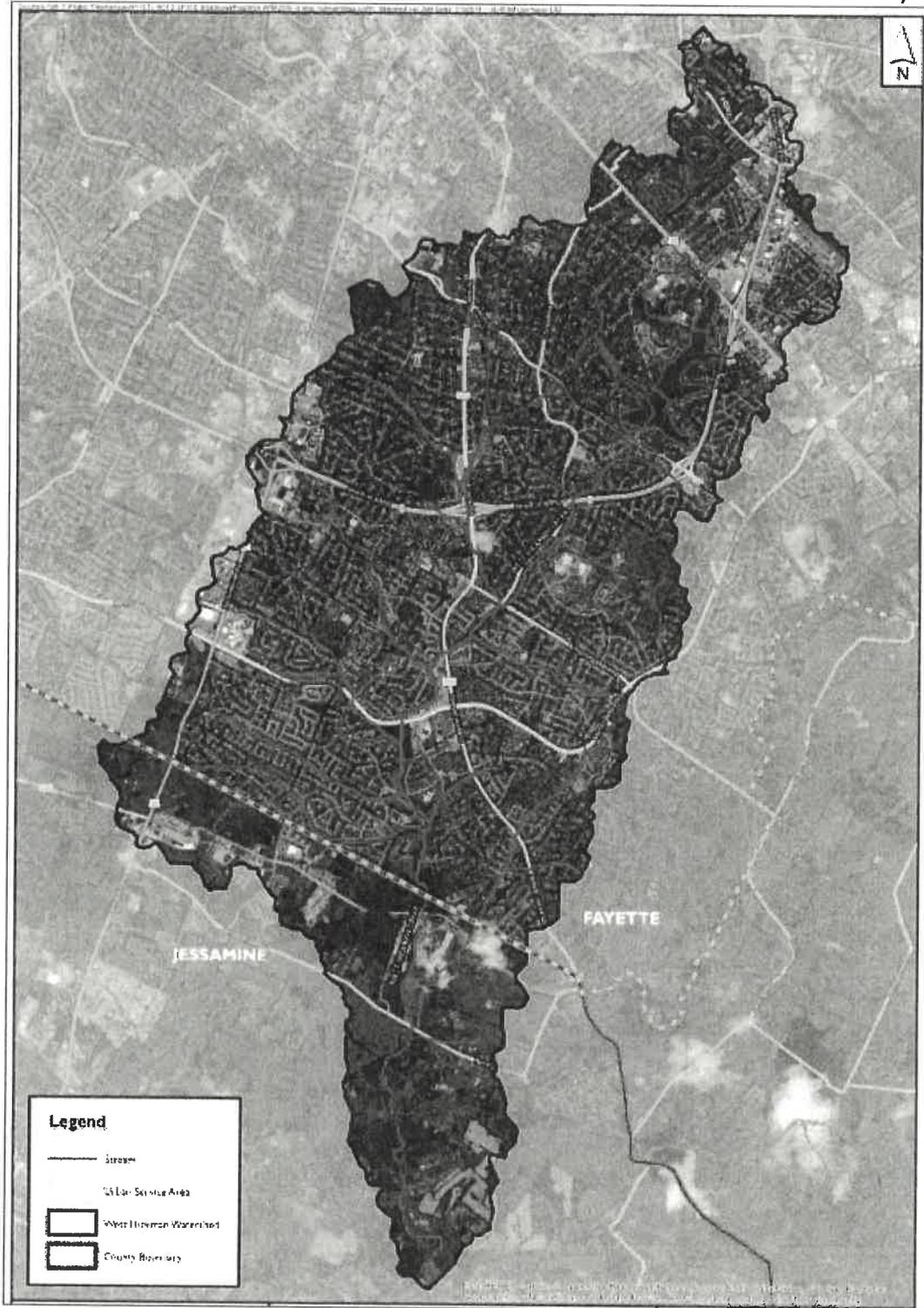
Any work performed on this project prior to grant award by the Urban County Council and Notice to Proceed from the LFUCG Grant Administrator is NOT an eligible expense and shall not be reimbursed or counted toward the cost share.

The Grant is a not-to-exceed amount, and any cost overruns are the responsibility of the Grantee. Donated professional service hours shall be valued at the Median Hourly Wage for the service provided as published by the U.S. Department of Labor, Bureau of Labor Statistics, State Occupational Employment and Wage Estimates for Kentucky (current website: http://www.bls.gov/oes/current/oes_ky.htm).

TABLE 2 - ELIGIBLE EXPENSES

| | Activities | Type of Expense | Participants | Item | Unit Price | Quantity | Funded by Organization | Funded by Grant | Total Expense |
|----|---|----------------------------------|----------------------|---|------------------------------|----------|---------------------------|---------------------|---------------------|
| 1 | Project Element: Curriculum Development & Delivery for School Campus Stormwater Inventories and Outdoor Classrooms | | | | | | | | |
| 2 | Project/Grant Management | Contracted Professional Services | Russ Turpin / EcoGro | Project / Grant Management | \$ 80.00 per hour | 35 | \$ - | \$ 2,800.00 | \$ 2,800.00 |
| 3 | FCPS Coordination | Personnel Hours | Tresine Logsdon | Coordination with FCPS Programs, Curriculum and Personnel | \$ 26.50 per hour | 72 | \$ 1,908.00 | \$ - | \$ 1,908.00 |
| 4 | School meetings, scheduling & planning student engagement events | Contracted Professional Services | Russ Turpin / EcoGro | Campus Program Coordination with FCPS Personnel | \$ 80.00 per hour | 24 | \$ - | \$ 1,920.00 | \$ 1,920.00 |
| 5 | School meetings, scheduling & planning student engagement events | Personnel Hours | FCPS Personnel | Campus Program Coordination | \$ 26.50 per hour | 36 | \$ 954.00 | \$ - | \$ 954.00 |
| 6 | Teacher Professional Development and Training | Contracted Professional Services | Russ Turpin / EcoGro | Curriculum Development & Training | \$ 80.00 per hour | 120 | \$ - | \$ 9,600.00 | \$ 9,600.00 |
| 7 | Stipend for Teacher Professional Development and Training | Personnel Hours | FCPS Personnel | Curriculum Development & Training | \$ 26.50 per hour | 120 | \$ - | \$ 3,180.00 | \$ 3,180.00 |
| 8 | Campus Stormwater Inventories (Elementary) | Contracted Professional Services | Russ Turpin / EcoGro | Program Delivery, Student Engagement & Campus Stormwater Inventories | \$ 80.00 per hour | 105 | \$ 2,000.00 | \$ 6,400.00 | \$ 8,400.00 |
| 9 | Campus Stormwater Inventories (Middle) | Contracted Professional Services | Russ Turpin / EcoGro | Program Delivery, Student Engagement & Campus Stormwater Inventories | \$ 80.00 per hour | 42.5 | \$ 1,000.00 | \$ 2,400.00 | \$ 3,400.00 |
| 10 | Campus Stormwater Inventories (High) | Contracted Professional Services | Russ Turpin / EcoGro | Program Delivery, Student Engagement & Campus Stormwater Inventories | \$ 80.00 per hour | 62.5 | \$ 1,000.00 | \$ 4,000.00 | \$ 5,000.00 |
| 11 | Campus Stormwater Outdoor Classroom | Contracted Professional Services | Russ Turpin / EcoGro | Materials for Campus Green Infrastructure Outdoor Classroom (e.g. trees, mulch, soil decompaction, infiltration ports, rain gauges, etc.) | \$800.00 per school | 12 | \$ - | \$ 9,600.00 | \$ 9,600.00 |
| 12 | Campus Stormwater Outdoor Classroom | Donated Professional Services | Russ Turpin / EcoGro | Delivery and/or Installation of Materials for Campus Green Infrastructure Outdoor Classroom | \$ 80.00 per hour | 36 | \$ 2,880.00 | \$ - | \$ 2,880.00 |
| 13 | | | | | TOTAL PROJECT BUDGET: | | \$ 9,742.00 | \$ 39,900.00 | \$ 49,642.00 |
| 14 | | | | | | | ORGANIZATION SHARE | GRANT SHARE | |
| 15 | | | | | | | 20.9% | 79.113% | |
| 16 | | | | | | | | | |

FIGURE 1 – PROJECT AREA (12 FCPS SCHOOL CAMPUSES WITHIN THE WEST HICKMAN WATERSHED)



RESOLUTION NO. _____ – 2024

A RESOLUTION AUTHORIZING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE AN AGREEMENT AWARDING A CLASS B (EDUCATION) INCENTIVE GRANT TO FAYETTE COUNTY PUBLIC SCHOOLS, FOR A STORMWATER QUALITY PROJECT, AT A COST NOT TO EXCEED \$39,900.00.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized to execute an Agreement, which is attached hereto and incorporated herein by reference, awarding a Class B (Education) Incentive Grant to Fayette County Public Schools, for a stormwater quality project.

Section 2 – That an amount, not to exceed \$39,900.00, be and hereby is approved for payment to Fayette County Public Schools, from account # 4052-303204-3373-78112, pursuant to the terms of the Agreement.

Section 3 – That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL
0213-24:EPT_4857-1245-7898, v. 1

RESOLUTION NO. 112 – 2024

A RESOLUTION AUTHORIZING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE AN AGREEMENT AWARDING A CLASS B (EDUCATION) INCENTIVE GRANT TO FAYETTE COUNTY PUBLIC SCHOOLS, FOR A STORMWATER QUALITY PROJECT, AT A COST NOT TO EXCEED \$39,900.00.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized to execute an Agreement, which is attached hereto and incorporated herein by reference, awarding a Class B (Education) Incentive Grant to Fayette County Public Schools, for a stormwater quality project.

Section 2 – That an amount, not to exceed \$39,900.00, be and hereby is approved for payment to Fayette County Public Schools, from account # 4052-303204-3373-78112, pursuant to the terms of the Agreement.

Section 3 – That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: March 21, 2024

Linda Gorton

MAYOR

ATTEST:

Allan

CLERK OF URBAN COUNTY COUNCIL

0213-24:EPT_4857-1245-7898, v. 1

GRANT AWARD AGREEMENT

Fiscal Year 2024 Class B Education Incentive Grant Program

THIS AGREEMENT, made and entered into on the 26th day of March, 2024 by and between the **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT (LFUCG)**, an urban county government of the Commonwealth of Kentucky, pursuant to KRS Chapter 67A (hereinafter "Government"), on behalf of its Division of Water Quality, and **FAYETTE COUNTY PUBLIC SCHOOLS, 1126 RUSSELL CAVE ROAD, LEXINGTON, KY 40505** (hereinafter "Grantee" and "Property Owner").

WITNESSETH:

WHEREAS, the Grantee is a documented fee-payer of the Government's Water Quality Management Fee; and

WHEREAS, the Grantee has proposed a need for the funds requested to develop and implement a proposed project by submitting a valid grant application; and

WHEREAS, the Grantee's grant application has been reviewed and selected for funding by the LFUCG Water Quality Fees Board in accordance with Sections 16-408 and 16-410 of the LFUCG Code of Ordinances; and

WHEREAS, the Government has funds available through the Stormwater Quality Projects Incentive Grant Program to assist qualified Grantee in the development and implementation of projects that meet the goals of the program; and

WHEREAS, the Grantee desires to implement a specific project that meets one or more Incentive Grant program goals to improve water quality, reduce stormwater runoff, and provide public or private education related to stormwater quality; and

WHEREAS, any such improvements funded by the Government shall benefit the public through installed improvements and/or educational programming;

THAT FOR AND IN CONSIDERATION OF THE MUTUAL PROMISES AND COVENANTS HEREIN EXPRESSED, GOVERNMENT AND GRANTEE AGREE AS FOLLOWS:

- (1) Government hereby grants the Grantee the sum of **\$39,900.00** (hereinafter "the Grant"), for use in implementing the project elements as listed in Attachment A which is incorporated herein by reference as if fully set out herein.
- (2) The Grantee shall provide equal opportunity in employment for all qualified persons; prohibit discrimination in employment because of race, color, creed, national origin, sex, age between 40 and 70 or disability; promote equal employment through a positive, continuing program of equal employment; and cause each of its subcontractors to do so. This program of equal employment opportunity shall apply to every aspect of its employment policies and practices.
- (3) The Grantee agrees to match the Grant above the first \$3,000.00, with contributions, labor and other services equal to or greater than 20% of the total project costs.
- (4) The Grantee agrees to use the Grant only for the activities set forth in Attachment A.

- (5) The Grantee agrees to perform periodic reporting as detailed in Paragraph (6) herein below, and produce a Project Final Report within 30 calendar days of the completion of the project elements in digital and hard copy following a standardized format to be provided by the Government summarizing all work completed and detailing the total expenditures, grant reimbursements, and match.
- (6) The Grant to the Grantee shall be disbursed in the following manner:
- (a) The Grantee shall submit at least once every 3 months, if not specified otherwise in Attachment A, a Request for Funds to the Government's Grant Manager designated by the Director of the Division of Water Quality for the project. Each Request for Funds shall include documentation that the Grantee has already expended the requested funds or shall be in a position to expend properly the requested funds within thirty (30) days of receipt of the funds. The Request for Funds shall include full accounting of these eligible grant-related expenses, as listed in Attachment A. Copies of invoices, purchase orders, or receipts showing vendor, date, amount, and items purchased or ordered shall be provided with the Request for Funds. For project specific personnel costs and stipends, documentation of all billed hours shall include copies of employee timesheets, hourly payroll rate, and description of work performed for hours billed.
 - (b) Each Request for Funds shall be accompanied by a Project Status Report describing the progress of the project to date, including a description and schedule of all activities completed, and hardcopy or electronic copies of materials completed and/or used to date. For educational events, copies of the class rosters or sign-in sheets documenting the number of attendees and evaluation forms shall be provided.
 - (c) Each Request for Funds shall include documentation of all of the Grantee's Match Costs listed in Attachment A and claimed for the prior period. Each Request for Funds shall include a minimum of 10% cost share. For cash expenditures this shall include receipts, showing vendor paid, date, amount, and items purchased. For donated project specific personnel costs and stipends, documentation of all billed hours shall include copies of employee timesheets, hourly payroll rate, and description of work performed for hours donated. For in-kind volunteer hours this shall include sign-in sheets describing the events with signatures, name, address, time in, time out, for each participant (volunteers must be 12 years of age or older). For mileage, this shall include driver name, type of vehicle, location to and from, date, and total miles driven.
 - (d) The Government's Grant Manager shall review each Request for Funds and supporting documents for compliance with the terms of this Agreement and the guidelines of the Stormwater Quality Projects Incentive Grant Program. If the Grant Manager finds the Grantee's Request for Funds is in compliance with the terms of this Agreement and the guidelines of the Stormwater Quality Projects Incentive Grant Program and that the activity progress and management program of the Grantee satisfy the terms of the grant award, he or she shall approve the Request for Funds and forward it to the Division of Accounting for payment.
 - (e) Should the Government's Incentive Grant Program Administrator determine that the Grantee is not in compliance with the terms of this Agreement and/or the Stormwater Quality Projects Incentive Grant Program, including deficiencies in progress and management of the project, the Division of Water Quality shall notify the Mayor's Office and the appropriate district Council person and shall meet with the Grantee on matters that prevent approval of the Request for Funds. Failure to resolve any such matters to the satisfaction of the Government may lead to termination of the Agreement for cause pursuant to Paragraph (11) herein below.
 - (f) The Government shall release payment of the final 10% of the Grant only after receipt and acceptance of the Project Final Report. The Government's Grant Manager shall review the Project Final Report and provide comments to the Grantee within 15 calendar days or, if acceptable, forward approval to the Division of Accounting for payment.

- (7) The Grantee agrees to obtain written approval from the Government's Grant Manager or Program Administrator for any proposed changes to the Project Team or Project Plan as listed in Attachment A prior to implementing the changes. Failure to gain written approval prior to making changes may lead to termination of the Agreement for cause pursuant to Paragraph (11) herein below.
- (8) The term of this Agreement shall be from the date of this Agreement until completion of the project outlined herein. The Grantee agrees to complete the project within **12** months. The Grantee agrees to obtain written approval from the Government's Grant Manager and Program Administrator for any time extensions beyond the schedule. Failure to gain written approval prior to making changes may lead to termination of the Agreement for cause pursuant to Paragraph (11) herein below.
- (9) The Grantee understands that the Grant shown herein in Paragraph (1) is a not-to-exceed amount, and any additional funding needed to complete the project elements listed in Attachment A is the responsibility of the Grantee. If it becomes apparent to the Grantee or the Government that the Grantee will be unable to complete the project either in the manner or for the amount described in this Agreement, then the Grantee must immediately notify the Government's Grant Manager and Program Administrator by providing a complete and detailed written explanation of its inability to comply with the terms of the Agreement. The Grantee must further provide the Government's Grant Manager and Program Administrator with a complete and detailed written explanation of any proposed changes, and the reasons for those changes.
- (10) The Grantee asserts that it is in full compliance with all applicable provisions of the Lexington-Fayette Urban County Government's Code of Ordinances Chapter 5 – Buildings and Building Regulations, Chapter 7 – Finance and Taxation, Chapter 12 – Housing, and Chapter 16 – Sewage, Garbage, Refuse, and Weeds, or in compliance with Kentucky Department of Housing Buildings and Construction rules and requirements as is appropriate for those state institutions, parcels, or buildings which are subject to state regulations and oversight as opposed to local ordinances and regulations. If the Grantee becomes out of compliance with any of these provisions, it will contact the Government's Grant Manager and Program Administrator immediately. Failure to resolve any such matters to the satisfaction of the Government may lead to termination of the Agreement for cause pursuant to Paragraph (11) herein below.
- (11) If, through any cause, the Grantee shall fail to fulfill in timely and proper manner its obligations under this Agreement, or if the Grantee shall violate any of the covenants, agreements, or stipulations of this Agreement, including any attachment thereof, the Government shall thereupon have the right to terminate this Agreement by giving written notice to the Grantee of such termination and specifying the effective date thereof, at least five (5) calendar days before the effective date of such termination. In that event, all finished or unfinished documents, receipts, and reports prepared by the Grantee shall, at the option of the Government, become its property and the Grantee shall immediately repay to the Government all monies received pursuant to this Agreement less any amount representing just and equitable compensation for the Government's share of any satisfactory work completed pursuant to the Agreement.
- (12) This Agreement may not be modified except by written agreement of the Government and the Grantee.
- (13) The Grantee agrees to comply with all applicable local, state, and federal rules, regulations, ordinances, and laws in implementation of the project.
- (14) The Grantee agrees to allow the Government access to perform monitoring of the project elements for compliance with this Agreement.

- (15) In any written or oral communications, the Grantee agrees to identify the Lexington-Fayette Urban County Government as the source of the above referenced funds; the Grantee shall not specifically identify any individual or elected official as being responsible for the funds donated by the Government.
- (16) The Grantee agrees to allow the Government to publicize the Grantee's project through the Government's website and other media.
- (17) The Grantee agrees to reference the Lexington-Fayette Urban County Government's Water Quality Management Fee and the Stormwater Quality Projects Incentive Grant Program as a source of funding for the project on any permanent signage or educational brochures, presentations, websites, etc. produced using grant monies.
- (18) For any project which includes the installation of permanent capital infrastructure listed in Attachment A, the Grantee agrees that the Government is authorized to erect and maintain permanent signage at the location of the permanent capital infrastructure, referencing the Water Quality Management Fee and the Stormwater Quality Projects Incentive Grant Program as a source of funding for such permanent capital infrastructure. In the event that permanent signage is installed by the Government, such signage shall not be removed except upon written approval by the Government. Provided, however, that nothing herein shall require the installation of signage by the Government nor prohibit the Government from removing any signage so installed.
- (19) The Grantee agrees to prepare class rosters or sign-in sheets and provide evaluation forms to the attendees for any educational event funded by the Grant.
- (20) Equipment purchased or stormwater control facilities constructed by the Grantee with the Grant for use on this project will remain in service and maintained by the Grantee or its members for at least the Service Life listed in the Inspection, Operation, and Maintenance Plan developed for each facility, and per the terms listed in Attachment A. Equipment purchased by the Grantee with the Grant for use on this project will remain the property of the Grantee unless otherwise noted in Attachment A. For capital infrastructure, the Grantee further accepts and agrees to enter into the "Agreement to Maintain Stormwater Control Facilities Funded by an LFUCG Class B Stormwater Quality Projects Education Incentive Grant" attached hereto as Attachment B and which is incorporated herein by reference as if fully set out herein.
- (21) The Government assumes no responsibility whatsoever in the Grantee's project activities. Grantee shall, to the extent allowed by law, defend, indemnify, and hold harmless Government from and against all liability, claims, losses, actions, costs, expenses, obligations, fines, and assessments of whatever kind, including defense costs and 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, in whole or in part, from or by Grantee's or its contractor(s), agents, or assigns, negligent acts or misconduct, or errors or omissions, in connection with the activities carried out pursuant to this Agreement, the Grant award, or the Stormwater Quality Projects Incentive Grant Program.
- (22) The Grantee is solely responsible for assuring that adequate and appropriate insurance or other necessary coverage is maintained during the term of this Agreement.
- (23) The Grantee's sole remedy for a breach of this Agreement by the Government shall be limited to the amount of the Grant.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement at Lexington, Fayette County, Kentucky, this the day and year first above written.

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

BY: Linda Gorton
LINDA GORTON, MAYOR

ATTEST:

Mackenzie Stock
Deputy CLERK, URBAN COUNTY COUNCIL

Grantee Organization: FAYETTE COUNTY PUBLIC SCHOOLS
1126 RUSSELL CAVE ROAD

LEXINGTON, KY 40505
BY: Demetrius Liggins
NAME: DEMETRUS LIGGINS
TITLE: SUPERINTENDENT

The foregoing Agreement was subscribed, sworn to and acknowledged before me by DEMETRUS LIGGINS as the duly authorized representative for and on behalf of Fayette County Public Schools, on this the 31st day of January, 20 24.
My commission expires: October 2, 2027

Andria Hulps Jackson
NOTARY PUBLIC

ATTACHMENT A
to the GRANT AWARD AGREEMENT
between Lexington-Fayette Urban County Government (LFUCG) and
Fayette County Public Schools

GRANT PROGRAM

**2024 Stormwater Quality Projects Incentive Grant Program
Class B Education Projects**

- Funded through the LFUCG Water Quality Management Fee
- Administered by the LFUCG Division of Water Quality in the Department of Environmental Quality & Public Works

PROJECT TEAM AND CONTACT INFORMATION

Grantee Organization: Fayette County Public School
1126 Russell Cave Road
Lexington, KY 40505



**Primary Project Contact
& Project Manager:** EcoGro
Russ Turpin – ISA Certified Arborist, Environmental Educator & Senior
Environmental Specialist
859-797-8174 (phone)
Russ@ecogro.net (email)

**Secondary Project Contact
& Project Co-Lead:** Tresine Logsdon
859-619-6472 (phone)
tresine.logsdon@fayette.kyschools.us (email)

**Project Site Location(s)
& Property Owner(s):** TBD (see Project Plan Elements)
Board of Education of Fayette CO KY (aka FCPS)
1126 Russell Cave Road
Lexington, KY 40505

Project Team Members: Russ Turpin, EcoGro – ISA Certified Arborist, Environmental Educator
& Senior Environmental Specialist
Tresine Logsdon, FCPS
Energy and Sustainability Curriculum Coordinator

PROJECT PLAN ELEMENTS

The West Hickman watershed has been identified by the Kentucky Division of Water as a priority watershed for the Kentucky River Basin. This urban waterway has been designated as only partially not supporting primary contact recreation. Stormwater runoff and urban hydrology is a major cause of its degradation.

The scope of this project will focus on the twelve (12) schools within West Hickman Creek.

The general project elements include:

- 1) Provide stormwater education and outreach as a means to support LFUCG's Water Quality Management Program, the MS4 permit, and the West Hickman Watershed Management Plan.
- 2) Engage students with activities and place-based learning about stormwater, West Hickman Creek, and the West Hickman Watershed Management Plan.
- 3) Establish outdoor classroom stations for hands-on learning about stormwater.
- 4) Deliver curriculum and provide professional development training for teachers to integrate lesson plans with on-campus features and outdoor classrooms.
- 5) Conduct lesson plans so that students may participate in developing site-specific stormwater inventories of their school campus.

- 6) Utilize the collection of field data and observations at school campuses to identify potential future stormwater programs and/or BMPs.
- 7) Present project information to the Hickman Creek Conservancy and coordinate potential collaborations.

TARGET AUDIENCE

The scope of this project includes twelve FCPS schools in the West Hickman watershed. It is expected that funds for this grant will directly involve a range of 204 - 360 FCPS students, teachers and staff participating in this project. The project management team of Russ Turpin (EcoGro) and Tresine Logsdon (FCPS) will coordinate with each school to determine which teachers and groups of students may be the best fit with this project. For example, this could be working with one teacher and a typical class of 28 students to integrate a stormwater lesson plan into their regular school period. Another option is to work with an after school club or group of typically 15 students. The schools and anticipated numbers of students and FCPS personnel involved (in parenthesis) are as follows:

Elementary Schools

Breckenridge (15-28 students, 1 teacher, 1 administrator), Millcreek (15-28 students, 1 teacher, 1 administrator), Tates Creek (15-28 students, 1 teacher, 1 administrator), Veterans Park (15-28 students, 1 teacher, 1 administrator), Southern (15-28 students, 1 teacher, 1 administrator), Julius Marks (15-28 students, 1 teacher, 1 administrator), Lansdowne (15-28 students, 1 teacher, 1 administrator), and Glendover (15-28 students, 1 teacher, 1 administrator)

Middle Schools

Tates Creek (15-28 students, 1 teacher, 1 administrator), and Southern (15-28 students, 1 teacher, 1 administrator)

High Schools

Tates Creek (15-28 students, 1 teacher, 1 administrator), and Henry Clay (15-28 students, 1 teacher, 1 administrator)

PROJECT SUSTAINABILITY

- 1) ***Long-term Component for Ongoing Education and Involvement:*** The long-term component for ongoing education and involvement for this grant is Fayette County Public Schools District Sustainability Coordinator who will provide any future support, resources or networking to help existing and/or new teachers, administrators or Sustainability Coordinators implement the activities generated by this project.
- 2) ***Personnel for Long-Term Implementation:*** It is anticipated that the curriculum will be taught by the teachers of Fayette County Public Schools as part of their annual lessons.
- 3) ***Ongoing Sources of Funding for Future Program Implementation beyond the Grant Period:*** Ongoing sources of funding for future program implementation beyond the grant period will come from Go Green + Earn Green funds designed to be reinvested into student-drive sustainability improvement projects. This often takes the form of outdoor learning or classroom supplies that could support the long-term application of this project's activities.

PROJECT SUCCESS MEASURES

Within the scope and timeframe of this project, success will be measured by:

1. The number and hours of student participation.
2. The number and/or hours of teacher training and professional development.
3. The number of outdoor classroom learning stations installed.

REPORTING REQUIREMENTS

In addition to the reporting requirements outlined in the Grant Award Agreement, the following special items are noted for this project:

- 1) All handouts and educational materials shall be provided to the LFUCG Grant Manager in hard copy and electronic (PDF) format with Requests for Funds & Project Status Reports and/or the Project Final Report.
- 2) Photographs and records documenting events, programs, training, workshops, et cetera shall be provided to the LFUCG Grant Manager in electronic format with the Project Final Report.
- 3) Sign-in sheets for Professional Development events shall be maintained and provided to the LFUCG Grant Manager upon request. Participation attendance counts shall be maintained and provided to the LFUCG Grant Manager, with reporting for all other events.
- 4) Materials associated with printed teacher lesson plans and best practices for implementation within their classrooms from the field trips or other facilitated educational programs shall be provided to the LFUCG Grant Manager in hard copy and electronic (PDF) format with Requests for Funds & Project Status Reports and / or the Project Final Report.
- 5) Copies of program evaluations collected in association with the facilitated educational programs, lesson plans, outreach programs, public participation, and field trips shall be provided to the LFUCG Grant Manager in hard copy or electronic (PDF) format with the Project Final Report.
- 6) All evaluations, especially those listed under the Project Success Measures, shall be provided to the LFUCG Grant Manager with Requests for Funds & Project Status Reports and/or the Project Final Report.
- 7) All attachments to Requests for Funds & Project Status Reports shall reference the associated line from Table 2 – Eligible Expenses.

ADDITIONAL STIPULATIONS

In addition to the reporting requirements outlined in the Grant Award Agreement, the following special items are noted for this project:

1. Applicant shall obtain written approval/agreement prior to work being done on properties not owned by the Applicant.
2. Applicant shall provide detailed lesson plans as to how the students may participate in developing site-specific stormwater inventories to address water quality impairments on their school campus.
4. Both electronic and hard copies of all materials are to be provided to LFUCG, for its use, as part of the grant deliverables.
5. Applicant shall provide pictures of the outdoor classroom installations as part of the final report.
6. Applicant to provide student/teacher evaluations to help measure the program's success as part of the final report.
7. Organization proposes a larger cost share beyond that required by the grant program. Budget shall reflect the 20.9% cost share offered in the application (approximately \$9,742.00).

EQUIPMENT

Any equipment purchased with the Grant shall remain the property of the Organization.

PERMANENT FACILITIES / INFRASTRUCTURE

Ownership: The proposed facilities are expected to reside on private property in Fayette County and be owned by the Property Owner.

Future Inspection and Maintenance: The Organization (and/or Property Owner) agrees to sign and abide by the terms of the *Agreement to Maintain Stormwater Control Facilities Funded by an LFUCG Class B Stormwater Quality Projects Education Incentive Grant* included as Attachment B to the Grant Award Agreement. The property owner is solely responsible for future maintenance of the grant-funded improvements as long as the improvements are in service.

Monitoring by LFUCG: The Organization agrees to allow LFUCG staff future access to any property on which work is performed to monitor the installed features for compliance with this Agreement during the grant period. After the grant period has ended, the Organization (and/or Property Owner) agrees to allow LFUCG access for monitoring per the terms of the Maintenance Agreement. Water quality sampling via grab samples or other methods may be employed by LFUCG staff as part of its Kentucky Pollutant Discharge Elimination System (KPDES) MS4 Phase 1 Permit.

GRANT PERIOD & PROJECT SCHEDULE

The grant period starts on the date of execution by the Mayor and extends for the time period as listed in the Grant Award Agreement. Any time extensions must be approved in writing by the LFUCG Grant Manager. The project schedule shown in Table 1 is preliminary. Proposed changes to the project which alter this schedule significantly shall be discussed with the LFUCG Grant Manager prior to implementation.

TABLE 1 – PRELIMINARY PROJECT SCHEDULE

| Activity | Schedule |
|--|------------------------------|
| Approval Grant Award Agreement and Notice to Proceed (NTP) | NTP (anticipated April 2024) |
| Notify school administration within grant scope, identify primary project contact at each school, review deliverables and schedule project timeline. | May 2024 |
| Coordinate with administrators and teachers, curriculum development, initial site visits and assessments | September 2024 |
| First student engagement and curriculum delivery | October- November 2024 |
| Teacher professional development and training | December 2024 |
| Second student engagement | January - February 2025 |
| Installation of outdoor classroom elements, summary presentation to Hickman Creek Conservancy, Final Report | March 2025 |
| Final Report | 30 Days after Grant Closes |

PROJECT BUDGET – GRANT ELIGIBLE EXPENSES & ORGANIZATION COST SHARE

Table 2 lists the eligible expenses for this project. Only properly invoiced items shall be reimbursed with grant monies or counted toward the Organization’s cost share.

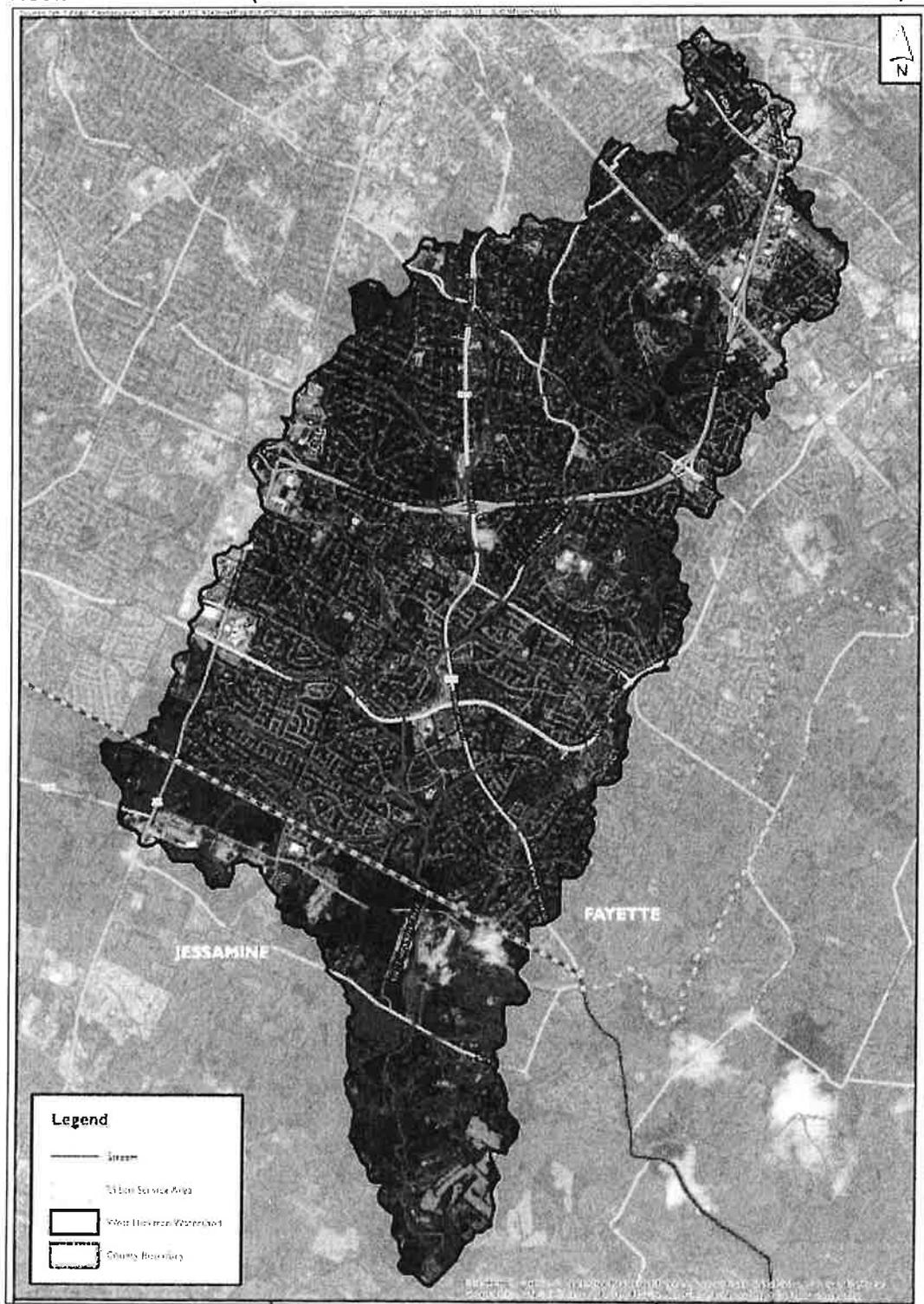
Any work performed on this project prior to grant award by the Urban County Council and Notice to Proceed from the LFUCG Grant Administrator is NOT an eligible expense and shall not be reimbursed or counted toward the cost share.

The Grant is a not-to-exceed amount, and any cost overruns are the responsibility of the Grantee. Donated professional service hours shall be valued at the Median Hourly Wage for the service provided as published by the U.S. Department of Labor, Bureau of Labor Statistics, State Occupational Employment and Wage Estimates for Kentucky (current website: http://www.bls.gov/oes/current/oes_ky.htm).

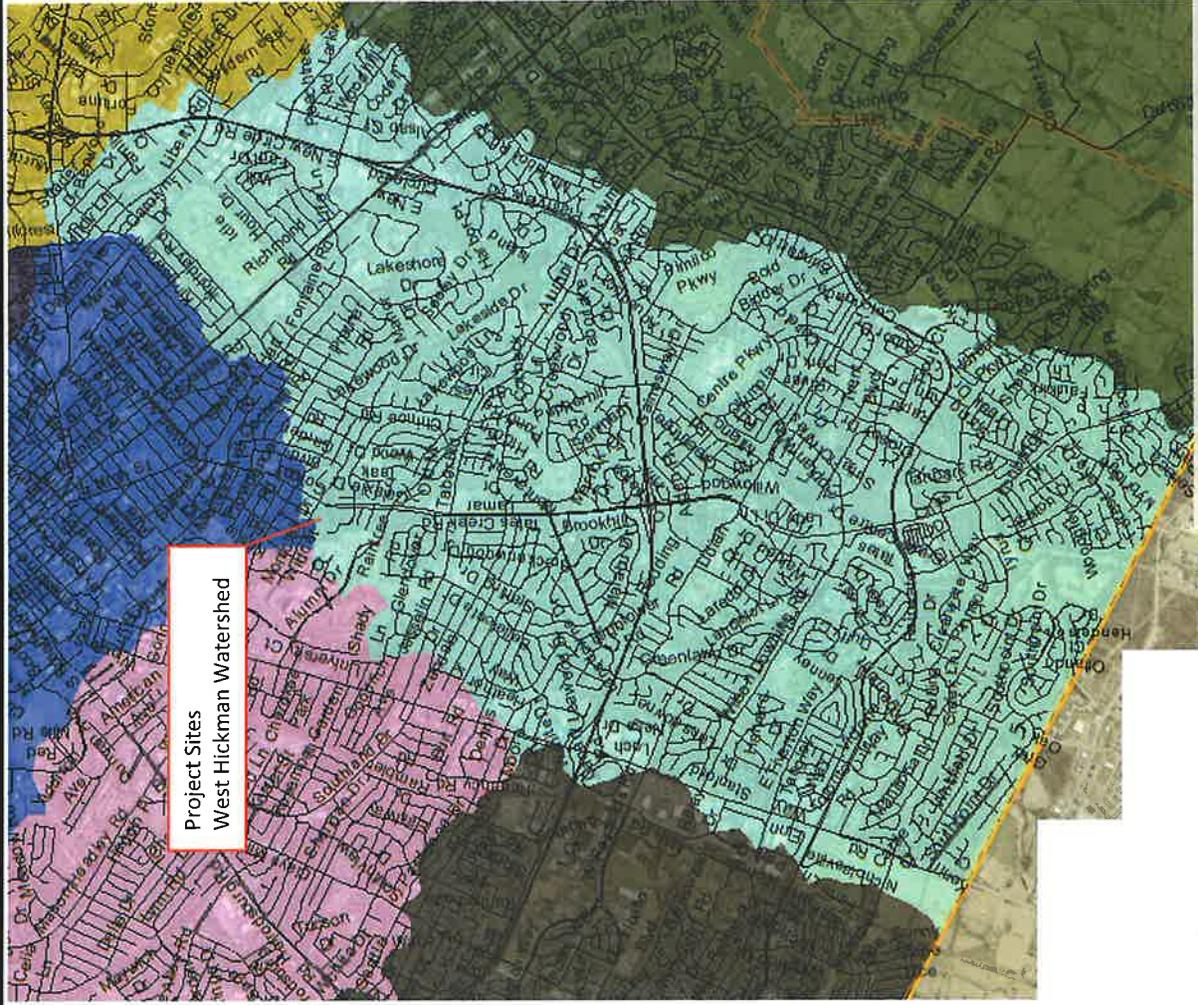
TABLE 2 - ELIGIBLE EXPENSES

| | Activities | Type of Expense | Participants | Item | Unit Price | Quantity | Funded by Organization | Funded by Grant | Total Expense | |
|----|---|----------------------------------|----------------------|---|---------------------|----------|------------------------|---------------------|---------------------|---------------------|
| 1 | Project Element: Curriculum Development & Delivery for School Campus Stormwater Inventories and Outdoor Classrooms | | | | | | | | | |
| 2 | Project/Grant Management | Contracted Professional Services | Russ Turpin / EcoGro | Project / Grant Management | \$ 80.00 per hour | 35 | \$ - | \$ 2,800.00 | \$ 2,800.00 | |
| 3 | FCPS Coordination | Personnel Hours | Tresine Logsdon | Coordination with FCPS Programs, Curriculum and Personnel | \$ 26.50 per hour | 72 | \$ 1,908.00 | \$ - | \$ 1,908.00 | |
| 4 | School meetings, scheduling & planning student engagement events | Contracted Professional Services | Russ Turpin / EcoGro | Campus Program Coordination with FCPS Personnel | \$ 80.00 per hour | 24 | \$ - | \$ 1,920.00 | \$ 1,920.00 | |
| 5 | School meetings, scheduling & planning student engagement events | Personnel Hours | FCPS Personnel | Campus Program Coordination | \$ 26.50 per hour | 36 | \$ 954.00 | \$ - | \$ 954.00 | |
| 6 | Teacher Professional Development and Training | Contracted Professional Services | Russ Turpin / EcoGro | Curriculum Development & Training | \$ 80.00 per hour | 120 | \$ - | \$ 9,600.00 | \$ 9,600.00 | |
| 7 | Stipend for Teacher Professional Development and Training | Personnel Hours | FCPS Personnel | Curriculum Development & Training | \$ 26.50 per hour | 120 | \$ - | \$ 3,180.00 | \$ 3,180.00 | |
| 8 | Campus Stormwater Inventories (Elementary) | Contracted Professional Services | Russ Turpin / EcoGro | Program Delivery, Student Engagement & Campus Stormwater Inventories | \$ 80.00 per hour | 105 | \$ 2,000.00 | \$ 6,400.00 | \$ 8,400.00 | |
| 9 | Campus Stormwater Inventories (Middle) | Contracted Professional Services | Russ Turpin / EcoGro | Program Delivery, Student Engagement & Campus Stormwater Inventories | \$ 80.00 per hour | 42.5 | \$ 1,000.00 | \$ 2,400.00 | \$ 3,400.00 | |
| 10 | Campus Stormwater Inventories (High) | Contracted Professional Services | Russ Turpin / EcoGro | Program Delivery, Student Engagement & Campus Stormwater Inventories | \$ 80.00 per hour | 62.5 | \$ 1,000.00 | \$ 4,000.00 | \$ 5,000.00 | |
| 11 | Campus Stormwater Outdoor Classroom | Contracted Professional Services | Russ Turpin / EcoGro | Materials for Campus Green Infrastructure Outdoor Classroom (e.g. trees, mulch, soil decompaction, infiltration ports, rain gauges, etc.) | \$800.00 per school | 12 | \$ - | \$ 9,600.00 | \$ 9,600.00 | |
| 12 | Campus Stormwater Outdoor Classroom | Donated Professional Services | Russ Turpin / EcoGro | Delivery and/or Installation of Materials for Campus Green Infrastructure Outdoor Classroom | \$ 80.00 per hour | 36 | \$ 2,880.00 | \$ - | \$ 2,880.00 | |
| 13 | TOTAL PROJECT BUDGET: | | | | | | | \$ 9,742.00 | \$ 39,900.00 | \$ 49,642.00 |
| 14 | | | | | | | | ORGANIZATION | GRANT | |
| 15 | | | | | | | | SHARE | SHARE | |
| 16 | | | | | | | | 20.9% | 79.113% | |
| | MATCH % AFTER FIRST \$3,000 = 20.89% OK | | | | | | | | | |
| | MUST BE > 20% | | | | | | | | | |

FIGURE 1 – PROJECT AREA (12 FCPS SCHOOL CAMPUSES WITHIN THE WEST HICKMAN WATERSHED)



Stormwater Quality Projects Incentive Grant Program



FAYETTE COUNTY PUBLIC SCHOOLS



Lexington-Fayette Urban County Government

Master

200 E. Main St
Lexington, KY 40507

File Number: 0214-24

File ID: 0214-24

Type: Resolution

Status: Approved

Version: 1

Contract #: 069-2024

In Control: Urban County Council

File Created: 02/22/2024

File Name: Partin Lex Acquisition, LLC.

Final Action: 03/21/2024

Title: A Resolution authorizing the Mayor, on behalf of the Urban County Government, to execute an Agreement awarding a Class B (Infrastructure) Incentive Grant to Partin Lex Acquisitions, LLC, for a Stormwater Quality Project, at a cost not to exceed \$186,983.63. [Div. of Water Quality, Martin]

Notes: In office 2/26/2024. MS

Stamped and filed in the CCO. REturned to Denice 3/26/2024. MS

Sponsors:

Enactment Date: 03/21/2024

Attachments: Blue Sheet, FY 2024 Dan Parin, Partin Lex Acquisitions, LLC (2514 Regency Road)_Class B Infra - Council map, FY24 Class BI Partin Lex Acquisitions, LLC GAA ATTACHMENT A_Grantee Signed, 0214-24-WQ Incentive Grant with Partin Lex Acquisitions 4878-1098-6154 v.1.docx, R-113-2024, Contract #069-2024

Enactment Number: R-113-2024

Deed #:

Hearing Date:

Drafter:

Effective Date:

History of Legislative File

| Ver- sion: | Acting Body: | Date: | Action: | Sent To: | Due Date: | Return Date: | Result: |
|---------------|-----------------------------------|------------|---------------------------------|----------------------|------------|-----------------|---------|
| 1 | Urban County Council Work Session | 03/05/2024 | Approved and Referred to Docket | Urban County Council | 03/07/2024 | | Pass |
| 1 | Urban County Council | 03/07/2024 | Received First Reading | Urban County Council | 03/21/2024 | | |
| 1 | Urban County Council | 03/21/2024 | Approved | | | | Pass |

Text of Legislative File 0214-24

Title

A Resolution authorizing the Mayor, on behalf of the Urban County Government, to execute an Agreement awarding a Class B (Infrastructure) Incentive Grant to Partin Lex Acquisitions, LLC, for a Stormwater Quality Project, at a cost not to exceed \$186,983.63.

[Div. of Water Quality, Martin]

Summary

Authorization to approve an FY24 (Class B Infrastructure) Storm Water Quality Projects Incentive Grant in the amount of \$186,983.63 for Partin Lex Acquisition, LLC c/o The Gibson Company to improve water quality by mitigating the impact of heavy rainfall events. Funds are Budgeted. (L0214-24) (Martin/Albright)

Budgetary Implications [select]: Yes

Advance Document Review:

Law: Yes, Completed by Evan Thompson 2/22/24

Risk Management: NO

Fully Budgeted [select]: Yes

Account Number: 4052 303204 3373 78112

This Fiscal Year Impact: \$186,983.63

Annual Impact: \$

Project: WQINCENTIVE_24

Activity: WQ_GRANT

Budget Reference:

Current Balance: \$1,405,203.97



TO: Mayor Linda Gorton
Urban County Council

FROM: 
Charles H. Martin, P.E., Director
Division of Water Quality

DATE: February 8, 2024

SUBJECT: Recommendation for an FY24 (Class B Infrastructure) Stormwater Quality Projects Incentive Grant for Partin Lex Acquisition, LLC c/o The Gibson Company

Request

The purpose of this memorandum is to request approval of an FY24 (Class B Infrastructure) Stormwater Quality Projects Incentive Grant for Partin Lex Acquisition, LLC c/o The Gibson Company in the amount of \$186,983.63.

Purpose of Request

The goal of this project is to improve water quality by mitigating the impact of heavy rainfall events. The project elements include retrofit of an existing parking lot with pervious pavers (approx. 5,852 ft²) along with an underground detention/infiltration basin, as needed, and tree canopy (approx. 2,471 ft²). The project will also incorporate stormwater education in the form of permanent signage and a WaterSmart Workforce Program campaign (series of interactive workshops, seminars, and hands-on training sessions conducted by experts in the field of water quality management).

Project Cost in FY24 and in Future Budget Years

The grant has been approved for FY 2024 funding by the Water Quality Fees Board in the amount of \$186,983.63 with a cost share of \$47,792.53.

Are Funds Budgeted

Funds are budgeted in: 4052 – 303204 – 3373 – 78112 – WQINCENTIVE_24 – WQ_GRANT

Martin/Albright



Stormwater Quality Projects Incentive Grant Program



Dan Parin, Partin Lex Acquisitions, LLC

GRANT AWARD AGREEMENT

Fiscal Year 2024 Class B Infrastructure Incentive Grant Program

THIS AGREEMENT, made and entered into on the _____ day of _____, 20___, by and between the **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT (LFUCG)**, an urban county government of the Commonwealth of Kentucky, pursuant to KRS Chapter 67A (hereinafter "Government"), on behalf of its Division of Water Quality, and **PARTIN LEX ACQUISITIONS, LLC, C/O THE GIBSON COMPANY, 1050 MONARCH STREET, SUITE 200, LEXINGTON, KENTUCKY 40513** (hereinafter "Grantee" & "Property Owner").

WITNESSETH:

WHEREAS, the Grantee is a documented fee-payer of the Government's Water Quality Management Fee; and

WHEREAS, the Grantee has proposed a need for the funds requested to develop and implement a proposed project by submitting a valid grant application; and

WHEREAS, the Grantee's grant application has been reviewed and selected for funding by the Water Quality Fees Board in accordance with Sections 16-408 and 16-410 of the Government's Code of Ordinances; and

WHEREAS, the Government has funds available through the Stormwater Quality Projects Incentive Grant Program to assist the qualified Grantee in the development and implementation of projects that meet the goals of the program; and

WHEREAS, the Grantee desires to implement a specific project that meets one or more Incentive Grant program goals to improve water quality, reduce stormwater runoff, and provide public or private education related to stormwater quality; and

WHEREAS, any such improvements funded by the Government shall benefit the public through installed improvements and/or educational programming;

THAT FOR AND IN CONSIDERATION OF THE MUTUAL PROMISES AND COVENANTS HEREIN EXPRESSED, GOVERNMENT AND GRANTEE AGREE AS FOLLOWS:

- (1) The Government hereby grants the Grantee the sum of **\$186,983.63** (hereinafter "the Grant"), for use in implementing the project elements as listed in Attachment A which is incorporated herein by reference as if fully set out herein. The Grantee agrees to cost share the Grant with contributions, labor, and/or other services equal to or greater than 20% of the total project cost.
- (2) The Grantee agrees to use the Grant only for the activities set forth in Attachment A which includes installation of stormwater control infrastructure at the following site location(s): **2514 REGENCY ROAD, LEXINGTON, KENTUCKY 40503** currently owned by the Property Owner.
- (3) The Grantee agrees to meet all design standards specified in the Government's Engineering Manuals or as further described in Attachment A in the design of all Grant-funded improvements. This includes all associated activities including but not limited to erosion and sediment control, traffic control, utility relocations, seeding, etc. The Grantee further

agrees to design the facilities in such a way as not to preclude the potential for future water quality / quantity monitoring by LFUCG.

- (4) The Grantee agrees to comply with all applicable local, state, and federal rules, regulations, ordinances, and laws in implementation of the project.
- (5) The Grantee agrees to obtain all necessary local, state, and federal permits, encroachments, permissions, approvals, etc. in a timely manner and prior to start of construction.
- (6) The Grantee agrees to perform periodic reporting as detailed in Paragraph (7) herein below, and produce a Project Final Report within thirty (30) calendar days of the completion of the project elements in digital and hard copy following a standardized format to be provided by the Government summarizing all work completed and detailing the total grant expenditures. Other deliverables include the following:
 - (a) At the end of the Feasibility Phase (if applicable), the following five deliverables, sealed by a professional licensed to perform such work in accordance with Kentucky Revised Statutes (KRS), shall be provided:
 - Feasibility report evaluating the use of the potential BMP(s) on the proposed site;
 - Conceptual design concept;
 - Detailed cost estimate for design;
 - Conceptual cost estimate for construction;
 - Letter certifying all BMPs proposed for design as viable and feasible for the specific site and application.
 - (b) At the end of the Design Phase or prior to the start of the Construction Phase, the following six deliverables, sealed by a professional licensed to perform such work in accordance with Kentucky Revised Statutes (KRS), shall be provided:
 - Set of all final design calculations;
 - Set of final construction plans, including traffic control, erosion and sediment control, grading plans, etc.;
 - Set of final specifications and bidding documents (if applicable);
 - Final detailed engineer's construction cost estimate including quantities;
 - All required permit submittals and approvals;
 - Inspection, Operation, and Maintenance Plan laying out the plan for regular inspection and maintenance of each proposed facility for design performance and safety in accordance with manufacturer's specifications and the Government's Stormwater Manual.
 - (c) At the end of the Construction Phase, the following five deliverables shall be provided:
 - Summary of final construction costs and quantities;
 - Copies of all federal, state, and local permits obtained for the project;
 - Record Drawing showing all field changes, and signed and sealed by the professional of record certifying the project as shown meets all original design intent;
 - Photo documentation of site conditions and improvements before, during, and after construction;
 - Signed *Agreement to Maintain Stormwater Control Facilities Funded by an LFUCG Class B Infrastructure Stormwater Quality Projects Incentive Grant*.
- (7) The Grant to the Grantee shall be disbursed in the following manner:
 - (a) The Grantee shall submit at least once every three (3) months, if not specified otherwise in Attachment A, a Request for Funds to the Government's Grant Manager designated by the Director of the Division of Water Quality for the project. Each Request for Funds shall include documentation that the Grantee has already expended the requested funds or shall be in a position to expend properly the requested funds within thirty (30) days of receipt of the funds. The Request for Funds shall include full accounting of these eligible grant-related expenses, as listed in Attachment A. Copies of invoices, purchase orders, or receipts showing vendor, date, amount, and items pur-

chased or ordered shall be provided with the Request for Funds. For project specific personnel costs and stipends, documentation of all billed hours shall include copies of employee timesheets, hourly payroll rate, and description of work performed for hours billed. Each Request for Funds shall include a minimum of 10% cost share.

- (b) Each Request for Funds shall be accompanied by a Project Status Report describing the progress of the project to date, including a description and schedule of all activities completed, and hardcopy or electronic copies of materials (*e.g.*, calculations, preliminary plans, etc.) completed to date. For educational events (if applicable), copies of the class rosters or sign-in sheets documenting the number of attendees shall be provided.
 - (c) The Government's Grant Manager shall review each Request for Funds and supporting documents for compliance with the terms of this Agreement and the guidelines of the Stormwater Quality Projects Incentive Grant Program. If the Grant Manager finds the Grantee's Request for Funds is in compliance with the terms of this Agreement and the guidelines of the Stormwater Quality Projects Incentive Grant Program and that the activity progress and management program of the Grantee satisfy the terms of the grant award, he or she shall approve the Request for Funds within 15 calendar days of receipt and then forward it to the Division of Accounting for payment.
 - (d) The Government shall release payment of the final 10% of the Grant only after receipt and acceptance of the Project Final Report. The Government's Grant Manager shall review the Project Final Report and provide comments to the Grantee or, if acceptable, forward approval within 15 calendar days of receipt to the Division of Accounting for payment.
 - (e) Should the Government's Incentive Grant Program Administrator determine that the Grantee is not in compliance with the terms of this Agreement and/or the Stormwater Quality Projects Incentive Grant Program, including deficiencies in progress and management of the project, the Division of Water Quality shall notify the Grantee, the Mayor's Office, and the appropriate district Council person, and shall meet with the Grantee on matters that prevent approval of the Request for Funds. Failure to resolve any such matters to the satisfaction of the Government may lead to termination of the Agreement for cause pursuant to Paragraph (21) herein below.
- (8) The Grantee agrees to obtain written approval from the Government's Grant Manager and Program Administrator for any proposed changes to the Project Team or Project Plan as listed in Attachment A prior to implementing the changes. Failure to gain written approval prior to making changes may lead to termination of the Agreement for cause pursuant to Paragraph (21) herein below.
 - (9) The Grantee agrees to complete the project phase(s) (*i.e.*, Design and/or Construction) outlined herein within **24** months from the date of this Agreement. The Grantee shall obtain written approval from the Government's Grant Manager and Program Administrator for any time extensions beyond the schedule. Failure to obtain written approval prior to making changes may lead to termination of the Agreement for cause pursuant to Paragraph (21) herein below.
 - (10) This Agreement may not be modified except by written agreement of the Government and the Grantee.
 - (11) The Grantee understands that the Grant amount shown herein in Paragraph (1) is a not-to-exceed amount, and any additional funding needed to complete the project elements listed in Attachment A is the responsibility of the Grantee. If it becomes apparent to the Grantee or the Government that the Grantee will be unable to complete the project either in the manner or for the amount described in this Agreement, then the Grantee must immediately notify the Government's Grant Manager and Program Administrator by providing a complete and detailed written explanation of its inability to comply with the terms of the Agreement. The Grantee must further provide the Government's Grant Manager and

Program Administrator with a complete and detailed written explanation of any proposed changes, and the reasons for those changes.

- (12) The Grantee asserts that it is in full compliance with all applicable provisions of the Lexington-Fayette Urban County Government's Code of Ordinances Chapter 5 – Buildings and Building Regulations, Chapter 7 – Finance and Taxation, Chapter 12 – Housing, and Chapter 16 – Sewage, Garbage, Refuse, and Weeds, or in compliance with Kentucky Department of Housing Buildings and Construction rules and requirements as is appropriate for those state institutions, parcels, or buildings which are subject to state regulations and oversight as opposed to local ordinances and regulations. If the Grantee becomes out of compliance with any of these provisions, it will notify the Government's Grant Manager and Program Administrator immediately. Failure to notify the Government and resolve any such matters to the satisfaction of the Government may lead to termination of the Agreement for cause pursuant to Paragraph (21) herein below.
- (13) The Grantee agrees to allow the Government access to its property to perform monitoring of the project elements for compliance with this Agreement, as provided in the "*Agreement to Maintain Stormwater Control Facilities Funded by an LFUCG Class B Infrastructure Stormwater Quality Projects Incentive Grant*" (Attachment B).
- (14) In any advertisement of the project funded by the Grant, whether written or oral communications, the Grantee agrees to identify the Lexington-Fayette Urban County Government as the source of the above referenced funds; the Grantee shall not specifically identify any individual or elected official as being responsible for the funds donated by the Government.
- (15) The Grantee agrees to allow the Government to publicize the Grantee's project through the Government's website and other media.
- (16) The Grantee agrees to reference the Lexington-Fayette Urban County Government's Water Quality Management Fee and the Stormwater Quality Projects Incentive Grant Program as a source of funding for the project on any permanent signage or educational brochures, presentations, websites, etc. produced using grant monies.
- (17) The Grantee agrees that the Government is authorized to erect and maintain permanent signage at the location of any permanent capital infrastructure, referencing the Water Quality Management Fee and the Stormwater Quality Projects Incentive Grant Program as a source of funding for such permanent capital infrastructure. In the event that permanent signage is installed by the Government, such signage shall not be removed except upon written approval by the Government. Provided, however, that nothing herein shall require the installation of signage by the Government nor prohibit the Government from removing any signage so installed.
- (18) The Grantee and Property Owner agree that all stormwater control facilities, including equipment and infrastructure, constructed and funded by a Construction Grant through the Stormwater Quality Projects Incentive Grant Program shall remain in service and maintained by the Grantee or its representatives following the Inspection, Operation, and Maintenance Plan developed for each facility referenced in (6b) above. The Property Owner further accepts and agrees to enter into the "*Agreement to Maintain Stormwater Control Facilities Funded by an LFUCG Class B Infrastructure Stormwater Quality Projects Incentive Grant*" attached hereto as Attachment B and which is incorporated herein by reference as if fully set out herein.
- (19) The Grantee and Property Owner agree that all stormwater control facilities, including equipment and infrastructure, constructed and funded by this Grant shall remain the property of the current Property Owner, or his successors and assigns, unless otherwise specified in Attachments A and B.
- (20) The Grantee and Property Owner understand that if any of the Grant-funded facilities not owned by the Government are removed from service, the property owner of record at the time of removal shall be liable to reimburse the Government for 100% of the Remaining

Value of the facility or portion removed, based upon the depreciation schedule provided in Attachment B.

- (21) If, through any cause, the Grantee or Property Owner shall fail to fulfill in timely and proper manner its obligations under this Agreement, or if the Grantee or Property Owner shall violate any of the covenants, agreements, or stipulations of this Agreement, the Government shall provide the Grantee or Property Owner thirty (30) calendar days to address the deficiency or violation. If the Grantee or Property Owner does not, after the thirty (30) days, come into compliance with this Agreement, the Government shall thereupon have the right to terminate this Agreement by giving written notice to the Grantee of such termination and specifying the effective date thereof, at least five (5) calendar days before the effective date of such termination. In that event, all finished or unfinished documents, receipts, and reports prepared by the Grantee shall, at the option of the Government, become its property and the Grantee shall immediately repay to the Government all monies received pursuant to this Agreement less any amount representing just and equitable compensation for the Government's share of any satisfactory work completed pursuant to the Agreement; provided, however, that for any project involving the construction of capital infrastructure, other than feasibility only projects, the Government's share of any satisfactory work completed shall not include feasibility or design costs.
- (22) The Grantee shall provide equal opportunity in employment as required by applicable federal, state, and local laws, regulations, and ordinances.
- (23) The Grantee is solely responsible for assuring that adequate and appropriate insurance or other necessary coverage is maintained during the term of this Agreement.
- (24) The Grantee's sole remedy for a breach of this Agreement by the Government shall be limited to the amount of the Grant.
- (25) The Government assumes no responsibility whatsoever in the Grantee's project activities. Grantee and Property Owner shall, to the extent allowed by law, defend, indemnify, and hold harmless Government from and against all liability, claims, losses, actions, costs, expenses, obligations, fines, and assessments of whatever kind, including defense costs and 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, in whole or in part, from or by Grantee's or Property Owner's or its contractor(s), agents, or assigns, negligent acts or misconduct, or errors or omissions, in connection with the activities carried out pursuant to this Agreement, the Grant award, or the Stormwater Quality Projects Incentive Grant Program.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement at Lexington, Fayette County, Kentucky, as of the day and year first above written.

**LEXINGTON-FAYETTE URBAN COUNTY
GOVERNMENT**

BY: _____
LINDA GORTON, MAYOR

ATTEST:

CLERK, URBAN COUNTY COUNCIL

**GRANTEE ORGANIZATION &
PROPERTY OWNER:**

**PARTIN LEX ACQUISITIONS, LLC
C/O THE GIBSON COMPANY
1050 MONARCH STREET, SUITE 200
LEXINGTON, KENTUCKY 40513**

BY: Dan F. Partin

NAME: Dan F. Partin

TITLE: Mayor Member

The foregoing Agreement was subscribed, sworn to and acknowledged before me by Dan F. Partin, as the duly authorized representative for and on behalf of Partin Lex Acquisitions, LLC, on this the 31st day of January, 2024.

My commission expires: October 12, 2024 Jessica L Davis
KY NP 16680

ATTACHMENT A
to the GRANT AWARD AGREEMENT
between Lexington-Fayette Urban County Government (LFUCG) and
Dan Partin, Partin Lex Acquisitions, LLC

GRANT PROGRAM

**2024 Stormwater Quality Projects Incentive Grant Program
Class B Infrastructure Projects**

- Funded through the LFUCG Water Quality Management Fee
- Administered by the LFUCG Division of Water Quality in the Department of Environmental Quality & Public Works

PROJECT TEAM AND CONTACT INFORMATION

Grantee Organization: Dan F. Partin, Partin Lex Acquisitions, LLC
c/o The Gibson Company
1050 Monarch Street, Suite 200
Lexington, KY 40513
KY Organization #0857466



Primary Project Contact: Dan F. Partin, P.S.C
859-263-0198 (phone)
dan@danpartinlaw.com (email)

Project Manager: Daniel Rehner, P.E.
859-519-8977 (phone)
drehner@tbredfirm.com (email)

Project Site Location(s): 2514 Regency Road
PVA #14448026

Property Owner(s): Partin LEX Acquisition, LLC
c/o The Gibson Company
1050 Monarch Street, Suite 200
Lexington, KY 40513

Design Engineering Firm: Colt Engineering, Inc. d/b/a Thoroughbred Engineering
239 North Broadway
Lexington, KY 40507
859-519-8977 (phone)
Daniel Rehner, P.E. (Engineer of Record)
drehner@tbredfirm.com (email)

PROJECT PLAN ELEMENTS

All improvements shall be located on the property at 2514 Regency Road, Lexington, KY 40503, Parcel #14448026 (Figure 1 – Map of Project Area) owned by Partin LEX Acquisition, LLC c/o The Gibson Company. No other property or right-of-way shall be disturbed without the written permission from the property owners.

Project Elements

- A. Permeable Pavers - The design and construction of this project include retrofitting an existing parking lot with permeable pavers (approximately 5,852 square feet) to address flooding concerns and enhance runoff quality in the surrounding area. By implementing a pervious surface, we aim to mitigate the impact of heavy rainfall events, improve stormwater drainage, and promote better water quality.
- B. Tree canopy – This project will replace impervious area with approximately 2,471 ft² tree canopy.
- C. Stormwater Education and Outreach – A permanent signage will be installed in front of the building to introduce stormwater best management concepts to the public and provide

employee training and awareness through the WaterSmart Workforce Program Development (a series of interactive workshops, seminars, and hands-on training sessions conducted by experts in the field of water quality management).

1) STORMWATER CONTROL FACILITIES DESIGN:

No grant-funded activities shall occur until the LFUCG Grant Manager gives Notice to Proceed, in writing, for the start of the design phase of the project.

Stormwater control facilities shall be designed for the specified site location. The proposed facilities are listed above and are further described in the Organization’s grant application. Alterations to these elements can only be made in consultation with the LFUCG Grant Manager. Significant alteration of these elements may require approval by the LFUCG Water Quality Fees Board.

Design plans shall be provided to the LFUCG Grant Manager for review prior to starting the construction phase of the project.

Design tasks will include meetings, survey, engineering design, permit submittals to the applicable local, state, and federal agencies, bidding, and construction.

Design shall also account for the following stipulations:

- Submittals for stream permits (401 / 404) shall be completed as early as possible in the design process to inform the Design Engineer of alternatives that can be permitted without triggering state or federal mitigation requirements (if required).
- The Design Engineer shall meet with the LFUCG Grant Manager for at least three meetings during the design phase:
 - i) Prior to the start of design
 - ii) At the completion of approximately 50% design
 - iii) At the 95% completion of the design documents

The Design Engineer shall provide a copy of the preliminary plans, calculations, and specifications (if available) representing 50% and 95% completion. These submittals shall be used to assist LFUCG staff in understanding the project components and allow for feedback to ensure the Government’s funds shall be utilized for sustainable and effective infrastructure.

- All existing utilities shall be located and shown on the design plans.
- All existing easements, adjacent property lines, and rights-of-way shall be shown on the design plans. If any work is proposed to occur within any easement (*i.e.*, utility, etc.), whether public or private, the Organization shall obtain all necessary encroachment agreements from the authorized agencies prior to the start of construction.
- Any work proposed within or on public right-of-way, easement, or LFUCG-owned property will require one or more permits or approvals. This includes installation permits for connection into any existing curb inlet or stormwater manhole located within public right-of-way. Please contact the appropriate staff:

Parks and Recreation, Chris Cooperrider – ccooperrider@lexingtonky.gov
Environmental Services (greenways), Demetria Mehlhorn – dkimball@lexingtonky.gov
Environmental Services (street trees), Heather Wilson – hwilson@lexingtonky.gov
Engineering (right-of-way), John Cassel – jcassel@lexingtonky.gov
Engineering (new development), Hillard Newman – hnewman@lexingtonky.gov
Sanitary Sewers, Chris Dent – cdent@lexingtonky.gov
Stormwater, Mark Sanders– msanders@lexingtonky.gov

- All federal, state, and local permits, approvals, and agreements required for construction of the proposed improvements shall be obtained prior to the start of construction. If the timing

of construction is such that a permit may expire before construction can be completed, then the Organization shall coordinate with the LFUCG Grant Manager and permitting agencies on appropriate timing for permit submittals. The Organization is fully responsible to determine which approvals, permits, and encroachments are required for the project.

- Erosion and sediment control and traffic control measures shall be designed to meet all standards and follow guidelines in the LFUCG Engineering Manuals, and shall be shown on the design plans with appropriate notes.

2) ***STORMWATER CONTROL FACILITIES CONSTRUCTION:***

No grant-funded construction activities shall occur until the LFUCG Grant Manager gives Notice to Proceed, in writing, for the start of the construction phase of the project.

Facilities shall be constructed per the design plans and specifications. Construction of the proposed facilities shall also meet the following stipulations:

- **No construction shall occur until written approval from all affected property owners is provided to the LFUCG Grant Manager.**
- Construction shall not begin until all permits, approvals, agreements, etc. are obtained and copies provided to the LFUCG Grant Manager.
- All existing utilities shall be contacted, located, and coordinated with prior to any work being performed.
- The Erosion and Sediment Control Plan shall be provided to LFUCG for review and comment. The LFUCG Land Disturbance Permit shall be obtained by the contractor after placement of the ESC and traffic control measures.
- Failure to place acceptable erosion and sediment control measures into service prior to start of construction will result in shut-down of the job site until the measures are put in place. Construction practices shall be put in place to prevent the illicit discharge of sediment, dirt, sand, fluids, trash, and any other pollutant into the Municipal Separate Storm Sewer System or Waters of the Commonwealth.
- The Organization shall host a pre-construction meeting with all parties. The LFUCG Grant Manager shall be invited to this meeting and given three (3) business days notice.
- The Organization is responsible to provide all construction oversight, administration, and daily inspection. LFUCG shall not provide these services.
- The Organization shall document construction by taking before, during, and after photographs.
- Once construction is complete, a final punch-list inspection shall be performed. The LFUCG Grant Manager shall be invited to this inspection and given five (5) business days notice. If punch-list items are identified, a second inspection shall be performed once those items are resolved, and the LFUCG Grant Manager shall be invited to this inspection and given three (3) business days notice.
- The Organization agrees to enter into the *Agreement to Maintain Stormwater Control Facilities Funded by an LFUCG Class A Stormwater Quality Projects Incentive Grant* included as Attachment B of the Grant Award Agreement within twenty-one (21) calendar days of the final (post punch-list) inspection. This Agreement may be recorded by LFUCG at the Fayette County Clerk's office.

REPORTING REQUIREMENTS

1. Prior to construction, the Organization shall provide the LFUCG Grant Manager three (3) hard copies and one (1) digital copy each of the following deliverables, each sealed by a professional licensed to perform such work in accordance with Kentucky Revised Statutes (KRS):
 - Set of all final design calculations
 - Set of final construction plans, including erosion and sediment control plans, grading plans, etc. (including one “half-size” set)
 - Set of final specifications and bidding documents (if applicable)
 - Final detailed engineer’s construction cost estimate including quantities, and/or bid(s)
 - All local, state, or federal permits, approvals, public or private encroachment agreements, etc. received to date for the project
 - Inspection, Operation, and Maintenance (IOM) Plan laying out the plan for regular inspection and maintenance of each proposed facility for design performance and safety in accordance with manufacturer’s specifications and LFUCG’s Stormwater Manual
 - Existing condition photographs
2. The Organization shall allow LFUCG twenty-one (21) calendar days to review the submittals and provide comments. If revised submittals are required, the Organization shall allow LFUCG ten (10) calendar days for review per submittal. LFUCG may choose to have a third party engineering consultant assist LFUCG in review of these submittals.
3. If the project is competitively bid, the selected contractor’s unit price contract / bid list shall be provided to the LFUCG Grant Manager prior to the start of construction.
4. If the project is not competitively bid, the selected contractor’s unit price contract shall be provided to the LFUCG Grant Manager prior to the start of construction, along with a justification for any deviations from the engineer’s construction cost estimate.
5. **The construction phase shall begin only after the LFUCG Grant Manager gives Notice to Proceed, in writing, for the start of the construction phase of the project.**
6. If, during construction, the contractor requests a deviation or addition to the quantities or costs in the construction contract, the LFUCG Grant Manager shall be notified within two (2) business days. Additions or modifications to the project that are not directly related to the intended and correct function of the stormwater control project elements as described in the Project Elements listed above and in the original incentive grant application are not eligible for Grant reimbursement. Therefore, the Organization is advised that it should coordinate closely with the LFUCG Grant Manager during construction to ensure the work being performed is in compliance with this Agreement. **Note that per the Grant Award Agreement all overruns that result in the project costs exceeding the Grant amount are the responsibility of the Organization.**
7. After construction is completed, the Project Final Report shall include digital and hard copies of the following:
 - Summary of final construction costs and quantities
 - Copies of all federal, state, and local permits obtained for the project (if not previously provided) and any permit closure documents
 - Three (3) copies of a Record Drawing showing all field changes, and signed and sealed by the professional of record certifying the project as shown meets all original design intent
 - Copies of final inspection minutes, punch-lists, etc.
 - Photo documentation of site conditions and improvements before, during, and after construction
 - Signed *Agreement to Maintain Stormwater Control Facilities Funded by an LFUCG Class B Infrastructure Stormwater Quality Projects Incentive Grant* (Note: This form will be provided by LFUCG after construction is completed and final costs determined.)
 - Any materials generated, including those for educational purposes
8. LFUCG shall make final payment of the 10% retainer after acceptance of the Project Final Report.
9. All attachments to Requests for Funds & Project Status Reports shall reference the associated line Table 2 – Eligible Expenses.

PERMANENT FACILITIES / INFRASTRUCTURE

Ownership: The proposed facilities are expected to reside on private property in Fayette County and be owned by the Property Owner.

Future Inspection and Maintenance: The Organization (and/or Property Owner) agrees to sign and abide by the terms of the *Maintenance Agreement for Stormwater Control Facilities Funded by an LFUCG Class B Infrastructure Stormwater Quality Projects Incentive Grant* included as Attachment B to the Grant Award Agreement. The property owner is solely responsible for future maintenance of the grant-funded improvements as long as the improvements are in service.

Monitoring by LFUCG: The Organization agrees to allow LFUCG staff future access to any property on which work is performed to monitor the installed features for compliance with this Agreement during the grant period. After the grant period has ended, the Organization (and/or Property Owner) agrees to allow LFUCG access for monitoring per the terms of the Maintenance Agreement. Water quality sampling via grab samples or other methods may be employed by LFUCG staff as part of its Kentucky Pollutant Discharge Elimination System (KPDES) MS4 Phase 1 Permit.

EQUIPMENT

Any equipment purchased with the Grant shall remain the property of the Organization.

ADDITIONAL GRANT STIPULATIONS

Note the following additional stipulations related to this project:

1. Applicant shall verify the need and ensure all permits are received (e.g., local, FEMA, Army Corp, DOW, etc.) prior to any work.
2. Tree plantings shall be coordinated with existing utilities prior to plantings, and if possible, trees shall not be planted within 10' of an existing utility.
3. Encroachment agreements shall be obtained when working within any private utility areas.
4. An Inspection, Operations, and Maintenance (IOM) Plan shall be provided at the conclusion of the project. IOM Plan shall preclude storage of certain materials on the permeable pavement.
5. Permeable pavement shall not be installed within 10' on either side of an existing sanitary sewer and measures taken to prevent infiltrating water from entering into the sanitary sewer stone trench.
6. If underground detention is provided, property owner will be required to conform to LFUCG Code of Ordinances Chapter 16, Article X, Division 2.
7. Because of modifications to the parking areas, the applicant will need to work with the LFUCG Division of Planning to verify the regulatory requirements.
8. Permanent signage designs to be approved by the Grant Manager or Administrator prior to production.
9. If an underdrain is not proposed, applicant to provide soil infiltration test results in accordance with LFUCG Stormwater Manual Chapter 10.3.3.
10. Both electronic and hard copies of all materials are to be provided to LFUCG, for its use, as part of the grant deliverables.
11. Organization proposes a larger cost share beyond that required by the grant program. Budget shall reflect the 20.36% cost share offered in the application (approximately \$47,792.53).

GRANT PERIOD & PROJECT SCHEDULE

The grant period starts on the date of execution by the Mayor and extends for the time period as listed in the Grant Award Agreement. Any time extensions must be approved in writing by the LFUCG Grant Manager. The project schedule shown in Table 1 is preliminary. Proposed changes to the project which alter this schedule significantly shall be discussed with the LFUCG Grant Manager prior to implementation.

TABLE 1 – PRELIMINARY PROJECT SCHEDULE

| Activity | Anticipated Date(s) |
|---|--------------------------------|
| Approval Grant Award Agreement and Notice to Proceed (NTP) | February 2024 |
| Kick-off meeting | March 2024 |
| Plan Development/Construction Document/Project Specifications/Design Calculations | April 2024 – June 2024 |
| Cost Estimate & Quantities/Inspection, Operation & Maintenance Plan | June 2024 – August 2024 |
| Permitting & Approval | September 2024 – December 2024 |
| Bidding / Contract Negotiation & Award | January - February 2025 |
| Construction | March - May 2025 |
| Project Closeout / Final Report to LFUCG | May - July 2025 |

PROJECT BUDGET – GRANT ELIGIBLE EXPENSES

The project budget is broken into the following components based upon the Organization’s grant application:

- 1. Design Phase: **\$ 40,500.00**
- 2. Construction Phase and other items: **\$ 223,048.79**

| |
|---|
| TOTAL PROJECT COSTS: \$ 263,548.79 |
|---|

The total project cost estimate and breakdown of grant to cost share is as follows:

| | |
|--------------------------------|-------------------------------|
| Total Grant Share | \$ 186,983.63 (not-to-exceed) |
| Estimated Cost Share | \$ 47,792.53 |
| Estimated Contingency. Cost | <u>\$ 28,772.63</u> |
| Est. Total Project Cost | \$ 263,548.79 |

Table 2 lists the eligible expenses for this project. Only properly invoiced items shall be reimbursed with grant monies or counted toward the Organization’s cost share.

Any work performed on this project prior to grant award by the Urban County Council and Notice to Proceed from the LFUCG Grant Administrator is NOT an eligible expense and shall not be reimbursed or counted toward the cost share.

Construction cost items given in Table 2 are conceptual and the construction estimate will be revised and submitted to the LFUCG Grant Manager for review prior to construction and again once bids are received. **The Grant is a not-to-exceed amount, and any cost overruns are the responsibility of the Grantee.** Note that the Grant shall not be used to fund any project element that is required by local, state, or federal regulation in relation to any new development or redevelopment associated with the stormwater quality improvement project as described herein. Donated professional service hours shall be valued at the Median Hourly Wage for the service provided as published by the U.S. Department of Labor, Bureau of Labor Statistics, State Occupational Employment and Wage Estimates for Kentucky (current website: http://www.bls.gov/oes/current/oes_ky.htm).

TABLE 2 – ELIGIBLE EXPENSES

| Line # | Type of Expense | Participants | Item | Unit Price | Quantity | Funded by Organization | Funded by Grant | Total Expense | |
|--------|---|-----------------|---------------------------------------|--------------|------------|------------------------|---------------------|----------------------|----------------------|
| 1 | Design | | | | | | | | |
| 2 | Design - Site/Civil Related Services | Consultant | Project Administration | \$ 5,500.00 | LS 1.0 | \$ 2,500.00 | \$ 3,000.00 | \$ 5,500.00 | |
| 3 | Design - Site/Civil Related Services | Consultant | Development plans | \$ 12,500.00 | LS 1.0 | \$ 5,000.00 | \$ 7,500.00 | \$ 12,500.00 | |
| 4 | Design - Site/Civil Related Services | Consultant | Contract Documents | \$ 17,500.00 | LS 1.0 | \$ 2,500.00 | \$ 15,000.00 | \$ 17,500.00 | |
| 5 | Design - Site/Civil Related Services | Consultant | Bidding / Contract Negotiations & CA | \$ 5,000.00 | LS 1.0 | | \$ 5,000.00 | \$ 5,000.00 | |
| 6 | Project Management | | | | | | | | |
| 7 | Project Management | Consultant | Grant Manager | \$ 2,500.00 | LS 1.0 | \$ - | \$ 2,500.00 | \$ 2,500.00 | |
| 8 | Project Management | Consultant | Mobilization & Demobilization | \$ 8,000.00 | LS 1.0 | \$ 1,000.00 | \$ 7,000.00 | \$ 8,000.00 | |
| 9 | Construction & Site Demolition | | | | | | | | |
| 10 | Construction | Contractor | General Conditions | \$ 10,000.00 | LS 1.0 | \$ 8,785.00 | \$ 1,215.00 | \$ 10,000.00 | |
| 11 | Construction | Contractor | Erosion & Sediment Control Measures | \$ 6,800.00 | LS 1.0 | \$ 6,800.00 | \$ - | \$ 6,800.00 | |
| 12 | Construction (Improvements) | Contractor | Materials - Non-woven Geotextile - | \$ 7.50 | SY 650.2 | \$ 975.33 | \$ 3,901.33 | \$ 4,876.67 | |
| 13 | Construction (Improvements) | Contractor | Materials - #57 stone (6") | \$ 32.50 | TN 151.0 | \$ - | \$ 4,907.50 | \$ 4,907.50 | |
| 14 | Construction (Improvements) | Contractor | Materials - #3 stone (18") | \$ 25.00 | TN 303.0 | \$ - | \$ 7,575.00 | \$ 7,575.00 | |
| 15 | Construction (Improvements) | Contractor | Landscape Islands/Plantings/Trees | \$ 25.00 | SY 100.0 | \$ 500.00 | \$ 2,000.00 | \$ 2,500.00 | |
| 16 | Construction | Contractor | Construction Staking | \$ 4,500.00 | LS 1.0 | \$ 450.00 | \$ 4,050.00 | \$ 4,500.00 | |
| 17 | Construction (Improvements) | Contractor | Materials - Standard Header Curb | \$ 25.00 | LF 284.0 | \$ 3,510.00 | \$ 3,590.00 | \$ 7,100.00 | |
| 18 | Construction (Demolition) | Contractor | Demolition - existing concrete | \$ 15.00 | SY 14.0 | \$ - | \$ 210.00 | \$ 210.00 | |
| 19 | Construction (Demolition) | Contractor | Demolition - Excavation | \$ 32.50 | CY 300.0 | \$ - | \$ 9,750.00 | \$ 9,750.00 | |
| 20 | Construction (Demolition) | Contractor | Demolition - existing asphalt | \$ 12.00 | SY 301.0 | \$ - | \$ 3,612.00 | \$ 3,612.00 | |
| 21 | Proposed Pavement | | | | | | | | |
| 22 | Construction | Contractor | Standard concrete pavement | \$ 48.00 | SY 25.0 | \$ - | \$ 1,200.00 | \$ 1,200.00 | |
| 23 | Construction | Contractor | Pave drain System (Pervious Pavement) | \$ 20.00 | SF 5,852.0 | \$ 21,067.20 | \$ 95,972.80 | \$ 117,040.00 | |
| 24 | Site Features | | | | | | | | |
| 25 | | Contractor | Educational signage | \$ 6,000.00 | EA 1.0 | \$ - | \$ 6,000.00 | \$ 6,000.00 | |
| 26 | | | | | | | | | |
| 27 | Other (Miscellaneous) Costs | | | | | | | | |
| 28 | Other (Miscellaneous) Costs | Project Manager | Mobilization & Demobilization | \$ 3,000.00 | LS 1.0 | \$ - | \$ 3,000.00 | \$ 3,000.00 | |
| 29 | TOTAL PROJECT BUDGET: | | | | | | \$ 53,087.53 | \$ 186,983.63 | \$ 240,071.17 |
| 30 | | | | | | | ORGANIZATION | GRANT | |
| 31 | *COST SHARE% = 22.11% OK | | | | | | SHARE | SHARE | |
| 32 | | | | | | | 22.1% | 77.9% | |

NOTE: The cost share shown in Table 2 is not representative of the Organization's minimum required cost share of 20.36%. See Additional Stipulations item #11.

FIGURE 1 – MAP OF PROJECT AREA (FROM APPLICATION)



RESOLUTION NO. _____ – 2024

A RESOLUTION AUTHORIZING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE AN AGREEMENT AWARDING A CLASS B (INFRASTRUCTURE) INCENTIVE GRANT TO PARTIN LEX ACQUISITIONS, LLC, FOR A STORMWATER QUALITY PROJECT, AT A COST NOT TO EXCEED \$186,983.63.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized to execute an Agreement, which is attached hereto and incorporated herein by reference, awarding a Class B (Infrastructure) Incentive Grant to Partin Lex Acquisitions, LLC, for a stormwater quality project.

Section 2 – That an amount, not to exceed \$186,983.63, be and hereby is approved for payment to Partin Lex Acquisitions, LLC, from account # 4052-303204-3373-78112, pursuant to the terms of the Agreement.

Section 3 – That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL

0214-24:EPT_4878-1098-6154, v. 1

RESOLUTION NO. 113 – 2024

A RESOLUTION AUTHORIZING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE AN AGREEMENT AWARDING A CLASS B (INFRASTRUCTURE) INCENTIVE GRANT TO PARTIN LEX ACQUISITIONS, LLC, FOR A STORMWATER QUALITY PROJECT, AT A COST NOT TO EXCEED \$186,983.63.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized to execute an Agreement, which is attached hereto and incorporated herein by reference, awarding a Class B (Infrastructure) Incentive Grant to Partin Lex Acquisitions, LLC, for a stormwater quality project.

Section 2 – That an amount, not to exceed \$186,983.63, be and hereby is approved for payment to Partin Lex Acquisitions, LLC, from account # 4052-303204-3373-78112, pursuant to the terms of the Agreement.

Section 3 – That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: March 21, 2024

Rinda Gorton

MAYOR

ATTEST:

[Signature]

CLERK OF URBAN COUNTY COUNCIL

0214-24:EPT_4878-1098-6154, v. 1

GRANT AWARD AGREEMENT

Fiscal Year 2024 Class B Infrastructure Incentive Grant Program

THIS AGREEMENT, made and entered into on the 26th day of March, 2024 by and between the **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT (LFUCG)**, an urban county government of the Commonwealth of Kentucky, pursuant to KRS Chapter 67A (hereinafter "Government"), on behalf of its Division of Water Quality, and **PARTIN LEX ACQUISITIONS, LLC, C/O THE GIBSON COMPANY, 1050 MONARCH STREET, SUITE 200, LEXINGTON, KENTUCKY 40513** (hereinafter "Grantee" & "Property Owner").

WITNESSETH:

WHEREAS, the Grantee is a documented fee-payer of the Government's Water Quality Management Fee; and

WHEREAS, the Grantee has proposed a need for the funds requested to develop and implement a proposed project by submitting a valid grant application; and

WHEREAS, the Grantee's grant application has been reviewed and selected for funding by the Water Quality Fees Board in accordance with Sections 16-408 and 16-410 of the Government's Code of Ordinances; and

WHEREAS, the Government has funds available through the Stormwater Quality Projects Incentive Grant Program to assist the qualified Grantee in the development and implementation of projects that meet the goals of the program; and

WHEREAS, the Grantee desires to implement a specific project that meets one or more Incentive Grant program goals to improve water quality, reduce stormwater runoff, and provide public or private education related to stormwater quality; and

WHEREAS, any such improvements funded by the Government shall benefit the public through installed improvements and/or educational programming;

THAT FOR AND IN CONSIDERATION OF THE MUTUAL PROMISES AND COVENANTS HEREIN EXPRESSED, GOVERNMENT AND GRANTEE AGREE AS FOLLOWS:

- (1) The Government hereby grants the Grantee the sum of **\$186,983.63** (hereinafter "the Grant"), for use in implementing the project elements as listed in Attachment A which is incorporated herein by reference as if fully set out herein. The Grantee agrees to cost share the Grant with contributions, labor, and/or other services equal to or greater than 20% of the total project cost.
- (2) The Grantee agrees to use the Grant only for the activities set forth in Attachment A which includes installation of stormwater control infrastructure at the following site location(s): **2514 REGENCY ROAD, LEXINGTON, KENTUCKY 40503** currently owned by the Property Owner.
- (3) The Grantee agrees to meet all design standards specified in the Government's Engineering Manuals or as further described in Attachment A in the design of all Grant-funded improvements. This includes all associated activities including but not limited to erosion and sediment control, traffic control, utility relocations, seeding, etc. The Grantee further

agrees to design the facilities in such a way as not to preclude the potential for future water quality / quantity monitoring by LFUCG.

- (4) The Grantee agrees to comply with all applicable local, state, and federal rules, regulations, ordinances, and laws in implementation of the project.
- (5) The Grantee agrees to obtain all necessary local, state, and federal permits, encroachments, permissions, approvals, etc. in a timely manner and prior to start of construction.
- (6) The Grantee agrees to perform periodic reporting as detailed in Paragraph (7) herein below, and produce a Project Final Report within thirty (30) calendar days of the completion of the project elements in digital and hard copy following a standardized format to be provided by the Government summarizing all work completed and detailing the total grant expenditures. Other deliverables include the following:
 - (a) At the end of the Feasibility Phase (if applicable), the following five deliverables, sealed by a professional licensed to perform such work in accordance with Kentucky Revised Statutes (KRS), shall be provided:
 - Feasibility report evaluating the use of the potential BMP(s) on the proposed site;
 - Conceptual design concept;
 - Detailed cost estimate for design;
 - Conceptual cost estimate for construction;
 - Letter certifying all BMPs proposed for design as viable and feasible for the specific site and application.
 - (b) At the end of the Design Phase or prior to the start of the Construction Phase, the following six deliverables, sealed by a professional licensed to perform such work in accordance with Kentucky Revised Statutes (KRS), shall be provided:
 - Set of all final design calculations;
 - Set of final construction plans, including traffic control, erosion and sediment control, grading plans, etc.;
 - Set of final specifications and bidding documents (if applicable);
 - Final detailed engineer's construction cost estimate including quantities;
 - All required permit submittals and approvals;
 - Inspection, Operation, and Maintenance Plan laying out the plan for regular inspection and maintenance of each proposed facility for design performance and safety in accordance with manufacturer's specifications and the Government's Stormwater Manual.
 - (c) At the end of the Construction Phase, the following five deliverables shall be provided:
 - Summary of final construction costs and quantities;
 - Copies of all federal, state, and local permits obtained for the project;
 - Record Drawing showing all field changes, and signed and sealed by the professional of record certifying the project as shown meets all original design intent;
 - Photo documentation of site conditions and improvements before, during, and after construction;
 - Signed *Agreement to Maintain Stormwater Control Facilities Funded by an LFUCG Class B Infrastructure Stormwater Quality Projects Incentive Grant*.
- (7) The Grant to the Grantee shall be disbursed in the following manner:
 - (a) The Grantee shall submit at least once every three (3) months, if not specified otherwise in Attachment A, a Request for Funds to the Government's Grant Manager designated by the Director of the Division of Water Quality for the project. Each Request for Funds shall include documentation that the Grantee has already expended the requested funds or shall be in a position to expend properly the requested funds within thirty (30) days of receipt of the funds. The Request for Funds shall include full accounting of these eligible grant-related expenses, as listed in Attachment A. Copies of invoices, purchase orders, or receipts showing vendor, date, amount, and items pur-

chased or ordered shall be provided with the Request for Funds. For project specific personnel costs and stipends, documentation of all billed hours shall include copies of employee timesheets, hourly payroll rate, and description of work performed for hours billed. Each Request for Funds shall include a minimum of 10% cost share.

- (b) Each Request for Funds shall be accompanied by a Project Status Report describing the progress of the project to date, including a description and schedule of all activities completed, and hardcopy or electronic copies of materials (*e.g.*, calculations, preliminary plans, etc.) completed to date. For educational events (if applicable), copies of the class rosters or sign-in sheets documenting the number of attendees shall be provided.
 - (c) The Government's Grant Manager shall review each Request for Funds and supporting documents for compliance with the terms of this Agreement and the guidelines of the Stormwater Quality Projects Incentive Grant Program. If the Grant Manager finds the Grantee's Request for Funds is in compliance with the terms of this Agreement and the guidelines of the Stormwater Quality Projects Incentive Grant Program and that the activity progress and management program of the Grantee satisfy the terms of the grant award, he or she shall approve the Request for Funds within 15 calendar days of receipt and then forward it to the Division of Accounting for payment.
 - (d) The Government shall release payment of the final 10% of the Grant only after receipt and acceptance of the Project Final Report. The Government's Grant Manager shall review the Project Final Report and provide comments to the Grantee or, if acceptable, forward approval within 15 calendar days of receipt to the Division of Accounting for payment.
 - (e) Should the Government's Incentive Grant Program Administrator determine that the Grantee is not in compliance with the terms of this Agreement and/or the Stormwater Quality Projects Incentive Grant Program, including deficiencies in progress and management of the project, the Division of Water Quality shall notify the Grantee, the Mayor's Office, and the appropriate district Council person, and shall meet with the Grantee on matters that prevent approval of the Request for Funds. Failure to resolve any such matters to the satisfaction of the Government may lead to termination of the Agreement for cause pursuant to Paragraph (21) herein below.
- (8) The Grantee agrees to obtain written approval from the Government's Grant Manager and Program Administrator for any proposed changes to the Project Team or Project Plan as listed in Attachment A prior to implementing the changes. Failure to gain written approval prior to making changes may lead to termination of the Agreement for cause pursuant to Paragraph (21) herein below.
 - (9) The Grantee agrees to complete the project phase(s) (*i.e.*, Design and/or Construction) outlined herein within **24** months from the date of this Agreement. The Grantee shall obtain written approval from the Government's Grant Manager and Program Administrator for any time extensions beyond the schedule. Failure to obtain written approval prior to making changes may lead to termination of the Agreement for cause pursuant to Paragraph (21) herein below.
 - (10) This Agreement may not be modified except by written agreement of the Government and the Grantee.
 - (11) The Grantee understands that the Grant amount shown herein in Paragraph (1) is a not-to-exceed amount, and any additional funding needed to complete the project elements listed in Attachment A is the responsibility of the Grantee. If it becomes apparent to the Grantee or the Government that the Grantee will be unable to complete the project either in the manner or for the amount described in this Agreement, then the Grantee must immediately notify the Government's Grant Manager and Program Administrator by providing a complete and detailed written explanation of its inability to comply with the terms of the Agreement. The Grantee must further provide the Government's Grant Manager and

Program Administrator with a complete and detailed written explanation of any proposed changes, and the reasons for those changes.

- (12) The Grantee asserts that it is in full compliance with all applicable provisions of the Lexington-Fayette Urban County Government's Code of Ordinances Chapter 5 – Buildings and Building Regulations, Chapter 7 – Finance and Taxation, Chapter 12 – Housing, and Chapter 16 – Sewage, Garbage, Refuse, and Weeds, or in compliance with Kentucky Department of Housing Buildings and Construction rules and requirements as is appropriate for those state institutions, parcels, or buildings which are subject to state regulations and oversight as opposed to local ordinances and regulations. If the Grantee becomes out of compliance with any of these provisions, it will notify the Government's Grant Manager and Program Administrator immediately. Failure to notify the Government and resolve any such matters to the satisfaction of the Government may lead to termination of the Agreement for cause pursuant to Paragraph (21) herein below.
- (13) The Grantee agrees to allow the Government access to its property to perform monitoring of the project elements for compliance with this Agreement, as provided in the "*Agreement to Maintain Stormwater Control Facilities Funded by an LFUCG Class B Infrastructure Stormwater Quality Projects Incentive Grant*" (Attachment B).
- (14) In any advertisement of the project funded by the Grant, whether written or oral communications, the Grantee agrees to identify the Lexington-Fayette Urban County Government as the source of the above referenced funds; the Grantee shall not specifically identify any individual or elected official as being responsible for the funds donated by the Government.
- (15) The Grantee agrees to allow the Government to publicize the Grantee's project through the Government's website and other media.
- (16) The Grantee agrees to reference the Lexington-Fayette Urban County Government's Water Quality Management Fee and the Stormwater Quality Projects Incentive Grant Program as a source of funding for the project on any permanent signage or educational brochures, presentations, websites, etc. produced using grant monies.
- (17) The Grantee agrees that the Government is authorized to erect and maintain permanent signage at the location of any permanent capital infrastructure, referencing the Water Quality Management Fee and the Stormwater Quality Projects Incentive Grant Program as a source of funding for such permanent capital infrastructure. In the event that permanent signage is installed by the Government, such signage shall not be removed except upon written approval by the Government. Provided, however, that nothing herein shall require the installation of signage by the Government nor prohibit the Government from removing any signage so installed.
- (18) The Grantee and Property Owner agree that all stormwater control facilities, including equipment and infrastructure, constructed and funded by a Construction Grant through the Stormwater Quality Projects Incentive Grant Program shall remain in service and maintained by the Grantee or its representatives following the Inspection, Operation, and Maintenance Plan developed for each facility referenced in (6b) above. The Property Owner further accepts and agrees to enter into the "*Agreement to Maintain Stormwater Control Facilities Funded by an LFUCG Class B Infrastructure Stormwater Quality Projects Incentive Grant*" attached hereto as Attachment B and which is incorporated herein by reference as if fully set out herein.
- (19) The Grantee and Property Owner agree that all stormwater control facilities, including equipment and infrastructure, constructed and funded by this Grant shall remain the property of the current Property Owner, or his successors and assigns, unless otherwise specified in Attachments A and B.
- (20) The Grantee and Property Owner understand that if any of the Grant-funded facilities not owned by the Government are removed from service, the property owner of record at the time of removal shall be liable to reimburse the Government for 100% of the Remaining

Value of the facility or portion removed, based upon the depreciation schedule provided in Attachment B.

- (21) If, through any cause, the Grantee or Property Owner shall fail to fulfill in timely and proper manner its obligations under this Agreement, or if the Grantee or Property Owner shall violate any of the covenants, agreements, or stipulations of this Agreement, the Government shall provide the Grantee or Property Owner thirty (30) calendar days to address the deficiency or violation. If the Grantee or Property Owner does not, after the thirty (30) days, come into compliance with this Agreement, the Government shall thereupon have the right to terminate this Agreement by giving written notice to the Grantee of such termination and specifying the effective date thereof, at least five (5) calendar days before the effective date of such termination. In that event, all finished or unfinished documents, receipts, and reports prepared by the Grantee shall, at the option of the Government, become its property and the Grantee shall immediately repay to the Government all monies received pursuant to this Agreement less any amount representing just and equitable compensation for the Government's share of any satisfactory work completed pursuant to the Agreement; provided, however, that for any project involving the construction of capital infrastructure, other than feasibility only projects, the Government's share of any satisfactory work completed shall not include feasibility or design costs.
- (22) The Grantee shall provide equal opportunity in employment as required by applicable federal, state, and local laws, regulations, and ordinances.
- (23) The Grantee is solely responsible for assuring that adequate and appropriate insurance or other necessary coverage is maintained during the term of this Agreement.
- (24) The Grantee's sole remedy for a breach of this Agreement by the Government shall be limited to the amount of the Grant.
- (25) The Government assumes no responsibility whatsoever in the Grantee's project activities. Grantee and Property Owner shall, to the extent allowed by law, defend, indemnify, and hold harmless Government from and against all liability, claims, losses, actions, costs, expenses, obligations, fines, and assessments of whatever kind, including defense costs and 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, in whole or in part, from or by Grantee's or Property Owner's or its contractor(s), agents, or assigns, negligent acts or misconduct, or errors or omissions, in connection with the activities carried out pursuant to this Agreement, the Grant award, or the Stormwater Quality Projects Incentive Grant Program.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement at Lexington, Fayette County, Kentucky, as of the day and year first above written.

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

BY: Linda Gorton
LINDA GORTON, MAYOR

ATTEST:

Markenzie Stock
CLERK, URBAN COUNTY COUNCIL
Deputy

GRANTEE ORGANIZATION & PROPERTY OWNER:

PARTIN LEX ACQUISITIONS, LLC
C/O THE GIBSON COMPANY
1050 MONARCH STREET, SUITE 200
LEXINGTON, KENTUCKY 40513

BY: Dan F. Partin
NAME: Dan F. Partin
TITLE: Mayor Member

The foregoing Agreement was subscribed, sworn to and acknowledged before me by Dan F. Partin, as the duly authorized representative for and on behalf of Partin Lex Acquisitions, LLC, on this the 31st day of January, 2024.

My commission expires: October 12, 2024 Jessica L Davis
KYNP16680

ATTACHMENT A
to the GRANT AWARD AGREEMENT
between Lexington-Fayette Urban County Government (LFUCG) and
Dan Partin, Partin Lex Acquisitions, LLC

GRANT PROGRAM

**2024 Stormwater Quality Projects Incentive Grant Program
Class B Infrastructure Projects**

- Funded through the LFUCG Water Quality Management Fee
- Administered by the LFUCG Division of Water Quality in the Department of Environmental Quality & Public Works

PROJECT TEAM AND CONTACT INFORMATION

Grantee Organization: Dan F. Partin, Partin Lex Acquisitions, LLC
c/o The Gibson Company
1050 Monarch Street, Suite 200
Lexington, KY 40513
KY Organization #0857466

Primary Project Contact: Dan F. Partin, P.S.C
859-263-0198 (phone)
dan@danpartinlaw.com (email)

Project Manager: Daniel Rehner, P.E.
859-519-8977 (phone)
drehner@tbredfirm.com (email)

Project Site Location(s): 2514 Regency Road
PVA #14448026

Property Owner(s): Partin LEX Acquisition, LLC
c/o The Gibson Company
1050 Monarch Street, Suite 200
Lexington, KY 40513

Design Engineering Firm: Colt Engineering, Inc. d/b/a Thoroughbred Engineering
239 North Broadway
Lexington, KY 40507
859-519-8977 (phone)
Daniel Rehner, P.E. (Engineer of Record)
drehner@tbredfirm.com (email)

PROJECT PLAN ELEMENTS

All improvements shall be located on the property at 2514 Regency Road, Lexington, KY 40503, Parcel #14448026 (Figure 1 – Map of Project Area) owned by Partin LEX Acquisition, LLC c/o The Gibson Company. No other property or right-of-way shall be disturbed without the written permission from the property owners.

Project Elements

- A. **Permeable Pavers** - The design and construction of this project include retrofitting an existing parking lot with permeable pavers (approximately 5,852 square feet) to address flooding concerns and enhance runoff quality in the surrounding area. By implementing a pervious surface, we aim to mitigate the impact of heavy rainfall events, improve stormwater drainage, and promote better water quality.
- B. **Tree canopy** – This project will replace impervious area with approximately 2,471 ft² tree canopy.
- C. **Stormwater Education and Outreach** – A permanent signage will be installed in front of the building to introduce stormwater best management concepts to the public and provide

employee training and awareness through the WaterSmart Workforce Program Development (a series of interactive workshops, seminars, and hands-on training sessions conducted by experts in the field of water quality management).

1) STORMWATER CONTROL FACILITIES DESIGN:

No grant-funded activities shall occur until the LFUCG Grant Manager gives Notice to Proceed, in writing, for the start of the design phase of the project.

Stormwater control facilities shall be designed for the specified site location. The proposed facilities are listed above and are further described in the Organization's grant application. Alterations to these elements can only be made in consultation with the LFUCG Grant Manager. Significant alteration of these elements may require approval by the LFUCG Water Quality Fees Board.

Design plans shall be provided to the LFUCG Grant Manager for review prior to starting the construction phase of the project.

Design tasks will include meetings, survey, engineering design, permit submittals to the applicable local, state, and federal agencies, bidding, and construction.

Design shall also account for the following stipulations:

- Submittals for stream permits (401 / 404) shall be completed as early as possible in the design process to inform the Design Engineer of alternatives that can be permitted without triggering state or federal mitigation requirements (if required).
- The Design Engineer shall meet with the LFUCG Grant Manager for at least three meetings during the design phase:
 - i) Prior to the start of design
 - ii) At the completion of approximately 50% design
 - iii) At the 95% completion of the design documents

The Design Engineer shall provide a copy of the preliminary plans, calculations, and specifications (if available) representing 50% and 95% completion. These submittals shall be used to assist LFUCG staff in understanding the project components and allow for feedback to ensure the Government's funds shall be utilized for sustainable and effective infrastructure.

- All existing utilities shall be located and shown on the design plans.
- All existing easements, adjacent property lines, and rights-of-way shall be shown on the design plans. If any work is proposed to occur within any easement (*i.e.*, utility, etc.), whether public or private, the Organization shall obtain all necessary encroachment agreements from the authorized agencies prior to the start of construction.
- Any work proposed within or on public right-of-way, easement, or LFUCG-owned property will require one or more permits or approvals. This includes installation permits for connection into any existing curb inlet or stormwater manhole located within public right-of-way. Please contact the appropriate staff:

Parks and Recreation, Chris Cooperrider – ccooperrider@lexingtonky.gov
 Environmental Services (greenways), Demetria Mehlhorn – dkimball@lexingtonky.gov
 Environmental Services (street trees), Heather Wilson – hwilson@lexingtonky.gov
 Engineering (right-of-way), John Cassel – jcassel@lexingtonky.gov
 Engineering (new development), Hillard Newman – hnewman@lexingtonky.gov
 Sanitary Sewers, Chris Dent – cdent@lexingtonky.gov
 Stormwater, Mark Sanders – msanders@lexingtonky.gov

- All federal, state, and local permits, approvals, and agreements required for construction of the proposed improvements shall be obtained prior to the start of construction. If the timing

of construction is such that a permit may expire before construction can be completed, then the Organization shall coordinate with the LFUCG Grant Manager and permitting agencies on appropriate timing for permit submittals. The Organization is fully responsible to determine which approvals, permits, and encroachments are required for the project.

- Erosion and sediment control and traffic control measures shall be designed to meet all standards and follow guidelines in the LFUCG Engineering Manuals, and shall be shown on the design plans with appropriate notes.

2) STORMWATER CONTROL FACILITIES CONSTRUCTION:

No grant-funded construction activities shall occur until the LFUCG Grant Manager gives Notice to Proceed, in writing, for the start of the construction phase of the project.

Facilities shall be constructed per the design plans and specifications. Construction of the proposed facilities shall also meet the following stipulations:

- **No construction shall occur until written approval from all affected property owners is provided to the LFUCG Grant Manager.**
- Construction shall not begin until all permits, approvals, agreements, etc. are obtained and copies provided to the LFUCG Grant Manager.
- All existing utilities shall be contacted, located, and coordinated with prior to any work being performed.
- The Erosion and Sediment Control Plan shall be provided to LFUCG for review and comment. The LFUCG Land Disturbance Permit shall be obtained by the contractor after placement of the ESC and traffic control measures.
- Failure to place acceptable erosion and sediment control measures into service prior to start of construction will result in shut-down of the job site until the measures are put in place. Construction practices shall be put in place to prevent the illicit discharge of sediment, dirt, sand, fluids, trash, and any other pollutant into the Municipal Separate Storm Sewer System or Waters of the Commonwealth.
- The Organization shall host a pre-construction meeting with all parties. The LFUCG Grant Manager shall be invited to this meeting and given three (3) business days notice.
- The Organization is responsible to provide all construction oversight, administration, and daily inspection. LFUCG shall not provide these services.
- The Organization shall document construction by taking before, during, and after photographs.
- Once construction is complete, a final punch-list inspection shall be performed. The LFUCG Grant Manager shall be invited to this inspection and given five (5) business days notice. If punch-list items are identified, a second inspection shall be performed once those items are resolved, and the LFUCG Grant Manager shall be invited to this inspection and given three (3) business days notice.
- The Organization agrees to enter into the *Agreement to Maintain Stormwater Control Facilities Funded by an LFUCG Class A Stormwater Quality Projects Incentive Grant* included as Attachment B of the Grant Award Agreement within twenty-one (21) calendar days of the final (post punch-list) inspection. This Agreement may be recorded by LFUCG at the Fayette County Clerk's office.

REPORTING REQUIREMENTS

1. Prior to construction, the Organization shall provide the LFUCG Grant Manager three (3) hard copies and one (1) digital copy each of the following deliverables, each sealed by a professional licensed to perform such work in accordance with Kentucky Revised Statutes (KRS):
 - Set of all final design calculations
 - Set of final construction plans, including erosion and sediment control plans, grading plans, etc. (including one “half-size” set)
 - Set of final specifications and bidding documents (if applicable)
 - Final detailed engineer’s construction cost estimate including quantities, and/or bid(s)
 - All local, state, or federal permits, approvals, public or private encroachment agreements, etc. received to date for the project
 - Inspection, Operation, and Maintenance (IOM) Plan laying out the plan for regular inspection and maintenance of each proposed facility for design performance and safety in accordance with manufacturer’s specifications and LFUCG’s Stormwater Manual
 - Existing condition photographs
2. The Organization shall allow LFUCG twenty-one (21) calendar days to review the submittals and provide comments. If revised submittals are required, the Organization shall allow LFUCG ten (10) calendar days for review per submittal. LFUCG may choose to have a third party engineering consultant assist LFUCG in review of these submittals.
3. If the project is competitively bid, the selected contractor’s unit price contract / bid list shall be provided to the LFUCG Grant Manager prior to the start of construction.
4. If the project is not competitively bid, the selected contractor’s unit price contract shall be provided to the LFUCG Grant Manager prior to the start of construction, along with a justification for any deviations from the engineer’s construction cost estimate.
5. **The construction phase shall begin only after the LFUCG Grant Manager gives Notice to Proceed, in writing, for the start of the construction phase of the project.**
6. If, during construction, the contractor requests a deviation or addition to the quantities or costs in the construction contract, the LFUCG Grant Manager shall be notified within two (2) business days. Additions or modifications to the project that are not directly related to the intended and correct function of the stormwater control project elements as described in the Project Elements listed above and in the original incentive grant application are not eligible for Grant reimbursement. Therefore, the Organization is advised that it should coordinate closely with the LFUCG Grant Manager during construction to ensure the work being performed is in compliance with this Agreement. **Note that per the Grant Award Agreement all overruns that result in the project costs exceeding the Grant amount are the responsibility of the Organization.**
7. After construction is completed, the Project Final Report shall include digital and hard copies of the following:
 - Summary of final construction costs and quantities
 - Copies of all federal, state, and local permits obtained for the project (if not previously provided) and any permit closure documents
 - Three (3) copies of a Record Drawing showing all field changes, and signed and sealed by the professional of record certifying the project as shown meets all original design intent
 - Copies of final inspection minutes, punch-lists, etc.
 - Photo documentation of site conditions and improvements before, during, and after construction
 - Signed *Agreement to Maintain Stormwater Control Facilities Funded by an LFUCG Class B Infrastructure Stormwater Quality Projects Incentive Grant* (Note: This form will be provided by LFUCG after construction is completed and final costs determined.)
 - Any materials generated, including those for educational purposes
8. LFUCG shall make final payment of the 10% retainer after acceptance of the Project Final Report.
9. All attachments to Requests for Funds & Project Status Reports shall reference the associated line Table 2 – Eligible Expenses.

PERMANENT FACILITIES / INFRASTRUCTURE

Ownership: The proposed facilities are expected to reside on private property in Fayette County and be owned by the Property Owner.

Future Inspection and Maintenance: The Organization (and/or Property Owner) agrees to sign and abide by the terms of the *Maintenance Agreement for Stormwater Control Facilities Funded by an LFUCG Class B Infrastructure Stormwater Quality Projects Incentive Grant* included as Attachment B to the Grant Award Agreement. The property owner is solely responsible for future maintenance of the grant-funded improvements as long as the improvements are in service.

Monitoring by LFUCG: The Organization agrees to allow LFUCG staff future access to any property on which work is performed to monitor the installed features for compliance with this Agreement during the grant period. After the grant period has ended, the Organization (and/or Property Owner) agrees to allow LFUCG access for monitoring per the terms of the Maintenance Agreement. Water quality sampling via grab samples or other methods may be employed by LFUCG staff as part of its Kentucky Pollutant Discharge Elimination System (KPDES) MS4 Phase 1 Permit.

EQUIPMENT

Any equipment purchased with the Grant shall remain the property of the Organization.

ADDITIONAL GRANT STIPULATIONS

Note the following additional stipulations related to this project:

1. Applicant shall verify the need and ensure all permits are received (e.g., local, FEMA, Army Corp, DOW, etc.) prior to any work.
2. Tree plantings shall be coordinated with existing utilities prior to plantings, and if possible, trees shall not be planted within 10' of an existing utility.
3. Encroachment agreements shall be obtained when working within any private utility areas.
4. An Inspection, Operations, and Maintenance (IOM) Plan shall be provided at the conclusion of the project. IOM Plan shall preclude storage of certain materials on the permeable pavement.
5. Permeable pavement shall not be installed within 10' on either side of an existing sanitary sewer and measures taken to prevent infiltrating water from entering into the sanitary sewer stone trench.
6. If underground detention is provided, property owner will be required to conform to LFUCG Code of Ordinances Chapter 16, Article X, Division 2.
7. Because of modifications to the parking areas, the applicant will need to work with the LFUCG Division of Planning to verify the regulatory requirements.
8. Permanent signage designs to be approved by the Grant Manager or Administrator prior to production.
9. If an underdrain is not proposed, applicant to provide soil infiltration test results in accordance with LFUCG Stormwater Manual Chapter 10.3.3.
10. Both electronic and hard copies of all materials are to be provided to LFUCG, for its use, as part of the grant deliverables.
11. Organization proposes a larger cost share beyond that required by the grant program. Budget shall reflect the 20.36% cost share offered in the application (approximately \$47,792.53).

GRANT PERIOD & PROJECT SCHEDULE

The grant period starts on the date of execution by the Mayor and extends for the time period as listed in the Grant Award Agreement. Any time extensions must be approved in writing by the LFUCG Grant Manager. The project schedule shown in Table 1 is preliminary. Proposed changes to the project which alter this schedule significantly shall be discussed with the LFUCG Grant Manager prior to implementation.

TABLE 1 – PRELIMINARY PROJECT SCHEDULE

| Activity | Anticipated Date(s) |
|---|--------------------------------|
| Approval Grant Award Agreement and Notice to Proceed (NTP) | February 2024 |
| Kick-off meeting | March 2024 |
| Plan Development/Construction Document/Project Specifications/Design Calculations | April 2024 – June 2024 |
| Cost Estimate & Quantities/Inspection, Operation & Maintenance Plan | June 2024 – August 2024 |
| Permitting & Approval | September 2024 – December 2024 |
| Bidding / Contract Negotiation & Award | January - February 2025 |
| Construction | March - May 2025 |
| Project Closeout / Final Report to LFUCG | May - July 2025 |

PROJECT BUDGET – GRANT ELIGIBLE EXPENSES

The project budget is broken into the following components based upon the Organization's grant application:

- | | |
|---|----------------------|
| 1. <u>Design Phase:</u> | \$ 40,500.00 |
| 2. <u>Construction Phase and other items:</u> | \$ 223,048.79 |

| | |
|-----------------------------|----------------------|
| TOTAL PROJECT COSTS: | \$ 263,548.79 |
|-----------------------------|----------------------|

The total project cost estimate and breakdown of grant to cost share is as follows:

| | |
|--------------------------------|-------------------------------|
| Total Grant Share | \$ 186,983.63 (not-to-exceed) |
| Estimated Cost Share | \$ 47,792.53 |
| Estimated Contingency. Cost | <u>\$ 28,772.63</u> |
| Est. Total Project Cost | \$ 263,548.79 |

Table 2 lists the eligible expenses for this project. Only properly invoiced items shall be reimbursed with grant monies or counted toward the Organization's cost share.

Any work performed on this project prior to grant award by the Urban County Council and Notice to Proceed from the LFUCG Grant Administrator is NOT an eligible expense and shall not be reimbursed or counted toward the cost share.

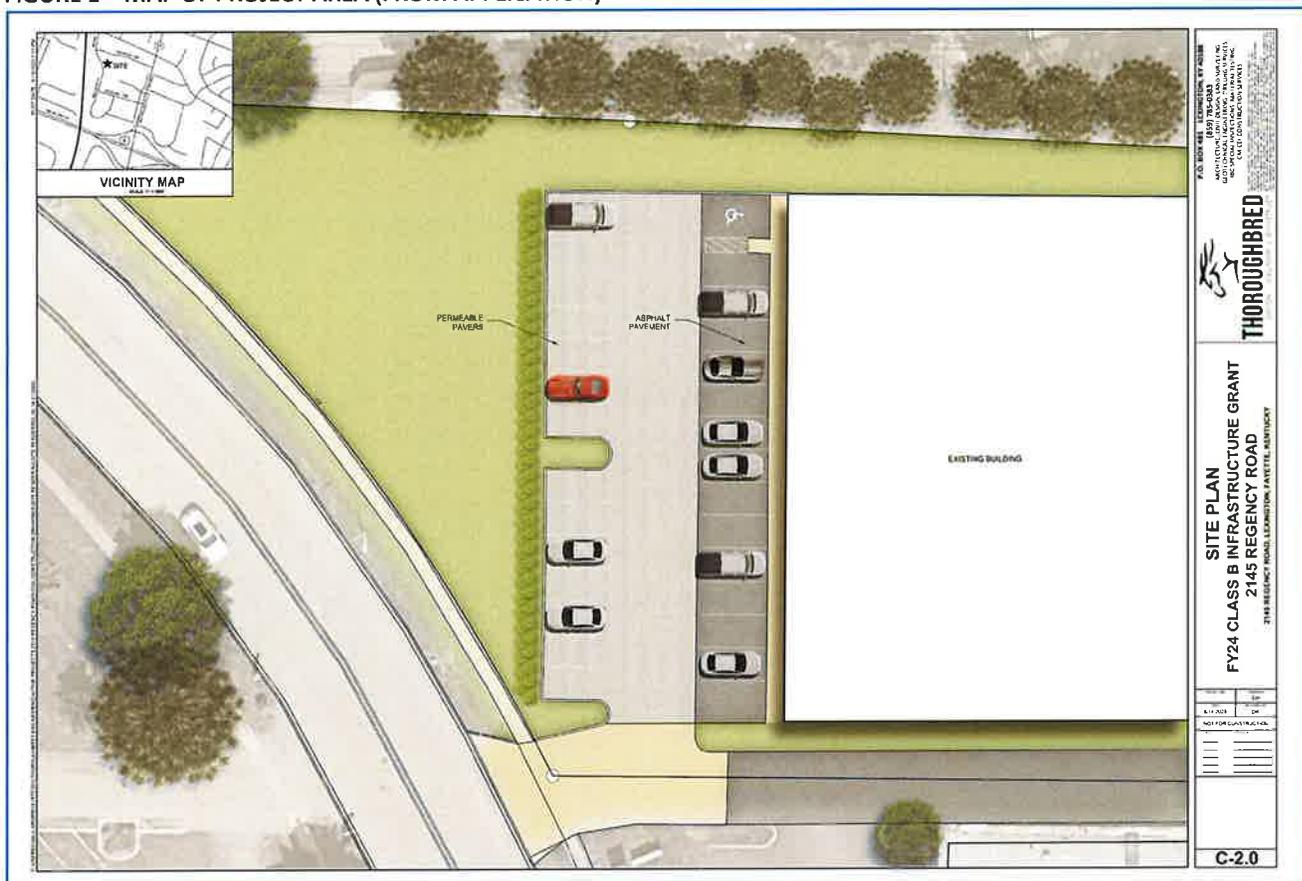
Construction cost items given in Table 2 are conceptual and the construction estimate will be revised and submitted to the LFUCG Grant Manager for review prior to construction and again once bids are received. **The Grant is a not-to-exceed amount, and any cost overruns are the responsibility of the Grantee.** Note that the Grant shall not be used to fund any project element that is required by local, state, or federal regulation in relation to any new development or redevelopment associated with the stormwater quality improvement project as described herein. Donated professional service hours shall be valued at the Median Hourly Wage for the service provided as published by the U.S. Department of Labor, Bureau of Labor Statistics, State Occupational Employment and Wage Estimates for Kentucky (current website: http://www.bls.gov/oes/current/oes_ky.htm).

TABLE 2 – ELIGIBLE EXPENSES

| Line # | Type of Expense | Participants | Item | Unit Price | Quantity | Funded by Organization | Funded by Grant | Total Expense | |
|--------|---|-----------------|---------------------------------------|-----------------|----------|---------------------------|---------------------|----------------------|----------------------|
| 1 | Design | | | | | | | | |
| 2 | Design - Site/Civil Related Services | Consultant | Project Administration | \$ 5,500.00 LS | 1.0 | \$ 2,500.00 | \$ 3,000.00 | \$ 5,500.00 | |
| 3 | Design - Site/Civil Related Services | Consultant | Development plans | \$ 12,500.00 LS | 1.0 | \$ 5,000.00 | \$ 7,500.00 | \$ 12,500.00 | |
| 4 | Design - Site/Civil Related Services | Consultant | Contract Documents | \$ 17,500.00 LS | 1.0 | \$ 2,500.00 | \$ 15,000.00 | \$ 17,500.00 | |
| 5 | Design - Site/Civil Related Services | Consultant | Bidding / Contract Negotiations & CA | \$ 5,000.00 LS | 1.0 | | \$ 5,000.00 | \$ 5,000.00 | |
| 6 | Project Management | | | | | | | | |
| 7 | Project Management | Consultant | Grant Manager | \$ 2,500.00 LS | 1.0 | \$ - | \$ 2,500.00 | \$ 2,500.00 | |
| 8 | Project Management | Consultant | Mobilization & Demobilization | \$ 8,000.00 LS | 1.0 | \$ 1,000.00 | \$ 7,000.00 | \$ 8,000.00 | |
| 9 | Construction & Site Demolition | | | | | | | | |
| 10 | Construction | Contractor | General Conditions | \$ 10,000.00 LS | 1.0 | \$ 8,785.00 | \$ 1,215.00 | \$ 10,000.00 | |
| 11 | Construction | Contractor | Erosion & Sediment Control Measures | \$ 6,800.00 LS | 1.0 | \$ 6,800.00 | \$ - | \$ 6,800.00 | |
| 12 | Construction (Improvements) | Contractor | Materials - Non-woven Geotextile - | \$ 7.50 SY | 650.2 | \$ 975.33 | \$ 3,901.33 | \$ 4,876.67 | |
| 13 | Construction (Improvements) | Contractor | Materials - #57 stone (6") | \$ 32.50 TN | 151.0 | \$ - | \$ 4,907.50 | \$ 4,907.50 | |
| 14 | Construction (Improvements) | Contractor | Materials - #3 stone (18") | \$ 25.00 TN | 303.0 | \$ - | \$ 7,575.00 | \$ 7,575.00 | |
| 15 | Construction (Improvements) | Contractor | Landscape Islands/Plantings/Trees | \$ 25.00 SY | 100.0 | \$ 500.00 | \$ 2,000.00 | \$ 2,500.00 | |
| 16 | Construction | Contractor | Construction Staking | \$ 4,500.00 LS | 1.0 | \$ 450.00 | \$ 4,050.00 | \$ 4,500.00 | |
| 17 | Construction (Improvements) | Contractor | Materials - Standard Header Curb | \$ 25.00 LF | 284.0 | \$ 3,510.00 | \$ 3,590.00 | \$ 7,100.00 | |
| 18 | Construction (Demolition) | Contractor | Demolition - existing concrete | \$ 15.00 SY | 14.0 | \$ - | \$ 210.00 | \$ 210.00 | |
| 19 | Construction (Demolition) | Contractor | Demolition - Excavation | \$ 32.50 CY | 300.0 | \$ - | \$ 9,750.00 | \$ 9,750.00 | |
| 20 | Construction (Demolition) | Contractor | Demolition - existing asphalt | \$ 12.00 SY | 301.0 | \$ - | \$ 3,612.00 | \$ 3,612.00 | |
| 21 | Proposed Pavement | | | | | | | | |
| 22 | Construction | Contractor | Standard concrete pavement | \$ 48.00 SY | 25.0 | \$ - | \$ 1,200.00 | \$ 1,200.00 | |
| 23 | Construction | Contractor | Pave drain System (Pervious Pavement) | \$ 20.00 SF | 5,852.0 | \$ 21,067.20 | \$ 95,972.80 | \$ 117,040.00 | |
| 24 | Site Features | | | | | | | | |
| 25 | | Contractor | Educational signage | \$ 6,000.00 EA | 1.0 | \$ - | \$ 6,000.00 | \$ 6,000.00 | |
| 26 | | | | | | | | | |
| 27 | Other (Miscellaneous) Costs | | | | | | | | |
| 28 | Other (Miscellaneous) Costs | Project Manager | Mobilization & Demobilization | \$ 3,000.00 LS | 1.0 | \$ - | \$ 3,000.00 | \$ 3,000.00 | |
| 29 | TOTAL PROJECT BUDGET: | | | | | | \$ 53,087.53 | \$ 186,983.63 | \$ 240,071.17 |
| 30 | | | | | | ORGANIZATION SHARE | GRANT SHARE | | |
| 31 | | | | | | 22.1% | 77.9% | | |
| 32 | | | | | | | | | |

NOTE: The cost share shown in Table 2 is not representative of the Organization's minimum required cost share of 20.36%. See Additional Stipulations item #11.

FIGURE 1 – MAP OF PROJECT AREA (FROM APPLICATION)



Stormwater Quality Projects Incentive Grant Program



Dan Parin, Partin Lex Acquisitions, LLC

**ATTACHMENT B
TO FY 2024 CLASS B INFRASTRUCTURE GRANT AWARD AGREEMENTS**

DO NOT WRITE ABOVE THIS LINE

**Agreement to Maintain Stormwater Control Facilities
Funded by an LFUCG Class B Infrastructure Stormwater Quality Projects Incentive Grant**

The upkeep and maintenance of stormwater control facilities is essential to the protection of aquatic resources. All property owners receiving grant funds from the Lexington-Fayette Urban County Government through the Stormwater Quality Projects Incentive Grant Program for construction of any stormwater control facility are expected to conduct business in a manner that promotes resource protection. For purposes of this document, a “stormwater control facility” is an equivalent term for “stormwater control device” or “stormwater management system or facility,” and is any detention basin, detention pond, drainage way, extended detention basin, retention basin, catch basin, outlet, or any other structure or equipment or feature thereof, in whole or in part, designed to control stormwater quantity or improve stormwater quality. This Agreement contains specific provisions with respect to maintenance of the stormwater control facilities described below.

PROPERTY SITE ADDRESS: _____

PROPERTY OWNER NAME: _____

PROPERTY LEGAL DESCRIPTION:

STORMWATER CONTROL FACILITIES DESCRIPTION:

Funded by Stormwater Quality Projects Incentive Grant: Fiscal Year _____, Class BI

1. <Facility Description, Facility Grant Value¹, Placement in Service Month², ____-year depreciation schedule³>
2. <Facility Description, Facility Grant Value¹, Placement in Service Month², ____-year depreciation schedule³>
3. <Facility Description, Facility Grant Value¹, Placement in Service Month², ____-year depreciation schedule³>
4. <Facility Description, Facility Grant Value¹, Placement in Service Month², ____-year depreciation schedule³>
5. <Facility Description, Facility Grant Value¹, Placement in Service Month², ____-year depreciation schedule³>

¹ Facility Grant Value is the amount of LFUCG incentive grant funds expended on feasibility, design and construction costs for each given facility.

² Placement in Service Month is the month the facility goes into service.

³ Use 20-year depreciation schedule for green/vegetated roofs. Use 15-year depreciation schedule for all other BMPs.

Whereas, <property owner name>, has proposed to construct stormwater control facilities on the property described above and whereas the goals of the Lexington-Fayette Urban County Government are to ensure the protection and enhancement of Fayette County’s aquatic resources, the **Lexington-Fayette Urban County Government (LFUCG)** and <property owner name> hereby enter into this Agreement. The responsibilities of each party to this Agreement are identified below.

THE <property owner name> HEREBY:

1. Agrees to implement the stormwater control facility Inspection, Operations, and Maintenance Plan developed for each facility and incorporated by reference herein.
2. Agrees to maintain the stormwater control facilities in good working condition, acceptable to the LFUCG, so that they are performing their design functions.
3. Grants permission to the LFUCG, its authorized agents and employees, to enter upon the property with reasonable advance notice of at least 24 hours and proper identification, except in such circumstances where advance notice is inappropriate for the purpose of entry, and to inspect the stormwater control facilities whenever the LFUCG deems necessary. The purpose of the inspection is to assure safe and proper functioning of the facilities. The inspection shall cover the entire facilities, berms, outlet structures, pond areas, access roads, etc. When deficiencies are noted, the LFUCG shall give <property owner name>, its successors and assigns, copies of the inspection report with findings and evaluations.
4. Agrees that in the event <property owner name>, its successors and assigns, fails to maintain the stormwater control facilities in good working condition acceptable to the LFUCG, the LFUCG may enter upon the property and take whatever steps it deems necessary to maintain said stormwater control facilities and to charge the costs of the repairs to <property owner name>, its successors and assigns. This provision shall not be construed to allow the LFUCG to erect any structure of a permanent nature on the land of <property owner name>, outside of an easement belonging to the LFUCG. It is expressly understood and agreed that the LFUCG is under no obligation to maintain or repair said facilities, and in no event shall this Agreement be construed to impose any obligation on the LFUCG.
5. Agrees that in the event the LFUCG, pursuant to this Agreement, performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like on account of <property owner name> or its successors and assigns, <property owner name> shall reimburse the LFUCG upon demand, within 30 days of receipt thereof for all costs incurred by the LFUCG hereunder. If not paid within such 30 day period, the LFUCG shall have a lien against the property in the amount of such costs, plus interest at the Judgment Rate, and may enforce same in the same manner as a lien for real property taxes may be enforced.
6. Agrees to indemnify and hold harmless the LFUCG and its agents and employees for any and all damages, accidents, casualties, occurrences or claims which might arise or be asserted against the LFUCG related to the construction or maintenance of the stormwater facilities by <property owner name> or its agents.

In the event a claim is asserted against the LFUCG, its agents or employees for such matters, the LFUCG shall promptly notify <property owner name>, their successors and assigns, and they shall defend, at their own expense, any suit based on such claim. If any judgment or claims against the LFUCG, its agents or employees shall be allowed, <property owner name>, its successors, and assigns shall pay all costs and expenses in connection herewith.

7. Grants permission to the LFUCG, its authorized agents and employees, to enter upon the property with reasonable advance notice to <property owner name> and proper identification, and, at LFUCG expense, to install, operate, and maintain equipment to monitor the flow rate and pollutant content of the input flow, the effluent, and at intermediate points in the facility, all in such a manner that does not unreasonably interfere with the use of the property by <property owner name>. <property owner name> further agrees to design and construct the facility to provide reasonable access for such monitoring.
8. Agrees to maintain a record (in the form of a logbook) of steps taken to implement the programs referenced in (1) and (2) above. The logbook shall be available for inspection by the LFUCG staff at <property owner address or business office> during normal business hours. The logbook shall catalog the action taken, who took it, when the action was done, how it was done, and any problems encountered or follow-up actions recommended.

On property where a stormwater control device is located fully or partially underground, <property owner name> further understands that an annual inspection of the underground facility is required by LFUCG Code of Ordinances 16-88(c), and an annual inspection report, prepared by a Professional Engineer licensed to practice in Kentucky, must be submitted to the LFUCG compliance representative listed in this document. This report shall address the condition of the device for meeting its intended purpose, and shall be included with the annual report described in Section (9) below.

9. Agrees to provide an **annual report** to the LFUCG regarding implementation of the programs referenced in (1) and (2) above upon request from the Grant Administrator or MS4 Permit Coordinator. The report shall contain, at a minimum, the following items:
- A. Name, address, and telephone number of the business, the person, or the firm responsible for plan implementation, and the person completing the report.
 - B. Time period covered by the report.
 - C. Copy of all inspection reports performed as part of the operations and maintenance program referenced in (1) above, including if applicable, the annual inspection for underground devices described in (8) above.
 - D. A chronological summary of activities conducted to implement the program referenced in (1) and (2) above. A photocopy of the applicable sections of the logbook, with any additional explanation needed, shall normally suffice. For any activities conducted by paid parties not affiliated with <property owner name>, include a copy of the invoice for services.
 - E. An outline of planned activities for the next year.
10. Agrees that in the event the <property owner name>, its successors and assigns, removes or takes out of service one or more of the stormwater control facilities funded in whole or in part by the LFUCG grant, <property owner name>, its successors and assigns, shall reimburse the LFUCG within 90 days of removal of the facility from service, 100% of the Remaining Value of the facility removed based upon the following depreciation schedule:

| In: | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Year 6 | Year 7 | Year 8 | Year 9 | Year 10 | Year 11 | Year 12 | Year 13 | Year 14 | Year 15 | Year 16 | Year 17 | Year 18 | Year 19 | Year 20 |
|-------------------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| 15-year Depreciation | 3.33% | 6.67% | 6.67% | 6.67% | 6.67% | 6.67% | 6.67% | 6.66% | 6.67% | 6.66% | 6.67% | 6.66% | 6.67% | 6.66% | 3.33% | - | - | - | - | - |
| 15-year Remaining Value | 96.67% | 90.00% | 83.33% | 76.66% | 69.99% | 63.32% | 56.65% | 49.99% | 43.32% | 36.66% | 29.99% | 23.33% | 16.66% | 10.00% | 3.33% | - | - | - | - | - |
| 20-year Depreciation | 2.5% | 5.0% | 5.0% | 5.0% | 5.0% | 5.0% | 5.0% | 5.0% | 5.0% | 5.0% | 5.0% | 5.0% | 5.0% | 5.0% | 5.0% | 5.0% | 5.0% | 5.0% | 5.0% | 2.5% |
| 20-year Remaining Value | 97.5% | 92.5% | 87.5% | 82.5% | 77.5% | 72.5% | 67.5% | 62.5% | 57.5% | 52.5% | 47.5% | 42.5% | 37.5% | 32.5% | 27.5% | 22.5% | 17.5% | 12.5% | 7.5% | 2.5% |

The % of depreciation shall be applied to the Facility Grant Value for the year the facility was removed from service, with month 1 of Year 1 being the Placement in Service Month listed at the beginning of this document. If not paid within such 90 day period, the LFUCG shall have a lien against the property in the amount of the remaining value of the facility removed, and may enforce same in the same manner as a lien for real property taxes may be enforced.

SAMPLE

<PROPERTY OWNER>

<BUSINESS ADDRESS>

BY: _____
NAME: _____
TITLE: _____
DATE: _____

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 _____, 20__.

My commission expires: _____.

NOTARY PUBLIC

Linda Gorton, Mayor

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 _____, 20__.

My commission expires: _____.

NOTARY PUBLIC

Maintenance Agreement Contact Information for Compliance

Owner Representative Name: _____

Business Address: _____

Representative's Phone Number: _____

Representative's E-Mail: _____

Urban County Government Information for compliance issues:

Contact: _____ LFUCG's MS4 Permit Coordinator

Address: _____ LFUCG Division of Water Quality
_____ 125 Lisle Industrial Avenue, Suite 180
_____ Lexington, KY 40511

Phone: _____ (859) 425-2400

Email: _____ MS4@lexingtonky.gov

Prepared by:

Evan P. Thompson, Attorney Senior
LFUCG – Department of Law
200 East Main Street
Lexington, KY 40507
(859) 258-3500



Lexington-Fayette Urban County Government

Master

200 E. Main St
Lexington, KY 40507

File Number: 0215-24

File ID: 0215-24

Type: Ordinance

Status: Approved

Version: 1

Contract #:

In Control: Urban County Council

File Created: 02/22/2024

File Name: FY24 GO Bonds 2024A Sale and Issuance

Final Action: 03/21/2024

Title:

An Ordinance of the Lexington-Fayette Urban County Government authorizing the issuance of its Various Purpose General Obligation Bonds, Series 2024A, in one or more subseries, in an aggregate principal amount of \$38,060,000 (which amount may be increased by an amount of up to ten percent (10%) or decreased by an unlimited amount); approving a form of Series 2024A Bonds; authorizing designated officers to execute and deliver the Series 2024A Bonds; authorizing and directing the filing of notice with the State Local Debt Officer; providing for the payment and security of the Series 2024A Bonds; maintaining a sinking fund; creating a bond payment fund for the Series 2024A Bonds; authorizing acceptance of the bid(s) of the bond purchaser of the Series 2024A Bonds; and repealing inconsistent ordinances. [Dept. of Finance, Hensley]

Notes:

Sponsors:

Enactment Date: 03/21/2024

Attachments: Memo FY24 GO 2024A Sale and Issuance, Ordinance (New Money - 2024A - LFUCG - 2024A - GO (2024)(30920931.3), O-031-2024

Enactment Number: O-031-2024

Deed #:

Hearing Date:

Drafter: Robin Adams

Effective Date:

History of Legislative File

| Ver- sion: | Acting Body: | Date: | Action: | Sent To: | Due Date: | Return Date: | Result: |
|---------------|-----------------------------------|------------|---------------------------------|----------------------|------------|-----------------|---------|
| 1 | Urban County Council Work Session | 03/05/2024 | Approved and Referred to Docket | Urban County Council | 03/07/2024 | | Pass |
| 1 | Urban County Council | 03/07/2024 | Received First Reading | Urban County Council | 03/21/2024 | | |
| 1 | Urban County Council | 03/21/2024 | Approved | | | | Pass |

Text of Legislative File 0215-24

Title

An Ordinance of the Lexington-Fayette Urban County Government authorizing the issuance of its Various Purpose General Obligation Bonds, Series 2024A, in one or more subseries, in an aggregate principal amount of \$38,060,000 (which amount may be increased by an amount of up to ten percent (10%) or decreased by an unlimited amount); approving a form of Series 2024A Bonds; authorizing designated officers to execute and deliver the Series 2024A Bonds; authorizing and directing the filing of notice with the State Local Debt Officer; providing for the payment and security of the Series 2024A Bonds; maintaining a sinking fund; creating a bond payment fund for the Series 2024A Bonds; authorizing acceptance of the bid(s) of the bond purchaser of the Series 2024A Bonds; and repealing inconsistent ordinances. [Dept. of Finance, Hensley]

Summary

Authorization to approve the Sale and Issuance of the Lexington-Fayette Urban County Government Various Purpose General Obligation, Series 2024A in an aggregate principal amount not to exceed \$38,060,000 (which may be increased by 10%). The annual debt service cost is \$4,664,000. Funds are budgeted. (L0215-24) (Hensley)

Budgetary Implications: Yes

Advance Document Review:

Law: Yes, Completed by David Barberie, February 12, 2024

Risk Management: No

Fully Budgeted: Yes

Account Number: 1101-141401-1680-78402

This Fiscal Year Impact: \$4,664,000

Annual Impact: \$3,200,000 annually for 10 years

Project:

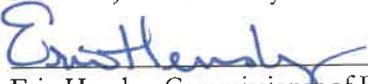
Activity:

Budget Reference:

Current Balance:



TO: Mayor Linda Gorton
Members, Urban County Council

FROM: 
Erin Hensley, Commissioner of Finance

DATE: February 22, 2024

SUBJECT: Authorization for Sale and Issuance of the FY24 General Obligation 2024A Various Purpose Project Bonds.

Request

Authorization to: Approve the Sale and Issuance of the Lexington-Fayette Urban County Government Various Purpose General Obligation, Series 2024A in an aggregate principal amount not to exceed \$38,060,000 (which may be increased by 10%).

Why are you requesting?

Department needs this action completed because: This Ordinance will permit the sale of the 2024A Various Purpose Bonds of which the bond proceeds will provide funding for Phoenix Park development, radio replacement, new firetrucks and other fire safety related projects, new police cars, road construction and improvements, road resurfacing, road maintenance, road upgrades, streetscapes and sidewalk improvements, public art and beautification projects, renovations, repairs and upgrades related to public buildings, vehicle acquisitions, and various other improvements within departments of the Lexington-Fayette Urban County Government, (ii) providing funding for a program to preserve and manage agricultural, rural and natural lands, including the purchase of conservation easements or development rights(collectively, the "Series 2024A Project").

What is the cost in this budget year and future budget years?

The cost for this FY is: \$4,664,000

The cost for future FY is: \$3,200,000 annually for 10 years.

Are the funds budgeted?

The funds are budgeted.

Account number: 1101-141401-1680-78402



File Number: 0215-24
Director/Commissioner: Erin Hensley



ORDINANCE NO. _____

AN ORDINANCE OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT AUTHORIZING THE ISSUANCE OF ITS VARIOUS PURPOSE GENERAL OBLIGATION BONDS, SERIES 2024A, IN ONE OR MORE SUBSERIES, IN AN AGGREGATE PRINCIPAL AMOUNT OF \$38,060,000 (WHICH AMOUNT MAY BE INCREASED BY AN AMOUNT OF UP TO TEN PERCENT (10%) OR DECREASED BY AN UNLIMITED AMOUNT); APPROVING A FORM OF SERIES 2024A BONDS; AUTHORIZING DESIGNATED OFFICERS TO EXECUTE AND DELIVER THE SERIES 2024A BONDS; AUTHORIZING AND DIRECTING THE FILING OF NOTICE WITH THE STATE LOCAL DEBT OFFICER; PROVIDING FOR THE PAYMENT AND SECURITY OF THE SERIES 2024A BONDS; MAINTAINING A SINKING FUND; CREATING A BOND PAYMENT FUND FOR THE SERIES 2024A BONDS; AUTHORIZING ACCEPTANCE OF THE BID(S) OF THE BOND PURCHASER OF THE SERIES 2024A BONDS; AND REPEALING INCONSISTENT ORDINANCES.

WHEREAS, the Lexington-Fayette Urban County Government has previously determined the necessity of financing the acquisition of various projects for departments within the Lexington-Fayette Urban County Government, including, but not limited to (i) Phoenix Park development, radio replacement, new firetrucks and other fire safety related projects, new police cars, road construction and improvements, road resurfacing, road maintenance, road upgrades, streetscapes and sidewalk improvements, public art and beautification projects, renovations, repairs and upgrades related to public buildings, vehicle acquisitions, city hall pre-development project phase II, and various other improvements within departments of the Lexington-Fayette Urban County Government, (ii) providing funding for a program to preserve and manage agricultural, rural and natural lands, including the purchase of conservation easements or development rights (collectively, the “Series 2024A Project”); and

WHEREAS, pursuant to the Constitution and laws of the Commonwealth of Kentucky, and particularly KRS 66.011 *et. seq.* (the “Act”), an urban county government may issue bonds, subject to the requirements of the Act, to pay all or any portion of the costs of the Series 2024A Project; and

WHEREAS, the Lexington-Fayette Urban County Government has determined that it is in the best interests of the Lexington-Fayette Urban County Government that the Series 2024A Project should be financed and refinanced through the issuance of Lexington-Fayette Urban County Government Various Purpose General Obligation Bonds, Series 2024A, in one or more subseries on a tax-exempt or taxable basis as hereinafter provided, in an aggregate principal amount of \$38,060,000 (which amount may be increased by an amount of up to ten percent (10%) or decreased by an unlimited amount) (the “Series 2024A Bonds”) to be sold and awarded to the

successful bidder(s) (the “Purchaser(s)”) at public, competitive sale in accordance with the provisions of Chapter 424 of the Kentucky Revised Statutes, as amended;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, AS FOLLOWS:

SECTION 1. Necessity, Authorization and Purpose of General Obligation Bonds.

The Lexington-Fayette Urban County Government hereby declares that it is necessary to issue and authorizes the issuance of its Various Purpose General Obligation Bonds, Series 2024A, in one or more subseries, on a tax-exempt or taxable basis, in a principal amount of \$38,060,000 (which amount may be increased by an amount of up to ten percent (10%) or decreased by an unlimited amount) (the “Permitted Adjustment”). The exact principal amount of the Series 2024A Bonds and the designation of one or more subseries, on a taxable or tax-exempt basis, shall be set forth the Certificate of Award to be executed by the Mayor of the Lexington-Fayette Urban County Government (the “Certificate of Award”) awarding the Series 2024A Bonds to the Purchaser and establishing the interest rate or rates on the Series 2024A Bonds. The Series 2024A Bonds are being issued for the purpose of (i) financing the Series 2024A Project and (ii) paying certain costs of issuance with respect to the Series 2024A Bonds.

The Series 2024A Bonds shall be offered for sale in accordance with the provisions hereof, and the determination of the best bids for the Series 2024A Bonds shall be made on the basis of all bids submitted for \$38,060,000 principal amount of Series 2024A Bonds; provided however, the Permitted Adjustments are reserved by the Lexington-Fayette Urban County Government hereunder, with such increases to be made in any principal maturity so that the total principal amount of Series 2024A Bonds awarded to the best bidder may be a maximum of \$42,350,000. In the event of any such Permitted Adjustment, no rebidding or recalculation of a submitted bid will be required or permitted; the price at which such adjusted principal amount of Series 2024A Bonds will be sold shall be at the same price per \$1,000 of Series 2024A Bonds as the price per \$1,000 of the \$38,060,000 of Series 2024A Bonds bid.

SECTION 2. Form. The Series 2024A Bonds shall be issued in fully registered form, shall be designated “Various Purpose General Obligation Bonds, Series 2024A,” shall express upon their faces the purpose for which they are issued and that they are issued under the Act and shall be substantially in the form set forth in *Annex A*, in accordance with the terms set forth in the Certificate of Award.

The Series 2024A Bonds shall be in denominations as requested by the Purchaser, which shall be in multiples of five thousand dollars (\$5,000) or any integral multiple thereof. The Series 2024A Bonds shall be dated their date of issuance and delivery or such other date as is determined in the Certificate of Award.

Interest on the Series 2024A Bonds shall be payable no less frequently than semi-annually on the dates set forth in the Certificate of Award (an “Interest Payment Date”) at the stated interest rate or rates on the principal amount thereof. The Series 2024A Bonds shall be serial or term bonds maturing, or subject to optional and/or mandatory sinking fund redemption annually on the dates, in the years and in the amounts to be established in the Certificate of Award after advertised competitive sale of the Series 2024A Bonds based on the interest rates bid in the successful bids (the “Bids”) and the provisions of this Section 2, provided that the final maturity date of the Series 2024A Bonds shall be as set forth in the Certificate of Award but shall be no later than twenty years from their date of initial issuance. The interest rate or rates on the Series 2024A Bonds shall be determined in the Certificate of Award based on the Bids; provided that the aggregate net interest cost of the Series 2024A Bonds shall not exceed seven percent (7.00%).

The Series 2024A Bonds may contain such additional extraordinary optional or mandatory redemption provisions as may, upon the advice of the Lexington-Fayette Urban County Government's municipal advisors and bond counsel, be necessary to accomplish the financial objectives of the Lexington-Fayette Urban County Government and/or achieve compliance with any provisions of the Internal Revenue Code of 1986, as amended. The Mayor is hereby authorized and directed to administratively approve any such additional extraordinary optional or mandatory redemption provisions, and the execution of the Certificate of Award shall constitute conclusive evidence of the approval of such additional provisions.

At least thirty (30) days before the redemption date of any Series 2024A Bonds subject to optional or mandatory redemption, U.S. Bank Trust Company, National Association, Louisville, Kentucky (the “Paying Agent and Registrar”) shall cause a notice of such redemption either in whole or in part, signed by the Paying Agent and Registrar (as hereinafter defined), to be mailed, first class, postage prepaid, to all registered owners of the Series 2024A Bonds to be redeemed in whole or in part at their addresses as they appear on the registration books kept by the Paying Agent and Registrar, but failure to mail any such notice shall not affect the validity of the proceedings for such redemption of Series 2024A Bonds for which such notice has been sent. Each such notice shall set forth the date fixed for redemption, the redemption price to be paid and, if

less than all of the Series 2024A Bonds of a subseries being payable by their terms on a single date then outstanding shall be called for redemption, the distinctive number or letters, if any, of such Series 2024A Bonds to be redeemed.

On the date so designated for redemption, notice having been mailed in the manner under the conditions hereinabove provided and moneys for payment of the redemption price being held in the applicable bond payment fund by the Paying Agent and Registrar for the registered owners of the Series 2024A Bonds to be redeemed, the Series 2024A Bonds so called for redemption shall become and be due and payable at the redemption price provided for redemption of such Series 2024A Bonds on such date, interest on the Series 2024A Bonds so called for redemption shall cease to accrue, and the registered owners of such Series 2024A Bonds shall have no right in respect thereof except to receive payment of the redemption price thereof.

SECTION 3. Execution and Delivery. The Series 2024A Bonds shall be executed by the manual or facsimile signature of the Mayor and duly attested by the manual or facsimile signature of the Urban County Council Clerk (which, together with any other person as may be authorized by resolution are referred to as “Designated Officers”) and shall bear the manual authenticating signature of an authorized representative of the Paying Agent and Registrar for the Series 2024A Bonds. The Designated Officers are further authorized and directed to deliver the Series 2024A Bonds to the Purchaser, upon the terms and conditions provided herein, in the Certificate of Award and in the Bids, receive the proceeds therefor, execute and deliver such certificates and other closing documents and take such other action as may be necessary or appropriate in order to effectuate the proper issuance, sale and delivery of the Series 2024A Bonds.

The Lexington-Fayette Urban County Government authorizes and directs the Paying Agent and Registrar to authenticate the Series 2024A Bonds and to deliver the Series 2024A Bonds to the Purchaser following execution of the Certificate of Award and payment of the purchase price thereof.

SECTION 4. Payment. Payment of or on account of the interest on and principal of the Series 2024A Bonds shall be made directly to the Paying Agent and Registrar for the account of the registered owner. Interest on the Series 2024A Bonds shall be payable by check, mailed to the person whose name appears on the fifteenth day preceding an Interest Payment Date on the bond registration records as the registered owner, on each Interest Payment Date or by other transfer of funds acceptable to such registered owner and the Paying Agent and Registrar. Principal shall be payable in such coin or currency of the United States of America as shall be

legal tender for the payment of public and private debts at the time and place of payment upon delivery of the Series 2024A Bonds to the Paying Agent and Registrar or by other transfer of funds acceptable to the Paying Agent and Registrar and such registered owner. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Series 2024A Bonds to the extent of the sum or sums so paid.

SECTION 5. Filing and Approvals. The Designated Officers are hereby authorized to undertake and cause all filings of notices or information, which may be required by law to be filed or obtained by the Lexington-Fayette Urban County Government, including, but not limited to, filings with the State Local Debt Officer as required by law.

SECTION 6. Bond Payment Fund, Payment of Series 2024A Bonds. There is hereby established with the Paying Agent and Registrar a bond payment fund in the name of the Lexington-Fayette Urban County Government to be known as Various Purpose General Obligation Bonds, Series 2024A Bond Payment Fund (the “Bond Payment Fund”), into which the Lexington-Fayette Urban County Government covenants to deposit, and into which the Designated Officers are hereby authorized and directed to deposit from the Sinking Fund (hereinafter defined), on or before the twenty-fifth day of each month which precedes an Interest Payment Date, the amount required to pay principal of and interest due on the Series 2024A Bonds on such Interest Payment Date. The Paying Agent and Registrar is further directed to establish such additional subaccounts within the Bond Payment Fund as may be necessary in connection with the issuance of multiple subseries of the Series 2024A Bonds. The Paying Agent and Registrar shall, without further authorization from the Lexington-Fayette Urban County Government, withdraw from the Bond Payment Fund, on such Interest Payment Date, the amounts necessary to pay principal of, and interest on the Series 2024A Bonds to the registered owners of the same.

The Paying Agent and Registrar is hereby appointed depository of the Bond Payment Funds with respect to the Series 2024A Bonds.

If the Lexington-Fayette Urban County Government shall fail or refuse to make any required deposit in the Bond Payment Fund from the Sinking Fund, the Paying Agent and Registrar shall (i) notify any agency of the Commonwealth of Kentucky or any political subdivision thereof which may collect and distribute taxes or revenues for the Lexington-Fayette Urban County Government to seek any available necessary or proper remedial action; and (ii) upon being indemnified against cost and expense, exercise any remedy provided in the Act or at law or in equity for the benefit of the owner of the Series 2024A Bonds or its assignee, and shall disburse

all funds so collected to the owners of the Series 2024A Bonds as payment of the Series 2024A Bonds.

SECTION 7. General Obligation; Maintenance of Sinking Fund. The Series 2024A Bonds shall be full general obligations of the Lexington-Fayette Urban County Government and, for the payment of said Series 2024A Bonds and the interest thereon, the full faith, credit and revenue of the Lexington-Fayette Urban County Government are hereby pledged for the prompt payment thereof. During the period the Series 2024A Bonds are outstanding, there shall be and there hereby is levied on all the taxable property in Lexington, Fayette County, Kentucky in addition to all other taxes, without limitation as to rate, a direct tax annually in an amount sufficient to pay the principal of and interest on the Series 2024A Bonds when and as due, it being hereby found and determined that current tax rates are within all applicable limitations. Said tax shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers in the same manner and at the same time that taxes for general purposes for each of said years are certified, extended and collected. Said tax shall be placed before and in preference to all other items and for the full amount thereof provided, however, that in each year to the extent that the other lawfully available funds of the Lexington-Fayette Urban County Government are available for the payment of the Series 2024A Bonds and are appropriated for such purpose, including the proceeds of the Series 2024A Bonds, the amount of such direct tax upon all of the taxable property in the Lexington-Fayette Urban County Government shall be reduced by the amount of such other funds so available and appropriated.

There has previously been established with the Lexington-Fayette Urban County Government a sinking fund (the "Sinking Fund"). The funds derived from said tax levy hereby required or other lawfully available funds shall be placed in the Sinking Fund and, together with interest collected on the same, are irrevocably pledged for the payment of the interest on and principal of all bonds issued under the Act and tax-supported leases, as defined in the Act, when and as the same fall due. Amounts shall be transferred from the Sinking Fund to each Bond Payment Fund at the times and in the amounts required by Section 7.

SECTION 8. Sale of Bonds; Certificate of Award. The Designated Officers are hereby directed to sell the Series 2024A Bonds to the Purchasers at advertised competitive sale, the final principal amount of, the principal amortization of, the interest payment dates and the interest rate or rates on the Series 2024A Bonds to be established in accordance with the requirements of Sections 1, 2 and 3 hereof and the Certificate of Award.

SECTION 9. Registered Owner; Transfer; Exchange. As long as the Series 2024A Bonds executed and delivered hereunder shall remain outstanding, the Paying Agent and Registrar shall maintain an office for the registration of such Series 2024A Bonds and shall also keep at such office books for such registration and transfers. The registered owner of the Series 2024A Bonds, as set forth in the registration books maintained by the Paying Agent and Registrar on the fifteenth day preceding an Interest Payment Date, or its assignees, for purposes of this Bond Ordinance, to the extent of its interest, shall be treated as the owner of the Series 2024A Bonds and shall be entitled to all rights and security of the owner of the Series 2024A Bonds hereunder.

Upon surrender for registration of transfer of the Series 2024A Bonds at the office of the Paying Agent and Registrar with a written instrument of transfer satisfactory to the Paying Agent and Registrar, duly executed by the registered owner or the registered owner's duly authorized attorney, the Paying Agent and Registrar shall execute and deliver, in the name of the designated transferee or transferees, one or more Series 2024A Bonds of the same series or subseries of any authorized denomination and of a like tenor and effect.

All Series 2024A Bonds, upon surrender thereof at the office of the Paying Agent and Registrar, may, at the option of the registered owner thereof be exchanged for an equal aggregate principal amount of Series 2024A Bonds of the same series or subseries of any authorized denomination.

In all cases in which the privilege of exchanging or transferring Series 2024A Bonds is exercised, the Paying Agent and Registrar shall execute and deliver Series 2024A Bonds in accordance with the provisions of this Section. Every such exchange or transfer of Series 2024A Bonds, whether temporary or definitive, shall be without charge; provided that the Paying Agent and Registrar may impose a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, which sum or sums shall be paid by the person requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer.

SECTION 10. Book-entry System. For purposes of this Bond Ordinance, the following terms shall have the following meanings:

“Book entry form” or “book entry system” means a form or system under which (i) the beneficial right to payment of principal of and interest on the Series 2024A Bonds may be transferred only through a book entry, and (ii) physical Bond certificates in fully registered form are issued only to the Depository or its nominee as registered owner, with the Series 2024A Bonds

“immobilized” to the custody of the Depository, and the book entry maintained by others than the Lexington-Fayette Urban County Government or the Paying Agent and Registrar is the record that identifies the owners of beneficial interests in those Bonds and that principal and interest.

“Depository” means any securities depository that is a clearing agency under federal law operating and maintaining, together with its Participants or otherwise, a book entry system to record ownership of beneficial interests in Series 2024A Bonds or principal and interest, and to effect transfers of Series 2024A Bonds, in book entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

“Participant” means any participant contracting with a Depository under a book entry system and includes security brokers and dealers, banks and trust companies, and clearing corporations.

All or any portion of the Series 2024A Bonds may be initially issued to a Depository for use in a book entry system, and the provisions of this Section 10 shall apply to such Series 2024A Bonds, notwithstanding any other provision of this Bond Ordinance. If and as long as a book entry system is utilized with respect to any such Bonds: (i) there shall be such number of Series 2024A Bonds of each maturity as the Depository shall specify; (ii) those Series 2024A Bonds shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners of Series 2024A Bonds in book entry form shall have no right to receive Series 2024A Bonds in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Series 2024A Bonds in book entry form shall be shown by book entry on the system maintained and operated by the Depository and its Participants, and transfers of the ownership of beneficial interests shall be made only by book entry by the Depository and its Participants; and (v) the Series 2024A Bonds as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the Urban County Council. Debt service charges on Series 2024A Bonds in book entry form registered in the name of a Depository or its nominee shall be payable in the manner provided in the Lexington-Fayette Urban County Government's agreement with the Depository to the Depository or its authorized representative (i) in the case of interest, on each Interest Payment Date, and (ii) in all other cases, upon presentation and surrender of Series 2024A Bonds as provided in this Bond Ordinance.

The Paying Agent and Registrar may, with the approval of the Lexington-Fayette Urban County Government, enter into an agreement with the beneficial owner or registered owner of any

Bond in the custody of a Depository providing for making all payments to that owner of principal and interest on that Series 2024A Bond or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided in this Bond Ordinance, without prior presentation or surrender of the Series 2024A Bond, upon any conditions which shall be satisfactory to the Paying Agent and Registrar and to the Lexington-Fayette Urban County Government. That payment in any event shall be made to the person who is the registered owner of that Series 2024A Bond on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Paying Agent and Registrar shall furnish a copy of each of those agreements, certified to be correct by the Paying Agent and Registrar, to any other paying agents for Series 2024A Bonds and to the Lexington-Fayette Urban County Government. Any payment of principal or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Bond Ordinance.

The Mayor of the Lexington-Fayette Urban County Government is authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the Lexington-Fayette Urban County Government a letter agreement among the Lexington-Fayette Urban County Government, the Paying Agent and Registrar and The Depository Trust Company, as Depository, to be delivered in connection with the issuance of the Series 2024A Bonds to the Depository for use in a book entry system.

If any Depository determines not to continue to act as depository for the Series 2024A Bonds for use in a book entry system, the Lexington-Fayette Urban County Government and the Paying Agent and Registrar may attempt to establish a securities depository/book entry relationship with another qualified Depository under this Bond Ordinance. If the Lexington-Fayette Urban County Government and the Paying Agent and Registrar do not or are unable to do so, the Lexington-Fayette Urban County Government and the Paying Agent and Registrar, after the Paying Agent and Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Series 2024A Bonds from the Depository and authenticate and deliver Series 2024A Bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing definitive Series 2024A Bonds), if the event is not the result of action or inaction by the Urban County Council or the Paying Agent and Registrar, of those persons requesting such issuance.

SECTION 11. Disposition of Proceeds. The proceeds of the sale of the Series 2024A Bonds shall be deposited, together with other available funds of the Lexington-Fayette Urban County Government, as follows: (a) accrued interest, if any, shall be deposited to the Series 2024A Bond Payment Fund created in Section 7 hereof; (b) into an acquisition account for the Series 2024A Bonds (the “Lexington-Fayette Urban County Government Series 2024A Acquisition Account”) to be held by the Lexington-Fayette Urban County Government and used to pay the costs of the Series 2024A Project; (c) an amount sufficient to pay the costs of issuing the Series 2024A Bonds (the “Series 2024A Cost of Issuance Fund”) shall be held by the Lexington-Fayette Urban County Government and used to pay the costs of issuance of the Series 2024A Bonds.

SECTION 12. Appointment and Engagement of Bond Counsel. This Urban County Council hereby retains Dinsmore & Shohl, LLP, as its bond counsel (“Bond Counsel”), to provide the Issuer with its services in connection with the issuance, sale, and delivery of the Series 2024A Bonds. Bond Counsel shall be paid a fee of \$3.00 per \$1,000 of Series 2024A Bonds issued, inclusive of related expenses, provided, however, that publication expenses and transcripts incurred by Bond Counsel shall be reimbursed separately. Such services as Bond Counsel shall include the additional research, tax analysis and other debt related research for the Lexington-Fayette Urban County Government. A Designated Officer is hereby authorized and directed to execute and deliver on behalf of the Issuer any appropriate agreements and/or engagement letters in connection with such appointment.

SECTION 13. Municipal Advisor. Robert W. Baird & Co. Incorporated (the “Municipal Advisor”) is hereby appointed Municipal Advisor to the Lexington-Fayette Urban County Government in connection with the issuance, sale and delivery of the Series 2024A Bonds. The Municipal Advisor shall be paid a fee of \$4.00 per \$1,000 of Series 2024A Bonds issued, inclusive of related expenses. A Designated Officer is hereby authorized and directed to execute and deliver on behalf of the Issuer any appropriate agreements and/or engagement letters in connection with such appointment.

SECTION 14. Discharge of Bond Ordinance. If the Lexington-Fayette Urban County Government shall pay or cause to be paid, or there shall otherwise be paid, to the owners of the Series 2024A Bonds the total principal and interest due or to become due thereon through maturity, in the manner stipulated therein and in this Bond Ordinance, then the pledges made under this Bond Ordinance, and all covenants, agreements and other obligations of the Lexington-Fayette

Urban County Government hereunder, shall thereupon cease, terminate and become void and be discharged and satisfied.

SECTION 15. Restriction on Use of Proceeds. This Urban County Council for and on behalf of the Lexington-Fayette Urban County Government hereby covenants that it will restrict the use of the proceeds of the Series 2024A Bonds hereby authorized in such manner and to such extent, if any, and take such other action as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute obligations the interest on which is subject to federal income taxation or “arbitrage bonds” under Sections 103(b)(2) and 148 of the Code, and the regulations prescribed thereunder. The Mayor or any other officer having responsibility with respect to the issuance of the certificates, is authorized and directed to give an appropriate certificate on behalf of the Lexington-Fayette Urban County Government, on the date of delivery of the Series 2024A Bonds, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances and reasonable expectations pertaining to the use of the proceeds thereof and the provisions of said Sections 103(b)(2) and 148 and regulations thereunder.

These Series 2024A Bonds are not designated “qualified tax-exempt obligations” for the purposes set forth Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

SECTION 16. Severability. If any one or more of the provisions of this Bond Ordinance should be determined by a court of competent jurisdiction to be contrary to law, then such provisions shall be deemed to be severable from all remaining provisions and shall not affect the validity of such other provisions.

SECTION 17. Inconsistent Actions. All prior ordinances, resolutions or parts thereof inconsistent herewith are hereby repealed.

SECTION 18. Open Meetings Compliance. All meetings of the Urban County Council Court and of its committees and any other public bodies, at which the formal actions in connection with the issuance of the Series 2024A Bonds were taken, or at which deliberations that resulted in such formal actions were held, were open meetings, and such formal actions were taken and any such deliberations took place while such meetings, after proper notice, were open to the public, in compliance with all legal requirements including KRS Sections 61.810, 61.815, 61.820 and 61.825.

SECTION 19. Effective Date. This Ordinance shall become effective immediately upon adoption and publication of a summary thereof, as provided by law.

INTRODUCED AND GIVEN FIRST READING at a duly convened meeting of the Urban County Council of the Lexington-Fayette Urban County Government on the ____ day of _____, 2024.

GIVEN SECOND READING, ENACTED AND ADOPTED at a duly convened meeting of the Urban County Council of the Lexington-Fayette Urban County Government on the ____ day of _____, 2024.

**LEXINGTON-FAYETTE URBAN COUNTY
GOVERNMENT**

By: _____
Linda Gorton
Mayor

ATTEST:

By: _____
Abigail Allan
Urban County Council Clerk

CERTIFICATION

I, the undersigned, do hereby certify that I am the duly qualified and acting Urban County Council Clerk of the Lexington-Fayette Urban County Government, and as such Urban County Council Clerk, I further certify that the foregoing is a true, correct and complete copy of a Bond Ordinance duly enacted by the Urban County Council of the Lexington-Fayette Urban County Government at a duly convened meeting held on the _____ day of _____, 2024, signed by the Mayor and now in full force and effect, all as appears from the official records of the Lexington-Fayette Urban County Government in my possession and under my control.

WITNESS my hand and the seal of said Urban County Government as of the _____ day of _____, 2024.

Urban County Council Clerk

[SEAL]

CERTIFICATE

I do hereby certify that the title to this enactment contains an accurate synopsis of the contents thereof and may be used to satisfy the reading and publication requirements of law.

DINSMORE & SHOHL LLP

By: _____
John C. Merchant, Esq.
Attorney at Law

**ANNEX A
FORM OF SERIES 2024A BOND**

**COMMONWEALTH OF KENTUCKY
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT
VARIOUS PURPOSE GENERAL OBLIGATION BOND,
SERIES 2024A**

No. R-__

| <u>Maturity Date</u> | <u>CUSIP Number</u> | <u>Interest Rate</u> | <u>Bond Date</u> | <u>Interest Payment Dates</u> |
|--------------------------|-------------------------|--------------------------|----------------------|-----------------------------------|
| ____ 1, ____ | _____ | _____% | _____, 2024 | [____ 1 and ____ 1] |

REGISTERED HOLDER: _____

PRINCIPAL AMOUNT: \$ _____
_____ DOLLARS

KNOW ALL PERSONS BY THESE PRESENTS: That the Lexington-Fayette Urban County Government for value received, hereby acknowledges itself obligated to, and promises to pay to the registered holder identified above, or registered assigns, the principal sum identified above (or, if any part thereof has been paid, the balance thereof remaining unpaid), on the maturity date specified above, and to pay interest on said principal sum (or, if any part thereof has been paid, the balance thereof remaining unpaid) from the date hereof, payable each _____ 1 and _____ 1, commencing _____ 1, 2024, at the Interest Rate per annum identified above, except as the provisions hereinafter set forth with respect to prior redemption may be and become applicable hereto. The principal of and interest on this bond are payable, without deduction for exchange, collection, or service charges, in lawful money of the United States of America. Principal is payable at the principal office of the U.S. Bank Trust Company, National Association, Louisville, Kentucky, or another financial institution as provided in the Certificate of Award or any successor (the "Paying Agent and Registrar") or by other transfer of funds acceptable to the Paying Agent and Registrar and such owner. All interest on this bond and principal payable prior to the final maturity date shall be payable by check or draft mailed or via wire transfer to the record date registered holder hereof at the address shown on the registration records kept by the Paying Agent and Registrar or by other transfer of funds acceptable to the Paying Agent and Registrar and such owner. The record date shall be the fifteenth day of the month preceding each interest payment date.

This bond is one of an issue of Various Purpose General Obligation Bonds, Series 2024A (the "Series 2024A Bonds") of like tenor and effect, except as to denomination and maturity, numbered from R-1 upward, inclusive, of the denomination of \$5,000 or any integral multiple thereof originally aggregating _____ dollars (\$_____) in principal amount, issued for the purpose of financing the acquisition of various projects for departments within the Lexington-Fayette Urban County Government, including, but not limited to (i) Phoenix Park development, , radio replacement, new firetrucks and other fire safety related projects, new police cars, road construction and improvements, road resurfacing, road maintenance, road upgrades, streetscapes and sidewalk improvements, public art and beautification projects, renovations, repairs and upgrades related to public buildings, vehicle acquisitions, city hall pre-development project phase II, and various other improvements within departments of the Lexington-Fayette Urban County Government, (ii) providing funding for a program to preserve and manage agricultural, rural and natural lands, including the purchase of conservation easements or development rights (collectively, the "Series 2024A Project"), and (iii) paying the costs of issuance of the Series 2024A Bonds, all pursuant to and in full compliance with the general laws of the Commonwealth of Kentucky and particularly Chapter 66 of the Kentucky Revised Statutes, and pursuant to an ordinance duly adopted by the Urban County Council of the Lexington-Fayette Urban County Government on the _____ day of _____, 2024 (the "Bond Ordinance") upon the affirmative vote of at least a majority of the members of its Urban County Council at a public meeting duly and regularly held and after filing proper notice with the State Local Debt Officer of the Commonwealth of Kentucky.

This Series 2024A Bond and the issue of which it forms a part is a general obligation of the Lexington-Fayette Urban County Government and the full faith, credit and revenue of the Lexington-Fayette Urban County Government are pledged to the payments due hereunder. THIS SERIES 2024A BOND IS CONTINUALLY SECURED BY THE FAITH, CREDIT AND REVENUE OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT.

The Series 2024A Bonds mature on the first day of _____ of the following years, in the principal amounts and bear interest at the following rates of interest:

| Year (_____ 1) | Amount | Interest Rate |
|-------------------|--------|------------------|
| 2025 | | |
| 2026 | | |
| 2027 | | |
| 2028 | | |
| 2029 | | |
| 2030 | | |
| 2031 | | |
| 2032 | | |
| 2033 | | |
| 2034 | | |
| 2035 | | |
| 2036 | | |
| 2037 | | |
| 2038 | | |
| 2039 | | |
| 2040 | | |
| 2041 | | |
| 2042 | | |
| 2043 | | |
| 2044 | | |
| TOTAL | | |

Optional Redemption. The Series 2024A Bonds maturing on and after August 1, 20____ shall be subject to optional redemption prior to their maturity on any date on or after August 1, 20____, in whole or in part, in inverse order of maturity and by lot within a maturity, at the election of the Lexington-Fayette Urban County Government upon 45 days' written notice to the Paying Agent and Registrar at a redemption price equal to 100% of the principal amount redeemed plus accrued interest to the date fixed for redemption.

Notice of Redemption. At least thirty (30) days before the optional redemption date of any Series 2024A Bonds the Paying Agent and Registrar shall cause a notice of such redemption signed by the Paying Agent and Registrar, to be mailed, first class, postage prepaid, to all registered owners of the Series 2024A Bonds to be redeemed at their addresses as they appear on the registration books kept by the Paying Agent and Registrar, but failure to mail any such notice shall not affect the validity of the proceedings for such redemption of Series 2024A Bonds for which such notice has been sent. Each such notice shall set forth the date fixed for redemption, the redemption price to be paid and, if less than all of the Series 2024A Bonds being payable by their terms on a single date then outstanding shall be called for redemption, the distinctive number or letters, if any, of such Series 2024A Bonds to be redeemed.

On the date so designated for redemption, notice having been published in the manner under the conditions hereinabove provided and moneys for payment of the redemption price being held in the Series 2024A Bond Payment Fund by the Paying Agent and Registrar for the registered owners of the Series 2024A Bonds to be redeemed, the Series 2024A Bonds so called for redemption shall become and be due and payable at the redemption price provided for redemption of such Series 2024A Bonds on such date, interest on the Series 2024A Bonds so called for redemption shall cease to accrue, and the registered owners of such Series 2024A Bonds shall have no right in respect thereof except to receive payment of the redemption price thereof.

No recourse shall be had for the payment of the principal of or the interest on this Series 2024A Bond, or for any claim based hereon, against any officer, agent or employee, past, present or future, of the Lexington-Fayette Urban County Government, as such, either directly or through the Lexington-Fayette Urban County Government, whether by virtue of any constitutional provision, statute or rule of law, or by the enforcement of any assessment or penalty, or otherwise; all such liability of such officers, agents or employees is hereby renounced, waived and released as a condition of and as consideration for the issuance, execution and acceptance of this Series 2024A Bond.

It is hereby certified that all acts, conditions and things required to be done, to occur or be performed precedent to and in the issuance of this Series 2024A Bond, or in the creation of the obligations of which this Series 2024A Bond is evidence, have been done, have occurred and have been performed in regular and due form and manner as required by law; that the faith, credit and revenue of the Lexington-Fayette Urban County Government are hereby irrevocably pledged for the prompt payment of the principal hereof and interest hereon; that the repayment obligation represented by this Series 2024A Bond is not in excess of any constitutional or statutory limitation; and that due provision has been made for the levy and collection of a tax sufficient in amount to pay the interest on this Series 2024A Bond as it falls due and to provide for the redemption of this Series 2024A Bond at maturity or upon earlier redemption.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Lexington-Fayette Urban County Government has caused this Series 2024A Bond to be signed either manually or by facsimile in its name by its Mayor and duly attested either manually or by facsimile by its Urban County Council Clerk and an impression or facsimile of the Lexington-Fayette Urban County Government's seal to be imprinted hereon, as of the date set forth above.

**LEXINGTON-FAYETTE URBAN COUNTY
GOVERNMENT**

By: _____
Linda Gorton
Mayor

(SEAL)

Attest:

By: _____
Abigail Allan
Clerk of the Urban County Council

CERTIFICATE OF AUTHENTICATION

This is to certify that this Series 2024A Bond is one of the Series 2024A Bonds described hereinabove.

_____,
_____, _____

By: _____
Name:
Title:

Date of Authentication: _____

Unless this certificate is presented by an authorized representative of The Depository Trust Company to the Issuer or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of CEDE & Co or such other name as requested by an authorized representative of The Depository Trust Company and any payment is made to CEDE & Co, ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered owner hereof, CEDE & Co, has an interest herein.

CERTIFICATE

It is hereby certified that the following is a correct and complete copy of the text of the legal opinion of Dinsmore & Shohl LLP, Attorneys, Lexington, Kentucky, regarding the issue of which the within Series 2024A Bond is one, the original of which opinion was manually executed, dated and issued as of the date of delivery of and payment for said issue and a copy of which is on file with the undersigned.

Urban County Council Clerk

[INSERT FORM OF APPROVING OPINION]

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto:

(please print or typewrite social security number or other identifying number and name and address of transferee)

the within Series 2024A Bond and does hereby irrevocably constitute and appoint _____ or its successor as Paying Agent and Registrar to transfer the said Series 2024A Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____

Notice: The signature to this assignment must correspond with the name of the registered owner as it appears upon the face of the within Series 2024A Bond in every particular, without alteration or enlargement or any change whatever.

ORDINANCE NO. 031-2024

AN ORDINANCE OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT AUTHORIZING THE ISSUANCE OF ITS VARIOUS PURPOSE GENERAL OBLIGATION BONDS, SERIES 2024A, IN ONE OR MORE SUBSERIES, IN AN AGGREGATE PRINCIPAL AMOUNT OF \$38,060,000 (WHICH AMOUNT MAY BE INCREASED BY AN AMOUNT OF UP TO TEN PERCENT (10%) OR DECREASED BY AN UNLIMITED AMOUNT); APPROVING A FORM OF SERIES 2024A BONDS; AUTHORIZING DESIGNATED OFFICERS TO EXECUTE AND DELIVER THE SERIES 2024A BONDS; AUTHORIZING AND DIRECTING THE FILING OF NOTICE WITH THE STATE LOCAL DEBT OFFICER; PROVIDING FOR THE PAYMENT AND SECURITY OF THE SERIES 2024A BONDS; MAINTAINING A SINKING FUND; CREATING A BOND PAYMENT FUND FOR THE SERIES 2024A BONDS; AUTHORIZING ACCEPTANCE OF THE BID(S) OF THE BOND PURCHASER OF THE SERIES 2024A BONDS; AND REPEALING INCONSISTENT ORDINANCES.

WHEREAS, the Lexington-Fayette Urban County Government has previously determined the necessity of financing the acquisition of various projects for departments within the Lexington-Fayette Urban County Government, including, but not limited to (i) Phoenix Park development, radio replacement, new firetrucks and other fire safety related projects, new police cars, road construction and improvements, road resurfacing, road maintenance, road upgrades, streetscapes and sidewalk improvements, public art and beautification projects, renovations, repairs and upgrades related to public buildings, vehicle acquisitions, city hall pre-development project phase II, and various other improvements within departments of the Lexington-Fayette Urban County Government, (ii) providing funding for a program to preserve and manage agricultural, rural and natural lands, including the purchase of conservation easements or development rights (collectively, the “Series 2024A Project”); and

WHEREAS, pursuant to the Constitution and laws of the Commonwealth of Kentucky, and particularly KRS 66.011 *et. seq.* (the “Act”), an urban county government may issue bonds, subject to the requirements of the Act, to pay all or any portion of the costs of the Series 2024A Project; and

WHEREAS, the Lexington-Fayette Urban County Government has determined that it is in the best interests of the Lexington-Fayette Urban County Government that the Series 2024A Project should be financed and refinanced through the issuance of Lexington-Fayette Urban County Government Various Purpose General Obligation Bonds, Series 2024A, in one or more subseries on a tax-exempt or taxable basis as hereinafter provided, in an aggregate principal amount of \$38,060,000 (which amount may be increased by an amount of up to ten percent (10%) or decreased by an unlimited amount) (the “Series 2024A Bonds”) to be sold and awarded to the

successful bidder(s) (the “Purchaser(s)”) at public, competitive sale in accordance with the provisions of Chapter 424 of the Kentucky Revised Statutes, as amended;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, AS FOLLOWS:

SECTION 1. Necessity, Authorization and Purpose of General Obligation Bonds.

The Lexington-Fayette Urban County Government hereby declares that it is necessary to issue and authorizes the issuance of its Various Purpose General Obligation Bonds, Series 2024A, in one or more subseries, on a tax-exempt or taxable basis, in a principal amount of \$38,060,000 (which amount may be increased by an amount of up to ten percent (10%) or decreased by an unlimited amount) (the “Permitted Adjustment”). The exact principal amount of the Series 2024A Bonds and the designation of one or more subseries, on a taxable or tax-exempt basis, shall be set forth the Certificate of Award to be executed by the Mayor of the Lexington-Fayette Urban County Government (the “Certificate of Award”) awarding the Series 2024A Bonds to the Purchaser and establishing the interest rate or rates on the Series 2024A Bonds. The Series 2024A Bonds are being issued for the purpose of (i) financing the Series 2024A Project and (ii) paying certain costs of issuance with respect to the Series 2024A Bonds.

The Series 2024A Bonds shall be offered for sale in accordance with the provisions hereof, and the determination of the best bids for the Series 2024A Bonds shall be made on the basis of all bids submitted for \$38,060,000 principal amount of Series 2024A Bonds; provided however, the Permitted Adjustments are reserved by the Lexington-Fayette Urban County Government hereunder, with such increases to be made in any principal maturity so that the total principal amount of Series 2024A Bonds awarded to the best bidder may be a maximum of \$42,350,000. In the event of any such Permitted Adjustment, no rebidding or recalculation of a submitted bid will be required or permitted; the price at which such adjusted principal amount of Series 2024A Bonds will be sold shall be at the same price per \$1,000 of Series 2024A Bonds as the price per \$1,000 of the \$38,060,000 of Series 2024A Bonds bid.

SECTION 2. Form. The Series 2024A Bonds shall be issued in fully registered form, shall be designated “Various Purpose General Obligation Bonds, Series 2024A,” shall express upon their faces the purpose for which they are issued and that they are issued under the Act and shall be substantially in the form set forth in *Annex A*, in accordance with the terms set forth in the Certificate of Award.

The Series 2024A Bonds shall be in denominations as requested by the Purchaser, which shall be in multiples of five thousand dollars (\$5,000) or any integral multiple thereof. The Series 2024A Bonds shall be dated their date of issuance and delivery or such other date as is determined in the Certificate of Award.

Interest on the Series 2024A Bonds shall be payable no less frequently than semi-annually on the dates set forth in the Certificate of Award (an "Interest Payment Date") at the stated interest rate or rates on the principal amount thereof. The Series 2024A Bonds shall be serial or term bonds maturing, or subject to optional and/or mandatory sinking fund redemption annually on the dates, in the years and in the amounts to be established in the Certificate of Award after advertised competitive sale of the Series 2024A Bonds based on the interest rates bid in the successful bids (the "Bids") and the provisions of this Section 2, provided that the final maturity date of the Series 2024A Bonds shall be as set forth in the Certificate of Award but shall be no later than twenty years from their date of initial issuance. The interest rate or rates on the Series 2024A Bonds shall be determined in the Certificate of Award based on the Bids; provided that the aggregate net interest cost of the Series 2024A Bonds shall not exceed seven percent (7.00%).

The Series 2024A Bonds may contain such additional extraordinary optional or mandatory redemption provisions as may, upon the advice of the Lexington-Fayette Urban County Government's municipal advisors and bond counsel, be necessary to accomplish the financial objectives of the Lexington-Fayette Urban County Government and/or achieve compliance with any provisions of the Internal Revenue Code of 1986, as amended. The Mayor is hereby authorized and directed to administratively approve any such additional extraordinary optional or mandatory redemption provisions, and the execution of the Certificate of Award shall constitute conclusive evidence of the approval of such additional provisions.

At least thirty (30) days before the redemption date of any Series 2024A Bonds subject to optional or mandatory redemption, U.S. Bank Trust Company, National Association, Louisville, Kentucky (the "Paying Agent and Registrar") shall cause a notice of such redemption either in whole or in part, signed by the Paying Agent and Registrar (as hereinafter defined), to be mailed, first class, postage prepaid, to all registered owners of the Series 2024A Bonds to be redeemed in whole or in part at their addresses as they appear on the registration books kept by the Paying Agent and Registrar, but failure to mail any such notice shall not affect the validity of the proceedings for such redemption of Series 2024A Bonds for which such notice has been sent. Each such notice shall set forth the date fixed for redemption, the redemption price to be paid and, if

less than all of the Series 2024A Bonds of a subseries being payable by their terms on a single date then outstanding shall be called for redemption, the distinctive number or letters, if any, of such Series 2024A Bonds to be redeemed.

On the date so designated for redemption, notice having been mailed in the manner under the conditions hereinabove provided and moneys for payment of the redemption price being held in the applicable bond payment fund by the Paying Agent and Registrar for the registered owners of the Series 2024A Bonds to be redeemed, the Series 2024A Bonds so called for redemption shall become and be due and payable at the redemption price provided for redemption of such Series 2024A Bonds on such date, interest on the Series 2024A Bonds so called for redemption shall cease to accrue, and the registered owners of such Series 2024A Bonds shall have no right in respect thereof except to receive payment of the redemption price thereof.

SECTION 3. Execution and Delivery. The Series 2024A Bonds shall be executed by the manual or facsimile signature of the Mayor and duly attested by the manual or facsimile signature of the Urban County Council Clerk (which, together with any other person as may be authorized by resolution are referred to as “Designated Officers”) and shall bear the manual authenticating signature of an authorized representative of the Paying Agent and Registrar for the Series 2024A Bonds. The Designated Officers are further authorized and directed to deliver the Series 2024A Bonds to the Purchaser, upon the terms and conditions provided herein, in the Certificate of Award and in the Bids, receive the proceeds therefor, execute and deliver such certificates and other closing documents and take such other action as may be necessary or appropriate in order to effectuate the proper issuance, sale and delivery of the Series 2024A Bonds.

The Lexington-Fayette Urban County Government authorizes and directs the Paying Agent and Registrar to authenticate the Series 2024A Bonds and to deliver the Series 2024A Bonds to the Purchaser following execution of the Certificate of Award and payment of the purchase price thereof.

SECTION 4. Payment. Payment of or on account of the interest on and principal of the Series 2024A Bonds shall be made directly to the Paying Agent and Registrar for the account of the registered owner. Interest on the Series 2024A Bonds shall be payable by check, mailed to the person whose name appears on the fifteenth day preceding an Interest Payment Date on the bond registration records as the registered owner, on each Interest Payment Date or by other transfer of funds acceptable to such registered owner and the Paying Agent and Registrar. Principal shall be payable in such coin or currency of the United States of America as shall be

legal tender for the payment of public and private debts at the time and place of payment upon delivery of the Series 2024A Bonds to the Paying Agent and Registrar or by other transfer of funds acceptable to the Paying Agent and Registrar and such registered owner. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Series 2024A Bonds to the extent of the sum or sums so paid.

SECTION 5. Filing and Approvals. The Designated Officers are hereby authorized to undertake and cause all filings of notices or information, which may be required by law to be filed or obtained by the Lexington-Fayette Urban County Government, including, but not limited to, filings with the State Local Debt Officer as required by law.

SECTION 6. Bond Payment Fund, Payment of Series 2024A Bonds. There is hereby established with the Paying Agent and Registrar a bond payment fund in the name of the Lexington-Fayette Urban County Government to be known as Various Purpose General Obligation Bonds, Series 2024A Bond Payment Fund (the "Bond Payment Fund"), into which the Lexington-Fayette Urban County Government covenants to deposit, and into which the Designated Officers are hereby authorized and directed to deposit from the Sinking Fund (hereinafter defined), on or before the twenty-fifth day of each month which precedes an Interest Payment Date, the amount required to pay principal of and interest due on the Series 2024A Bonds on such Interest Payment Date. The Paying Agent and Registrar is further directed to establish such additional subaccounts within the Bond Payment Fund as may be necessary in connection with the issuance of multiple subseries of the Series 2024A Bonds. The Paying Agent and Registrar shall, without further authorization from the Lexington-Fayette Urban County Government, withdraw from the Bond Payment Fund, on such Interest Payment Date, the amounts necessary to pay principal of, and interest on the Series 2024A Bonds to the registered owners of the same.

The Paying Agent and Registrar is hereby appointed depository of the Bond Payment Funds with respect to the Series 2024A Bonds.

If the Lexington-Fayette Urban County Government shall fail or refuse to make any required deposit in the Bond Payment Fund from the Sinking Fund, the Paying Agent and Registrar shall (i) notify any agency of the Commonwealth of Kentucky or any political subdivision thereof which may collect and distribute taxes or revenues for the Lexington-Fayette Urban County Government to seek any available necessary or proper remedial action; and (ii) upon being indemnified against cost and expense, exercise any remedy provided in the Act or at law or in equity for the benefit of the owner of the Series 2024A Bonds or its assignee, and shall disburse

all funds so collected to the owners of the Series 2024A Bonds as payment of the Series 2024A Bonds.

SECTION 7. General Obligation; Maintenance of Sinking Fund. The Series 2024A Bonds shall be full general obligations of the Lexington-Fayette Urban County Government and, for the payment of said Series 2024A Bonds and the interest thereon, the full faith, credit and revenue of the Lexington-Fayette Urban County Government are hereby pledged for the prompt payment thereof. During the period the Series 2024A Bonds are outstanding, there shall be and there hereby is levied on all the taxable property in Lexington, Fayette County, Kentucky in addition to all other taxes, without limitation as to rate, a direct tax annually in an amount sufficient to pay the principal of and interest on the Series 2024A Bonds when and as due, it being hereby found and determined that current tax rates are within all applicable limitations. Said tax shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers in the same manner and at the same time that taxes for general purposes for each of said years are certified, extended and collected. Said tax shall be placed before and in preference to all other items and for the full amount thereof provided, however, that in each year to the extent that the other lawfully available funds of the Lexington-Fayette Urban County Government are available for the payment of the Series 2024A Bonds and are appropriated for such purpose, including the proceeds of the Series 2024A Bonds, the amount of such direct tax upon all of the taxable property in the Lexington-Fayette Urban County Government shall be reduced by the amount of such other funds so available and appropriated.

There has previously been established with the Lexington-Fayette Urban County Government a sinking fund (the "Sinking Fund"). The funds derived from said tax levy hereby required or other lawfully available funds shall be placed in the Sinking Fund and, together with interest collected on the same, are irrevocably pledged for the payment of the interest on and principal of all bonds issued under the Act and tax-supported leases, as defined in the Act, when and as the same fall due. Amounts shall be transferred from the Sinking Fund to each Bond Payment Fund at the times and in the amounts required by Section 7.

SECTION 8. Sale of Bonds; Certificate of Award. The Designated Officers are hereby directed to sell the Series 2024A Bonds to the Purchasers at advertised competitive sale, the final principal amount of, the principal amortization of, the interest payment dates and the interest rate or rates on the Series 2024A Bonds to be established in accordance with the requirements of Sections 1, 2 and 3 hereof and the Certificate of Award.

SECTION 9. Registered Owner; Transfer; Exchange. As long as the Series 2024A Bonds executed and delivered hereunder shall remain outstanding, the Paying Agent and Registrar shall maintain an office for the registration of such Series 2024A Bonds and shall also keep at such office books for such registration and transfers. The registered owner of the Series 2024A Bonds, as set forth in the registration books maintained by the Paying Agent and Registrar on the fifteenth day preceding an Interest Payment Date, or its assignees, for purposes of this Bond Ordinance, to the extent of its interest, shall be treated as the owner of the Series 2024A Bonds and shall be entitled to all rights and security of the owner of the Series 2024A Bonds hereunder.

Upon surrender for registration of transfer of the Series 2024A Bonds at the office of the Paying Agent and Registrar with a written instrument of transfer satisfactory to the Paying Agent and Registrar, duly executed by the registered owner or the registered owner's duly authorized attorney, the Paying Agent and Registrar shall execute and deliver, in the name of the designated transferee or transferees, one or more Series 2024A Bonds of the same series or subseries of any authorized denomination and of a like tenor and effect.

All Series 2024A Bonds, upon surrender thereof at the office of the Paying Agent and Registrar, may, at the option of the registered owner thereof be exchanged for an equal aggregate principal amount of Series 2024A Bonds of the same series or subseries of any authorized denomination.

In all cases in which the privilege of exchanging or transferring Series 2024A Bonds is exercised, the Paying Agent and Registrar shall execute and deliver Series 2024A Bonds in accordance with the provisions of this Section. Every such exchange or transfer of Series 2024A Bonds, whether temporary or definitive, shall be without charge; provided that the Paying Agent and Registrar may impose a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, which sum or sums shall be paid by the person requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer.

SECTION 10. Book-entry System. For purposes of this Bond Ordinance, the following terms shall have the following meanings:

“Book entry form” or “book entry system” means a form or system under which (i) the beneficial right to payment of principal of and interest on the Series 2024A Bonds may be transferred only through a book entry, and (ii) physical Bond certificates in fully registered form are issued only to the Depository or its nominee as registered owner, with the Series 2024A Bonds

“immobilized” to the custody of the Depository, and the book entry maintained by others than the Lexington-Fayette Urban County Government or the Paying Agent and Registrar is the record that identifies the owners of beneficial interests in those Bonds and that principal and interest.

“Depository” means any securities depository that is a clearing agency under federal law operating and maintaining, together with its Participants or otherwise, a book entry system to record ownership of beneficial interests in Series 2024A Bonds or principal and interest, and to effect transfers of Series 2024A Bonds, in book entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

“Participant” means any participant contracting with a Depository under a book entry system and includes security brokers and dealers, banks and trust companies, and clearing corporations.

All or any portion of the Series 2024A Bonds may be initially issued to a Depository for use in a book entry system, and the provisions of this Section 10 shall apply to such Series 2024A Bonds, notwithstanding any other provision of this Bond Ordinance. If and as long as a book entry system is utilized with respect to any such Bonds: (i) there shall be such number of Series 2024A Bonds of each maturity as the Depository shall specify; (ii) those Series 2024A Bonds shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners of Series 2024A Bonds in book entry form shall have no right to receive Series 2024A Bonds in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Series 2024A Bonds in book entry form shall be shown by book entry on the system maintained and operated by the Depository and its Participants, and transfers of the ownership of beneficial interests shall be made only by book entry by the Depository and its Participants; and (v) the Series 2024A Bonds as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the Urban County Council. Debt service charges on Series 2024A Bonds in book entry form registered in the name of a Depository or its nominee shall be payable in the manner provided in the Lexington-Fayette Urban County Government's agreement with the Depository to the Depository or its authorized representative (i) in the case of interest, on each Interest Payment Date, and (ii) in all other cases, upon presentation and surrender of Series 2024A Bonds as provided in this Bond Ordinance.

The Paying Agent and Registrar may, with the approval of the Lexington-Fayette Urban County Government, enter into an agreement with the beneficial owner or registered owner of any

Bond in the custody of a Depository providing for making all payments to that owner of principal and interest on that Series 2024A Bond or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided in this Bond Ordinance, without prior presentation or surrender of the Series 2024A Bond, upon any conditions which shall be satisfactory to the Paying Agent and Registrar and to the Lexington-Fayette Urban County Government. That payment in any event shall be made to the person who is the registered owner of that Series 2024A Bond on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Paying Agent and Registrar shall furnish a copy of each of those agreements, certified to be correct by the Paying Agent and Registrar, to any other paying agents for Series 2024A Bonds and to the Lexington-Fayette Urban County Government. Any payment of principal or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Bond Ordinance.

The Mayor of the Lexington-Fayette Urban County Government is authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the Lexington-Fayette Urban County Government a letter agreement among the Lexington-Fayette Urban County Government, the Paying Agent and Registrar and The Depository Trust Company, as Depository, to be delivered in connection with the issuance of the Series 2024A Bonds to the Depository for use in a book entry system.

If any Depository determines not to continue to act as depository for the Series 2024A Bonds for use in a book entry system, the Lexington-Fayette Urban County Government and the Paying Agent and Registrar may attempt to establish a securities depository/book entry relationship with another qualified Depository under this Bond Ordinance. If the Lexington-Fayette Urban County Government and the Paying Agent and Registrar do not or are unable to do so, the Lexington-Fayette Urban County Government and the Paying Agent and Registrar, after the Paying Agent and Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Series 2024A Bonds from the Depository and authenticate and deliver Series 2024A Bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing definitive Series 2024A Bonds), if the event is not the result of action or inaction by the Urban County Council or the Paying Agent and Registrar, of those persons requesting such issuance.

SECTION 11. Disposition of Proceeds. The proceeds of the sale of the Series 2024A Bonds shall be deposited, together with other available funds of the Lexington-Fayette Urban County Government, as follows: (a) accrued interest, if any, shall be deposited to the Series 2024A Bond Payment Fund created in Section 7 hereof; (b) into an acquisition account for the Series 2024A Bonds (the “Lexington-Fayette Urban County Government Series 2024A Acquisition Account”) to be held by the Lexington-Fayette Urban County Government and used to pay the costs of the Series 2024A Project; (c) an amount sufficient to pay the costs of issuing the Series 2024A Bonds (the “Series 2024A Cost of Issuance Fund”) shall be held by the Lexington-Fayette Urban County Government and used to pay the costs of issuance of the Series 2024A Bonds.

SECTION 12. Appointment and Engagement of Bond Counsel. This Urban County Council hereby retains Dinsmore & Shohl, LLP, as its bond counsel (“Bond Counsel”), to provide the Issuer with its services in connection with the issuance, sale, and delivery of the Series 2024A Bonds. Bond Counsel shall be paid a fee of \$3.00 per \$1,000 of Series 2024A Bonds issued, inclusive of related expenses, provided, however, that publication expenses and transcripts incurred by Bond Counsel shall be reimbursed separately. Such services as Bond Counsel shall include the additional research, tax analysis and other debt related research for the Lexington-Fayette Urban County Government. A Designated Officer is hereby authorized and directed to execute and deliver on behalf of the Issuer any appropriate agreements and/or engagement letters in connection with such appointment.

SECTION 13. Municipal Advisor. Robert W. Baird & Co. Incorporated (the “Municipal Advisor”) is hereby appointed Municipal Advisor to the Lexington-Fayette Urban County Government in connection with the issuance, sale and delivery of the Series 2024A Bonds. The Municipal Advisor shall be paid a fee of \$4.00 per \$1,000 of Series 2024A Bonds issued, inclusive of related expenses. A Designated Officer is hereby authorized and directed to execute and deliver on behalf of the Issuer any appropriate agreements and/or engagement letters in connection with such appointment.

SECTION 14. Discharge of Bond Ordinance. If the Lexington-Fayette Urban County Government shall pay or cause to be paid, or there shall otherwise be paid, to the owners of the Series 2024A Bonds the total principal and interest due or to become due thereon through maturity, in the manner stipulated therein and in this Bond Ordinance, then the pledges made under this Bond Ordinance, and all covenants, agreements and other obligations of the Lexington-Fayette

Urban County Government hereunder, shall thereupon cease, terminate and become void and be discharged and satisfied.

SECTION 15. Restriction on Use of Proceeds. This Urban County Council for and on behalf of the Lexington-Fayette Urban County Government hereby covenants that it will restrict the use of the proceeds of the Series 2024A Bonds hereby authorized in such manner and to such extent, if any, and take such other action as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute obligations the interest on which is subject to federal income taxation or “arbitrage bonds” under Sections 103(b)(2) and 148 of the Code, and the regulations prescribed thereunder. The Mayor or any other officer having responsibility with respect to the issuance of the certificates, is authorized and directed to give an appropriate certificate on behalf of the Lexington-Fayette Urban County Government, on the date of delivery of the Series 2024A Bonds, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances and reasonable expectations pertaining to the use of the proceeds thereof and the provisions of said Sections 103(b)(2) and 148 and regulations thereunder.

These Series 2024A Bonds are not designated “qualified tax-exempt obligations” for the purposes set forth Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

SECTION 16. Severability. If any one or more of the provisions of this Bond Ordinance should be determined by a court of competent jurisdiction to be contrary to law, then such provisions shall be deemed to be severable from all remaining provisions and shall not affect the validity of such other provisions.

SECTION 17. Inconsistent Actions. All prior ordinances, resolutions or parts thereof inconsistent herewith are hereby repealed.

SECTION 18. Open Meetings Compliance. All meetings of the Urban County Council Court and of its committees and any other public bodies, at which the formal actions in connection with the issuance of the Series 2024A Bonds were taken, or at which deliberations that resulted in such formal actions were held, were open meetings, and such formal actions were taken and any such deliberations took place while such meetings, after proper notice, were open to the public, in compliance with all legal requirements including KRS Sections 61.810, 61.815, 61.820 and 61.825.

SECTION 19. Effective Date. This Ordinance shall become effective immediately upon adoption and publication of a summary thereof, as provided by law.

INTRODUCED AND GIVEN FIRST READING at a duly convened meeting of the Urban County Council of the Lexington-Fayette Urban County Government on the 7th day of March, 2024.

GIVEN SECOND READING, ENACTED AND ADOPTED at a duly convened meeting of the Urban County Council of the Lexington-Fayette Urban County Government on the 21st day of March, 2024.

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

By: 
Linda Gorton
Mayor

ATTEST:

By: 
Abigail Allan
Urban County Council Clerk

Published: March 28, 2024-1t

CERTIFICATION

I, the undersigned, do hereby certify that I am the duly qualified and acting Urban County Council Clerk of the Lexington-Fayette Urban County Government, and as such Urban County Council Clerk, I further certify that the foregoing is a true, correct and complete copy of a Bond Ordinance duly enacted by the Urban County Council of the Lexington-Fayette Urban County Government at a duly convened meeting held on the 21st day of March, 2024, signed by the Mayor and now in full force and effect, all as appears from the official records of the Lexington-Fayette Urban County Government in my possession and under my control.

WITNESS my hand and the seal of said Urban County Government as of the 21 day of Mar Ch, 2024.


Urban County Council Clerk

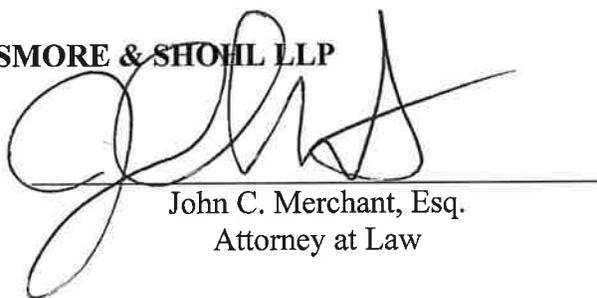
[SEAL]

CERTIFICATE

I do hereby certify that the title to this enactment contains an accurate synopsis of the contents thereof and may be used to satisfy the reading and publication requirements of law.

DINSMORE & SHOHL LLP

By:


John C. Merchant, Esq.
Attorney at Law

ANNEX A
FORM OF SERIES 2024A BOND

COMMONWEALTH OF KENTUCKY
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT
VARIOUS PURPOSE GENERAL OBLIGATION BOND,
SERIES 2024A

No. R-__

| <u>Maturity Date</u> | <u>CUSIP Number</u> | <u>Interest Rate</u> | <u>Bond Date</u> | <u>Interest Payment Dates</u> |
|----------------------|---------------------|----------------------|------------------|-------------------------------|
| _____, 1, _____ | _____ | _____ % | _____, 2024 | [_____ 1 and _____ 1] |

REGISTERED HOLDER: _____

PRINCIPAL AMOUNT: \$ _____
_____ DOLLARS

KNOW ALL PERSONS BY THESE PRESENTS: That the Lexington-Fayette Urban County Government for value received, hereby acknowledges itself obligated to, and promises to pay to the registered holder identified above, or registered assigns, the principal sum identified above (or, if any part thereof has been paid, the balance thereof remaining unpaid), on the maturity date specified above, and to pay interest on said principal sum (or, if any part thereof has been paid, the balance thereof remaining unpaid) from the date hereof, payable each _____ 1 and _____ 1, commencing _____ 1, 2024, at the Interest Rate per annum identified above, except as the provisions hereinafter set forth with respect to prior redemption may be and become applicable hereto. The principal of and interest on this bond are payable, without deduction for exchange, collection, or service charges, in lawful money of the United States of America. Principal is payable at the principal office of the U.S. Bank Trust Company, National Association, Louisville, Kentucky, or another financial institution as provided in the Certificate of Award or any successor (the "Paying Agent and Registrar") or by other transfer of funds acceptable to the Paying Agent and Registrar and such owner. All interest on this bond and principal payable prior to the final maturity date shall be payable by check or draft mailed or via wire transfer to the record date registered holder hereof at the address shown on the registration records kept by the Paying Agent and Registrar or by other transfer of funds acceptable to the Paying Agent and Registrar and such owner. The record date shall be the fifteenth day of the month preceding each interest payment date.

This bond is one of an issue of Various Purpose General Obligation Bonds, Series 2024A (the "Series 2024A Bonds") of like tenor and effect, except as to denomination and maturity, numbered from R-1 upward, inclusive, of the denomination of \$5,000 or any integral multiple thereof originally aggregating _____ dollars (\$ _____) in principal amount, issued for the purpose of financing the acquisition of various projects for departments within the Lexington-Fayette Urban County Government, including, but not limited to (i) Phoenix Park development, , radio replacement, new firetrucks and other fire safety related projects, new police cars, road construction and improvements, road resurfacing, road

30920931 DS JCM/ cab (New Money)

maintenance, road upgrades, streetscapes and sidewalk improvements, public art and beautification projects, renovations, repairs and upgrades related to public buildings, vehicle acquisitions, city hall pre-development project phase II, and various other improvements within departments of the Lexington-Fayette Urban County Government, (ii) providing funding for a program to preserve and manage agricultural, rural and natural lands, including the purchase of conservation easements or development rights (collectively, the "Series 2024A Project"), and (iii) paying the costs of issuance of the Series 2024A Bonds, all pursuant to and in full compliance with the general laws of the Commonwealth of Kentucky and particularly Chapter 66 of the Kentucky Revised Statutes, and pursuant to an ordinance duly adopted by the Urban County Council of the Lexington-Fayette Urban County Government on the _____ day of _____, 2024 (the "Bond Ordinance") upon the affirmative vote of at least a majority of the members of its Urban County Council at a public meeting duly and regularly held and after filing proper notice with the State Local Debt Officer of the Commonwealth of Kentucky.

This Series 2024A Bond and the issue of which it forms a part is a general obligation of the Lexington-Fayette Urban County Government and the full faith, credit and revenue of the Lexington-Fayette Urban County Government are pledged to the payments due hereunder. THIS SERIES 2024A BOND IS CONTINUALLY SECURED BY THE FAITH, CREDIT AND REVENUE OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT.

The Series 2024A Bonds mature on the first day of _____ of the following years, in the principal amounts and bear interest at the following rates of interest:

| Year () 1) | Amount | Interest Rate |
|----------------|--------|------------------|
| 2025 | | |
| 2026 | | |
| 2027 | | |
| 2028 | | |
| 2029 | | |
| 2030 | | |
| 2031 | | |
| 2032 | | |
| 2033 | | |
| 2034 | | |
| 2035 | | |
| 2036 | | |
| 2037 | | |
| 2038 | | |
| 2039 | | |
| 2040 | | |
| 2041 | | |
| 2042 | | |
| 2043 | | |
| 2044 | | |
| TOTAL | | |

Optional Redemption. The Series 2024A Bonds maturing on and after August 1, 20__ shall be subject to optional redemption prior to their maturity on any date on or after August 1, 20__, in whole or in part, in inverse order of maturity and by lot within a maturity, at the election of the Lexington-Fayette Urban County Government upon 45 days' written notice to the Paying Agent and Registrar at a redemption price equal to 100% of the principal amount redeemed plus accrued interest to the date fixed for redemption.

Notice of Redemption. At least thirty (30) days before the optional redemption date of any Series 2024A Bonds the Paying Agent and Registrar shall cause a notice of such redemption signed by the Paying Agent and Registrar, to be mailed, first class, postage prepaid, to all registered owners of the Series 2024A Bonds to be redeemed at their addresses as they appear on the registration books kept by the Paying Agent and Registrar, but failure to mail any such notice shall not affect the validity of the proceedings for such redemption of Series 2024A Bonds for which such notice has been sent. Each such notice shall set forth the date fixed for redemption, the redemption price to be paid and, if less than all of the Series 2024A Bonds being payable by their terms on a single date then outstanding shall be called for redemption, the distinctive number or letters, if any, of such Series 2024A Bonds to be redeemed.

On the date so designated for redemption, notice having been published in the manner under the conditions hereinabove provided and moneys for payment of the redemption price being held in the Series 2024A Bond Payment Fund by the Paying Agent and Registrar for the registered owners of the Series 2024A Bonds to be redeemed, the Series 2024A Bonds so called for redemption shall become and be due and payable at the redemption price provided for redemption of such Series 2024A Bonds on such date, interest on the Series 2024A Bonds so called for redemption shall cease to accrue, and the registered owners of such Series 2024A Bonds shall have no right in respect thereof except to receive payment of the redemption price thereof.

No recourse shall be had for the payment of the principal of or the interest on this Series 2024A Bond, or for any claim based hereon, against any officer, agent or employee, past, present or future, of the Lexington-Fayette Urban County Government, as such, either directly or through the Lexington-Fayette Urban County Government, whether by virtue of any constitutional provision, statute or rule of law, or by the enforcement of any assessment or penalty, or otherwise; all such liability of such officers, agents or employees is hereby renounced, waived and released as a condition of and as consideration for the issuance, execution and acceptance of this Series 2024A Bond.

It is hereby certified that all acts, conditions and things required to be done, to occur or be performed precedent to and in the issuance of this Series 2024A Bond, or in the creation of the obligations of which this Series 2024A Bond is evidence, have been done, have occurred and have been performed in regular and due form and manner as required by law; that the faith, credit and revenue of the Lexington-Fayette Urban County Government are hereby irrevocably pledged for the prompt payment of the principal hereof and interest hereon; that the repayment obligation represented by this Series 2024A Bond is not in excess of any constitutional or statutory limitation; and that due provision has been made for the levy and collection of a tax sufficient in amount to pay the interest on this Series 2024A Bond as it falls due and to provide for the redemption of this Series 2024A Bond at maturity or upon earlier redemption.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Lexington-Fayette Urban County Government has caused this Series 2024A Bond to be signed either manually or by facsimile in its name by its Mayor and duly attested either manually or by facsimile by its Urban County Council Clerk and an impression or facsimile of the Lexington-Fayette Urban County Government's seal to be imprinted hereon, as of the date set forth above.

**LEXINGTON-FAYETTE URBAN COUNTY
GOVERNMENT**

By: _____
Linda Gorton
Mayor

(SEAL)

Attest:

By: _____
Abigail Allan
Clerk of the Urban County Council

CERTIFICATE OF AUTHENTICATION

This is to certify that this Series 2024A Bond is one of the Series 2024A Bonds described hereinabove.

_____,

By: _____
Name:
Title:

Date of Authentication: _____

Unless this certificate is presented by an authorized representative of The Depository Trust Company to the Issuer or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of CEDE & Co or such other name as requested by an authorized representative of The Depository Trust Company and any payment is made to CEDE & Co, ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered owner hereof, CEDE & Co, has an interest herein.

CERTIFICATE

It is hereby certified that the following is a correct and complete copy of the text of the legal opinion of Dinsmore & Shohl LLP, Attorneys, Lexington, Kentucky, regarding the issue of which the within Series 2024A Bond is one, the original of which opinion was manually executed, dated and issued as of the date of delivery of and payment for said issue and a copy of which is on file with the undersigned.

Urban County Council Clerk

[INSERT FORM OF APPROVING OPINION]

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto:

(please print or typewrite social security number or other identifying number and name and address of transferee)

the within Series 2024A Bond and does hereby irrevocably constitute and appoint _____ or its successor as Paying Agent and Registrar to transfer the said Series 2024A Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____

Notice: The signature to this assignment must correspond with the name of the registered owner as it appears upon the face of the within Series 2024A Bond in every particular, without alteration or enlargement or any change whatever.



Lexington-Fayette Urban County Government

200 E. Main St
Lexington, KY 40507

Master

File Number: 0216-24

File ID: 0216-24

Type: Ordinance

Status: Approved

Version: 1

Contract #:

In Control: Urban County Council

File Created: 02/22/2024

File Name: FY24 GO Refunding 2024B Sale and Issuance

Final Action: 03/21/2024

Title:

An Ordinance of Lexington-Fayette Urban County Government authorizing the issuance of Lexington-Fayette Urban County Government Various Purpose General Obligation refunding Bonds, Series 2024B, in one or more subseries, in an aggregate principal amount of \$7,720,000, (which amount may be increased or decreased by an amount of up to ten percent (10%)) for the purpose of refunding all of the outstanding principal amount of Lexington-Fayette Urban County Government General Obligation Bonds Various Purpose General Obligation Refunding Bonds, Series 2014A; approving a form of bond; authorizing designated officers to execute and deliver the bonds; providing for the payment and security of the bonds; creating a bond payment fund and escrow funds; maintaining the heretofore established sinking fund; authorizing a Certificate of Award for the acceptance of the bid of the bond purchaser for the purchase of the Series 2024B Bonds; authorizing an Escrow Trust Agreement; and repealing inconsistent ordinances. [Dept. of Finance, Hensley]

Notes:

Sponsors:

Enactment Date: 03/21/2024

Attachments: Memo FY24 GO Refunding 2024B Sale and Issuance, Ordinance (Series 2014A GO Refunding) - LFUCG - 2024(41857157.1), O-032-2024

Enactment Number: O-032-2024

Deed #:

Hearing Date:

Drafter: Robin Adams

Effective Date:

History of Legislative File

| Ver- sion: | Acting Body: | Date: | Action: | Sent To: | Due Date: | Return Date: | Result: |
|---------------|-----------------------------------|------------|---------------------------------|----------------------|------------|-----------------|---------|
| 1 | Urban County Council Work Session | 03/05/2024 | Approved and Referred to Docket | Urban County Council | 03/07/2024 | | Pass |

| | | | | | | |
|---|----------------------|------------|------------------------|----------------------|------------|------|
| 1 | Urban County Council | 03/07/2024 | Received First Reading | Urban County Council | 03/21/2024 | |
| 1 | Urban County Council | 03/21/2024 | Approved | | | Pass |

Text of Legislative File 0216-24

Title

An Ordinance of Lexington-Fayette Urban County Government authorizing the issuance of Lexington-Fayette Urban County Government Various Purpose General Obligation refunding Bonds, Series 2024B, in one or more subseries, in an aggregate principal amount of \$7,720,000, (which amount may be increased or decreased by an amount of up to ten percent (10%)) for the purpose of refunding all of the outstanding principal amount of Lexington-Fayette Urban County Government General Obligation Bonds Various Purpose General Obligation Refunding Bonds, Series 2014A; approving a form of bond; authorizing designated officers to execute and deliver the bonds; providing for the payment and security of the bonds; creating a bond payment fund and escrow funds; maintaining the heretofore established sinking fund; authorizing a Certificate of Award for the acceptance of the bid of the bond purchaser for the purchase of the Series 2024B Bonds; authorizing an Escrow Trust Agreement; and repealing inconsistent ordinances. [Dept. of Finance, Hensley]

Summary

Authorization to approve the Ordinance for the Sale and Issuance of the Lexington-Fayette Urban County Government General Obligation Refunding Bonds, Series 2024B in an aggregate principal amount not to exceed \$7,720,000 (which may be increased by 10%), for the purpose of refunding all or a portion of the outstanding principal amount of the General Obligation Bond, Series 2014A. No budgetary impact in FY 2024. (L0216-24) (Hensley)

Budgetary Implications: Yes

Advance Document Review:

Law: Yes, Completed by David Barberie, Feb 12, 2024

Risk Management: No

Fully Budgeted: Yes

Account Number: 1101-141401-1728-78401

This Fiscal Year Impact: \$0

Annual Impact: \$3,000,000

Project:

Activity:

Budget Reference:

Current Balance:

MAYOR LINDA GORTON



LEXINGTON

ERIN HENSLEY
COMMISSIONER
FINANCE

TO: Mayor Linda Gorton
Members, Urban County Council

FROM: 
Erin Hensley, Commissioner of Finance

DATE: February 22, 2024

SUBJECT: Authorization for Sale and Issuance of the FY24 General Obligation 2024B Refunding Bonds Bonds.

Request

Authorization to: Approve the Ordinance for the Sale and Issuance of the Lexington-Fayette Urban County Government General Obligation Refunding Bonds, Series 2024B in an aggregate principal amount not to exceed \$7,720,000 (which may be increased by 10%), for the purpose of refunding all or a portion of the outstanding principal amount of the General Obligation Bonds, Series 2014A

Why are you requesting?

Department needs this action completed because: This Ordinance will permit the sale of the General Obligation Refunding Bonds, Series 2024B which the Lexington-Fayette Urban County Government Department of Finance has determined that the present conditions of the municipal market are much more favorable than at the time the Prior Bonds were issued and that it is therefore advantageous and in the best interests of the Lexington-Fayette Urban County Government to proceed with the issuance of its General Obligation Refunding Bonds, Series 2024B to realize interest savings in the issuance of the new bonds.

What is the cost in this budget year and future budget years?

The cost for this FY is: \$0
The cost for future FY is: \$3,000,000.

Are the funds budgeted? The funds are budgeted.
Account number: 1101-141401-1728-78401

File Number: 0216-24
Director/Commissioner: Erin Hensley



ORDINANCE NO. _____

AN ORDINANCE OF LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT AUTHORIZING THE ISSUANCE OF LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT VARIOUS PURPOSE GENERAL OBLIGATION REFUNDING BONDS, SERIES 2024B, IN ONE OR MORE SUBSERIES, IN AN AGGREGATE PRINCIPAL AMOUNT OF \$7,720,000, (WHICH AMOUNT MAY BE INCREASED OR DECREASED BY AN AMOUNT OF UP TO TEN PERCENT (10%)) FOR THE PURPOSE OF REFUNDING ALL OF THE OUTSTANDING PRINCIPAL AMOUNT OF LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT GENERAL OBLIGATION BONDS VARIOUS PURPOSE GENERAL OBLIGATION REFUNDING BONDS, SERIES 2014A; APPROVING A FORM OF BOND; AUTHORIZING DESIGNATED OFFICERS TO EXECUTE AND DELIVER THE BONDS; PROVIDING FOR THE PAYMENT AND SECURITY OF THE BONDS; CREATING A BOND PAYMENT FUND AND ESCROW FUNDS; MAINTAINING THE HERETOFORE ESTABLISHED SINKING FUND; AUTHORIZING A CERTIFICATE OF AWARD FOR THE ACCEPTANCE OF THE BID OF THE BOND PURCHASER FOR THE PURCHASE OF THE SERIES 2024B BONDS; AUTHORIZING AN ESCROW TRUST AGREEMENT; AND REPEALING INCONSISTENT ORDINANCES.

WHEREAS, the Lexington-Fayette Urban County Government, heretofore issued its \$55,925,000 Various Purpose General Obligation Refunding Bonds, Series 2014A), currently outstanding in the principal amount of \$ _____, (the “Prior Bonds,”) the proceeds of which were used to (i) refund the entire outstanding principal amount of \$60,470,000 of the Lexington-Fayette Urban County Government Taxable General Obligation Public Project Bonds, Series 2010A (Build America Bonds - Direct Pay), originally issued in the principal amount of \$69,320,000, the proceeds of which were used to finance various projects for departments within LFUCG, including, but not limited to, acquisition of computer equipment, telephone equipment, security equipment, motor vehicles, fire protection equipment, traffic control equipment and public safety equipment and finance various projects within LFUCG, including, but not limited to Lyric Theatre improvements, infrastructure improvements to the Lexington Distillery District (a redevelopment project in an area where several former liquor distilleries were located), government center design, parking lot resurfacing, park projects, building and facility renovations, streetscape improvements and purchasing of development rights (collectively, the “Prior Project”); and

WHEREAS, the Lexington-Fayette Urban County Government has determined that the present conditions of the municipal market are much more favorable than at the time the Prior Bonds were issued and that it is therefore advantageous and in the best interests of the Lexington-Fayette Urban County Government to proceed with the issuance of its Various Purpose General Obligation Refunding Bonds, Series 2024B (the “Series 2024B Bonds”), in one or more subseries,

on a tax-exempt or taxable basis in a principal amount of \$7,720,000, (which amount may be increased or decreased by an amount of up to ten percent (10%)) in order to refund all or a portion of the Prior Bonds and enable the Lexington-Fayette Urban County Government to realize debt service savings, provided that the final maturity of the Series 2024B Bonds shall be not later than September 1, 2030, and provided the refunding of the Prior Bonds shall result in debt service savings for the Lexington-Fayette Urban County Government as determined by the Commissioner of Finance and the financial advisor to the Lexington-Fayette Urban County Government; and

WHEREAS, pursuant to the Constitution and Laws of the Commonwealth of Kentucky, and particularly KRS 66.011 et. seq. (the “Act”), an urban county government may issue bonds, subject to the requirements of the Act, to refund outstanding bonds or obligations issued to pay all or any portion of the costs of any public project that an urban county government is authorized to acquire, improve or construct; and

WHEREAS, the Lexington-Fayette Urban County Government desires to refund the Prior Bonds through the issuance of the Series 2024B Bonds to be sold and awarded to the successful bidder (the “Purchaser”) at public, competitive sale in accordance with the provisions of Chapter 424 of the Kentucky Revised Statutes.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Lexington-Fayette Urban County Government (the “Urban County Council”), as follows:

SECTION 1. Necessity, Authorization and Purpose. The Lexington-Fayette Urban County Government hereby declares that it is necessary to issue and authorizes the issuance of its Various Purpose General Obligation Refunding Bonds, Series 2024B, in one or more subseries, on a tax-exempt or taxable basis in a principal amount of \$7,720,000 (which amount may be increased or decreased by an amount of up to ten percent (10%)), for the purpose of (i) refunding all or a portion of the Prior Bonds, and (ii) paying the costs of issuance of the Series 2024B Bonds.

The Series 2024B Bonds shall be offered for sale in accordance with the provisions hereof, and the determination of the best bids for the Series 2024B Bonds shall be made on the basis of all bids submitted for a principal amount of \$7,720,000 (which amount may be increased or decreased by an amount of up to ten percent (10%)) of Series 2024B Bonds. The exact principal amount of Series 2024B Bonds to be issued and the determinations as to which Prior Bonds shall be refunded shall be established in the Certificate of Award to be executed by the Mayor of the Lexington-

Fayette Urban County Government (the “Certificate of Award”) awarding the Series 2024B Bonds to the Purchaser.

SECTION 2. Form. The Series 2024B Bonds shall be issued as fully registered Bonds, shall be designated “Various Purpose General Obligation Refunding Bonds, Series 2024B,” or should other designation as provided in the Certificate of Award, shall express upon their faces the purpose for which they are issued, that they are issued under the Act and shall be substantially in the form set forth in *Annex A*. The Series 2024B Bonds shall be in denominations as requested by the Purchaser, which shall be in integral multiples of five thousand dollars (\$5,000). The Series 2024B Bonds shall be dated their date of issuance and delivery or such other date as is determined in the Certificate of Award. Interest on the Series 2024B Bonds shall be payable each March 1 and September 1 (an “Interest Payment Date”), commencing September 1, 2024 at the stated interest rate or rates on the principal amount thereof or as otherwise provided in the Certificate of Award. The Series 2024B Bonds shall be serial or term bonds maturing, on September 1 of the years and in the amounts to be established in the Certificate of Award after advertised competitive sale of the Series 2024B Bonds based on the interest rates bid in the successful bid (the “Bid”) and the provisions of this Section 2, provided that the final maturity date of the Series 2024B Bonds shall be as set forth in the Certificate of Award but shall be no later than September 1, 2030. The interest rate or rates on the Series 2024B Bonds shall be determined in the Certificate of Award based on the Bid; provided that the aggregate true interest cost of the Series 2024B Bonds shall not exceed six percent (6.0%).

The Series 2024B Bonds shall be subject to optional and/or mandatory redemption as provided in the Certificate of Award. At least thirty (30) days before any optional or mandatory sinking fund redemption date of any Series 2024B Bonds, U.S. Bank Trust Company, National Association, Louisville, Kentucky (the “Paying Agent and Registrar”) shall cause a notice of such redemption either in whole or in part, signed by the Paying Agent and Registrar, to be mailed, first class, postage prepaid, to all registered owners of the Series 2024B Bonds to be redeemed at their addresses as they appear on the registration books kept by the Paying Agent and Registrar, but failure to mail any such notice shall not affect the validity of the proceedings for such redemption of Series 2024B Bonds for which such notice has been sent. Each such notice shall set forth the date fixed for redemption, the redemption price to be paid and, if less than all of the Series 2024B

Bonds being payable by their terms on a single date then outstanding shall be called for redemption, the distinctive number or letters, if any, of such Series 2024B Bonds to be redeemed.

On the date so designated for redemption, notice having been mailed in the manner under the conditions hereinabove provided and moneys for payment of the redemption price being held in the Bond Payment Fund (as defined herein) by the Paying Agent and Registrar for the registered owners of the Series 2024B Bonds to be redeemed, the Series 2024B Bonds so called for redemption shall become and be due and payable at the redemption price provided for redemption of such Series 2024B Bonds on such date, interest on the Series 2024B Bonds so called for redemption shall cease to accrue, and the registered owners of such Series 2024B Bonds shall have no right in respect thereof except to receive payment of the redemption price thereof.

SECTION 3. Execution and Delivery. The Series 2024B Bonds shall be executed by the manual or facsimile signature of the Mayor and duly attested by the manual or facsimile signature of the Clerk of the Urban County Council (which, together with any other person as may be authorized by resolution are referred to as “Designated Officers”), shall have the seal of the Lexington-Fayette Urban County Government or a facsimile thereof affixed thereto, and shall bear the manual authenticating signature of an authorized representative of the bank designated in the Certificate of Award as the Paying Agent and Registrar for the Bonds (the “Paying Agent and Registrar”). The Designated Officers are further authorized and directed to deliver the Series 2024B Bonds to the Purchaser, upon the terms and conditions provided herein, in the Certificate of Award and in the Bid, receive the proceeds therefor, execute and deliver such certificates and other closing documents and take such other action as may be necessary or appropriate in order to effectuate the proper issuance, sale and delivery of the Series 2024B Bonds.

The Lexington-Fayette Urban County Government authorizes and directs the Paying Agent and Registrar to authenticate the Series 2024B Bonds and to deliver the Series 2024B Bonds to the Purchaser upon payment of the purchase price thereof.

SECTION 4. Payment. Payment of or on account of the interest on and principal of the Series 2024B Bonds shall be made directly to the Paying Agent and Registrar for the account of the registered owner. Interest on the Series 2024B Bonds shall be payable by check, mailed to the person whose name appears on the fifteenth day preceding an Interest Payment Date on the bond registration records as the registered owner, on each Interest Payment Date or by other transfer of funds acceptable to such registered owner and the Paying Agent and Registrar. Principal shall be

payable in such coin or currency of the United States of America as shall be legal tender for the payment of public and private debts at the time and place of payment upon delivery of the Series 2024B Bonds to the Paying Agent and Registrar or by other transfer of funds acceptable to the Paying Agent and Registrar and such registered owner. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bonds to the extent of the sum or sums so paid.

SECTION 5. Bond Payment Fund, Payment of Bonds. There is hereby established with the Paying Agent and Registrar a bond payment fund in the name of the Lexington-Fayette Urban County Government to be known as the Various Purpose General Obligation Refunding Bonds, Series 2024B Bond Payment Fund (the “Bond Payment Fund”), into which the Lexington-Fayette Urban County Government covenants to deposit, and into which the Designated Officers are hereby authorized and directed to deposit from the Sinking Fund (hereinafter established), on or before the twenty-fifth (25th) day of each month which precedes an Interest Payment Date on the Series 2024B Bonds, the amount required to pay principal of and interest due on the Series 2024B Bonds on such Interest Payment Date. The Paying Agent and Registrar shall, without further authorization from the Lexington-Fayette Urban County Government, withdraw from the Bond Payment Fund, on such Interest Payment Date of the Series 2024B Bonds, the amounts necessary to pay principal of, and interest on, the Series 2024B Bonds to the registered owner of the same.

The Paying Agent and Registrar is hereby appointed Bond Payment Fund Depository with respect to the Series 2024B Bonds.

If the Lexington-Fayette Urban County Government shall fail or refuse to make any required deposit in the Bond Payment Fund from the Sinking Fund, the Paying Agent and Registrar shall (i) notify any agency of the Commonwealth of Kentucky or any political subdivision thereof which may collect and distribute taxes or revenues for the Lexington-Fayette Urban County Government to seek any available necessary or proper remedial action; and (ii) upon being indemnified against cost and expense, exercise any remedy provided in the Act or at law or in equity for the benefit of the owner of the Series 2024B Bonds or its assignee, and shall disburse all funds so collected to the owners of the Series 2024B Bonds as payment of the Series 2024B Bonds.

SECTION 6. General Obligation; Maintenance of Sinking Fund. The Series 2024B Bonds shall be full general obligations of the Lexington-Fayette Urban County Government and, for the payment of said Series 2024B Bonds and the interest thereon, the full faith, credit and revenue of the Lexington-Fayette Urban County Government are hereby pledged for the prompt payment thereof. During the period the Series 2024B Bonds are outstanding, there shall be and there hereby is levied on all the taxable property in the Lexington-Fayette Urban County Government, in addition to all other taxes, without limitation as to rate, a direct tax annually in an amount sufficient to pay the principal of and interest on the Series 2024B Bonds when and as due, it being hereby found and determined that current tax rates are within all applicable limitations. Said tax shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers in the same manner and at the same time that taxes for general purposes for each of said years are certified, extended and collected. Said tax shall be placed before and in preference to all other items and for the full amount thereof provided, however, that in each year to the extent that the other lawfully available funds of the Lexington-Fayette Urban County Government are available for the payment of the Series 2024B Bonds and are appropriated for such purpose, the amount of such direct tax upon all of the taxable property in the Lexington-Fayette Urban County Government shall be reduced by the amount of such other funds so available and appropriated.

Pursuant to an ordinance of the Lexington-Fayette Urban County Government adopted on September 12, 2013, with respect to the Prior Bonds, there has heretofore been established with the Lexington-Fayette Urban County Government a sinking fund (the “Series 2014A Sinking Fund”), which Series 2014A Sinking Fund is hereby ordered to be maintained and continued. The funds derived from said tax levy hereby required or other lawfully available funds shall be placed in the Series 2014A Sinking Fund and, together with interest collected on the same, are irrevocably pledged for the payment of the interest on and principal of all bonds issued under the Act and Tax-Supported Leases when and as the same fall due. Amounts shall be transferred from the Series 2014A Sinking Fund to the Bond Payment Fund at the times and in the amounts required by Section 5 hereof.

SECTION 7. Award; Certificate of Award. The Designated Officers are hereby directed to sell the Series 2024B Bonds to the Purchaser at advertised competitive sale, the final principal amount of, the principal amortization of and the interest rate or rates on the Series 2024B

Bonds to be established in accordance with the requirements of Sections 1 and 2 hereof and the Certificate of Award. The Mayor is hereby authorized to execute the Certificate of Award without further action of the Urban County Council setting forth the terms of the Series 2024B Bonds and any other provisions required by and not inconsistent with this Bond Ordinance.

SECTION 8. Registered Owner; Transfer; Exchange. As long as the Series 2024B Bonds executed and delivered hereunder shall remain outstanding, the Paying Agent and Registrar shall maintain an office for the Registration of such Series 2024B Bonds and shall also keep at such office books for such registration and transfers. The registered owner of the Series 2024B Bonds, as set forth in the registration books maintained by the Paying Agent and Registrar on the fifteenth (15th) day preceding an Interest Payment Date, or its assignees, for purposes of this Bond Ordinance, to the extent of its interest, shall be treated as the owner of the Series 2024B Bonds and shall be entitled to all rights and security of the owner of the Series 2024B Bonds hereunder.

Upon surrender for registration of transfer of the Series 2024B Bonds at the office of the Paying Agent and Registrar with a written instrument of transfer satisfactory to the Paying Agent and Registrar, duly executed by the registered owner or the registered owner's duly authorized attorney, or, so long as the Series 2024B Bonds are in book-entry form in accordance with the Operational Arrangements of DTC, the Paying Agent and Registrar shall execute and deliver, in the name of the designated transferee or transferees, one or more Bonds of the same series of any authorized denomination and of a like tenor and effect.

All Series 2024B Bonds, upon surrender thereof at the office of the Paying Agent and Registrar, may, at the option of the registered owner thereof be exchanged for an equal aggregate principal amount of Series 2024B Bonds of the same series of any authorized denomination.

In all cases in which the privilege of exchanging or transferring Series 2024B Bonds is exercised, the Paying Agent and Registrar shall execute and deliver Series 2024B Bonds in accordance with the provisions of this Section. Every such exchange or transfer of Series 2024B Bonds, whether temporary or definitive, shall be without charge; provided that the Paying Agent and Registrar may impose a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, which sum or sums shall be paid by the person requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer.

SECTION 9. Book-entry System. For purposes of this Bond Ordinance, the following terms shall have the following meanings:

“Book entry form” or “book entry system” means a form or system under which (i) the beneficial right to payment of principal of and interest on the Series 2024B Bonds may be transferred only through a book entry, and (ii) physical Series 2024B Bond certificates in fully registered form are issued only to the Depository or its nominee as registered owner, with the Series 2024B Bonds “immobilized” to the custody of the Depository, and the book entry maintained by others than the Lexington-Fayette Urban County Government or the Paying Agent and Registrar is the record that identifies the owners of beneficial interests in those Series 2024B Bonds and that principal and interest.

“Depository” means any securities depository that is a clearing agency under federal law operating and maintaining, together with its Participants or otherwise, a book entry system to record ownership of beneficial interests in Series 2024B Bonds or principal and interest, and to effect transfers of Series 2024B Bonds, in book entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

“Participant” means any participant contracting with a Depository under a book entry system and includes security brokers and dealers, banks and trust companies, and clearing corporations.

All or any portion of the Series 2024B Bonds may be initially issued to a Depository for use in a book entry system, and the provisions of this Section 9 shall apply to such Series 2024B Bonds, notwithstanding any other provision of this Bond Ordinance. If and as long as a book entry system is utilized with respect to any such Series 2024B Bonds: (i) there shall be such number of Series 2024B Bonds of each maturity as the Depository shall specify; (ii) those Series 2024B Bonds shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners of Series 2024B Bonds in book entry form shall have no right to receive Series 2024B Bonds in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Series 2024B Bonds in book entry form shall be shown by book entry on the system maintained and operated by the Depository and its Participants, and transfers of the ownership of beneficial interests shall be made only by book entry by the Depository and its Participants; and (v) the Series 2024B Bonds as such shall not be transferable or exchangeable, except for transfer to another Depository or to another

nominee of a Depository, without further action by the Urban County Council. Debt service charges on Series 2024B Bonds in book entry form registered in the name of a Depository or its nominee shall be payable in the manner provided in the Lexington-Fayette Urban County Government's agreement with the Depository to the Depository or its authorized representative (i) in the case of interest, on each Interest Payment Date, and (ii) in all other cases, upon presentation and surrender of Series 2024B Bonds as provided in this Bond Ordinance.

The Paying Agent and Registrar may, with the approval of the Lexington-Fayette Urban County Government, enter into an agreement with the beneficial owner or registered owner of any Series 2024B Bond in the custody of a Depository providing for making all payments to that owner of principal and interest on that Series 2024B Bond or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided in this Bond Ordinance, without prior presentation or surrender of the Series 2024B Bond, upon any conditions which shall be satisfactory to the Paying Agent and Registrar and to the Lexington-Fayette Urban County Government. That payment in any event shall be made to the person who is the registered owner of that Series 2024B Bond on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Paying Agent and Registrar shall furnish a copy of each of those agreements, certified to be correct by the Paying Agent and Registrar, to any other paying agents for Series 2024B Bonds and to the Lexington-Fayette Urban County Government. Any payment of principal or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Bond Ordinance.

The Mayor of the Lexington-Fayette Urban County Government is authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the Lexington-Fayette Urban County Government a letter agreement among the Lexington-Fayette Urban County Government, the Paying Agent and Registrar and The Depository Trust Company, as Depository, to be delivered in connection with the issuance of the Series 2024B Bonds to the Depository for use in a book entry system.

If any Depository determines not to continue to act as depository for the Series 2024B Bonds for use in a book entry system, the Lexington-Fayette Urban County Government and the Paying Agent and Registrar may attempt to establish a securities depository/book entry relationship with another qualified Depository under this Bond Ordinance. If the Lexington-

Fayette Urban County Government and the Paying Agent and Registrar do not or are unable to do so, the Lexington-Fayette Urban County Government and the Paying Agent and Registrar, after the Paying Agent and Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Series 2024B Bonds from the Depository and authenticate and deliver Series 2024B Bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing definitive Series 2024B Bonds), if the event is not the result of action or inaction by the Urban County Council or the Paying Agent and Registrar, of those persons requesting such issuance.

SECTION 10. Disposition of Proceeds. The proceeds of the sale of the Series 2024B Bonds, except accrued interest, if any, shall be deposited as follows: (a) accrued interest, if any, shall be deposited to the Bond Payment Fund created in Section 5 hereof; (b) an amount sufficient to refund the Prior Bonds to be refunded, as set forth in the Certificate of Award, shall be deposited in the Escrow Fund created by the Escrow Trust Agreement authorized in Section 11 hereof and used to redeem the Prior Bonds as provided in the Escrow Trust Agreement for the Prior Bonds; and (c) the remainder of the proceeds shall be deposited to a special cost of issuance account in the name of Lexington-Fayette Urban County Government to be known as the Various Purpose General Obligation Refunding Bonds, Series 2024B Costs of Issuance Fund (the “Costs of Issuance Fund”) hereby established and directed to be held by the Paying Agent and Registrar and used to pay the costs of issuance of the Series 2024B Bonds.

SECTION 11. Authorization of Escrow Trust Agreement. The Lexington-Fayette Urban County Government shall enter into an escrow trust agreement (the “Escrow Trust Agreement”) with the escrow trustee named therein (the “Escrow Trustee”), for the purpose of providing sufficient funds to refund the Prior Bonds. The Escrow Trustee shall receive compensation for its services in accordance with the Escrow Trust Agreement. The Designated Officers are hereby each separately authorized and directed to execute said Escrow Trust Agreement on behalf of the Lexington-Fayette Urban County Government.

SECTION 12. Purchase of Escrow Securities. With respect to the funding of any escrow fund(s) necessary or appropriate in connection with the refunding of the Prior Bonds with a portion of the proceeds of the Series 2024B Bonds, the Designated Officers are hereby authorized to take any and all appropriate action for the order and purchase, at the appropriate time, of escrow securities such as state and local government securities, open market treasuries and similar

defeasance obligations (the “Escrow Securities”) for the credit of such escrow fund(s) pursuant to the provisions of the Escrow Trust Agreement. Such Escrow Securities may be in the form or forms recommended in writing by the Financial Advisor and approved by Dinsmore & Shohl LLP. The Financial Advisor is hereby specifically authorized to procure on behalf of the Lexington-Fayette Urban County Government, at the appropriate time, escrow securities such as open market treasuries and similar defeasance obligations for the credit of the escrow fund(s) as provided in the Escrow Trust Agreement. Any attorney with the firm of Dinsmore & Shohl LLP is hereby specifically authorized to execute and file on behalf of the Lexington-Fayette Urban County Government any subscriptions for United States Treasury Obligations, State and Local Government Series, as may be necessary, in order to fund, in part, such escrow fund(s) in connection with the refunding of the Prior Bonds. In addition, the Mayor of the Lexington-Fayette Urban County Government is hereby authorized to employ a verification agent with respect to the refunding of the Prior Bonds.

SECTION 13. Appointment and Engagement of Bond Counsel. Dinsmore & Shohl LLP, Lexington, Kentucky (“Bond Counsel”) is hereby appointed as bond counsel (“Bond Counsel”), to provide the Issuer with its services in connection with the issuance, sale, and delivery of the Series 2024B Bonds. Bond Counsel shall be paid a fee of \$3.00 per \$1,000 of Series 2024B Bonds issued, inclusive of related expenses, provided, however, that publication expenses and transcripts incurred by Bond Counsel shall be reimbursed separately. A Designated Officer is hereby authorized and directed to execute and deliver on behalf of the Lexington-Fayette Urban County Government any appropriate agreements and/or engagement letters in connection with such appointment.

SECTION 14. Financial Advisor. Robert W. Baird & Co. Incorporated (the “Municipal Advisor”) is hereby appointed Municipal Advisor to the Lexington-Fayette Urban County Government in connection with the issuance, sale and delivery of the Series 2024A Bonds. The Municipal Advisor shall be paid a fee of \$4.00 per \$1,000 of Series 2024A Bonds issued, inclusive of related expenses. A Designated Officer is hereby authorized and directed to execute and deliver on behalf of the Issuer any appropriate agreements and/or engagement letters in connection with such appointment.

SECTION 15. Discharge of Bond Ordinance. If the Lexington-Fayette Urban County Government shall pay or cause to be paid, or there shall otherwise be paid, to the owners

of the Series 2024B Bonds the total principal and interest due or to become due thereon through maturity, in the manner stipulated therein and in this Bond Ordinance, then the pledges made under this Bond Ordinance, and all covenants, agreements and other obligations of the Lexington-Fayette Urban County Government hereunder, shall thereupon cease, terminate and become void and be discharged and satisfied.

SECTION 16. Restriction on Use of Proceeds. This Urban County Council for and on behalf of the Lexington-Fayette Urban County Government hereby covenants that it will restrict the use of any tax-exempt proceeds of the Series 2024B Bonds hereby authorized in such manner and to such extent, if any, and take such other action as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute obligations the interest on which is subject to federal income taxation or “arbitrage bonds” under Sections 103(b)(2) and 148 of the Code, and the regulations prescribed thereunder. The Mayor or any other officer having responsibility with respect to the issuance of the certificates, is authorized and directed to give an appropriate certificate on behalf of the Lexington-Fayette Urban County Government, on the date of delivery of the Series 2024B Bonds, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances and reasonable expectations pertaining to the use of the proceeds thereof and the provisions of said Sections 103(b)(2) and 148 and regulations thereunder.

These Series 2024B Bonds are not designated “qualified tax-exempt obligations” for the purposes set forth Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

SECTION 17. Filing. The Designated Officers are hereby authorized to undertake and cause all filings of notices or information which may be required by law to be filed by the Lexington-Fayette Urban County Government, including, but not limited to, the filing with the State Local Debt Officer required by law.

SECTION 18. Severability. If any one or more of the provisions of this Bond Ordinance should be determined by a court of competent jurisdiction to be contrary to law, then such provisions shall be deemed to be severable from all remaining provisions and shall not affect the validity of such other provisions.

SECTION 19. Inconsistent Actions. All prior ordinances, resolutions or parts thereof inconsistent herewith are hereby repealed.

SECTION 20. Open Meetings Compliance. All meetings of the Urban County Council and of its committees and any other public bodies, at which the formal actions in connection with the issuance of the Series 2024B Bonds were taken, or at which deliberations that resulted in such formal actions were held, were open meetings, and such formal actions were taken and any such deliberations took place while such meetings, after proper notice, were open to the public, in compliance with all legal requirements including KRS Sections 61.810, 61.815, 61.820 and 61.825.

SECTION 21. Effective Date. This Bond Ordinance shall become effective immediately upon adoption and publication of a summary thereof, as provided by law.

[Remainder of page intentionally left blank]

INTRODUCED AND GIVEN FIRST READING at a duly convened meeting of the Urban County Council of the Lexington-Fayette Urban County Government on the _____ day of _____, 2024.

GIVEN SECOND READING, ENACTED AND ADOPTED at a duly convened meeting of the Urban County Council of the Lexington-Fayette Urban County Government on the ____ day of _____, 2024.

**LEXINGTON-FAYETTE URBAN COUNTY
GOVERNMENT**

By: _____
Linda Gorton
Mayor

ATTEST:

By: _____
Abigail Allan
Urban County Council Clerk

CERTIFICATION

I, the undersigned, do hereby certify that I am the duly qualified and acting Urban County Council Clerk of the Lexington-Fayette Urban County Government, and as such Urban County Council Clerk, I further certify that the foregoing is a true, correct and complete copy of a Bond Ordinance duly enacted by the Urban County Council of the Lexington-Fayette Urban County Government at a duly convened meeting held on the _____ day of _____, 2024, signed by the Mayor and now in full force and effect, all as appears from the official records of the Lexington-Fayette Urban County Government in my possession and under my control.

WITNESS my hand and the seal of said Urban County Government as of the _____ day of _____, 2024.

Urban County Council Clerk

[SEAL]

CERTIFICATE

I do hereby certify that the title to this enactment contains an accurate synopsis of the contents thereof and may be used to satisfy the reading and publication requirements of law.

DINSMORE & SHOHL LLP

By: _____
John C. Merchant, Esq.
Attorney at Law

ANNEX A

FORM OF SERIES 2024B BOND

COMMONWEALTH OF KENTUCKY
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT
VARIOUS PURPOSE GENERAL OBLIGATION REFUNDING BOND,
SERIES 2024B

No. BR-__

Table with 5 columns: Maturity Date, CUSIP Number, Interest Rate, Bond Date, Interest Payment Dates. Row 1: ____, 20__, ____, %, ____, 2024, March 1 and September 1, commencing September 1, 2024

REGISTERED HOLDER: _____

PRINCIPAL AMOUNT: \$_____
_____ DOLLARS

KNOW ALL PERSONS BY THESE PRESENTS: That the Lexington-Fayette Urban County Government (the "Lexington-Fayette Urban County Government"), for value received, hereby acknowledges itself obligated to, and promises to pay to the registered holder identified above, or registered assigns, the principal sum identified above (or, if any part thereof has been paid, the balance thereof remaining unpaid), on the maturity date specified above, and to pay interest on said principal sum (or, if any part thereof has been paid, the balance thereof remaining unpaid) from the date hereof, payable each March 1 and September 1, commencing September 1, 2024, at the Interest Rate per annum identified above, except as the provisions hereinafter set forth with respect to prior redemption may be and become applicable hereto. The principal and interest of this bond are payable, without deduction for exchange, collection, or service charges, in lawful money of the United States of America. Principal is payable at the principal office of U.S. Bank Trust Company, National Association, Louisville, Kentucky, or any successor (the "Paying Agent and Registrar") or by other transfer of funds acceptable to the Paying Agent and Registrar and such owner. All interest on this bond and principal payable prior to the final maturity date shall be payable by check or draft mailed to the record date registered owner hereof at the address shown on the registration records kept by the Paying Agent and Registrar or by other transfer of funds acceptable to the Trustee and such owner. The record date shall be the fifteenth day of the month preceding each interest payment date.

This Series 2024B Bond is one of an issue of Series 2024B Bonds of like tenor and effect, except as to denomination and maturity, numbered from BR-1 upward, inclusive, of the denomination of \$5,000 or any integral multiple thereof originally aggregating _____ dollars (\$_____) in principal amount, issued for the purpose of (i) refunding all or a portion of the \$55,925,000 Various Purpose General Obligation Refunding

Bonds Series 2014A, currently outstanding in the principal amount of \$_____, (the “Prior Bonds,”); and (ii) paying the costs of issuance of the Series 2024B Bonds, all pursuant to and in full compliance with the general laws of the Commonwealth of Kentucky and Chapter 66 of the Kentucky Revised Statutes, and pursuant to an ordinance duly adopted by the Urban County Council of the Lexington-Fayette Urban County Government on the ____ day of _____, 2024 (the “Bond Ordinance”) upon the affirmative vote of at least a majority of the members of its Urban County Council at a public meeting duly and regularly held, and after filing proper notice with the State Local Debt Officer of the Commonwealth of Kentucky.

This Series 2024B Bond and the issue of which it forms a part is a general obligation of the Lexington-Fayette Urban County Government and the full faith, credit and revenue of the Lexington-Fayette Urban County Government are pledged to the payments due hereunder. THIS SERIES 2024B BOND IS CONTINUALLY SECURED BY THE FAITH, CREDIT AND REVENUE OF LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT.

The Series 2024B Bonds mature on the 1st day of September of the following years, in the respective principal amounts and bear interest at the following rates of interest:

| Year (May 1) | Amount | Interest Rate |
|-----------------|--------|------------------|
| 2024 | | |
| 2025 | | |
| 2026 | | |
| 2027 | | |
| 2028 | | |
| 2029 | | |
| 2030 | | |
| TOTAL | | |

Optional Redemption. The Series 2024B Bonds are not subject to optional redemption prior to maturity.

No recourse shall be had for the payment of the principal of or the interest on this Series 2024B Bond, or for any claim based hereon, against any officer, agent or employee, past, present or future, of the Lexington-Fayette Urban County Government, as such, either directly or through the Lexington-Fayette Urban County Government, whether by virtue of any constitutional provision, statute or rule of law, or by the enforcement of any assessment or penalty, or otherwise; all such liability of such officers, agents or employees is hereby renounced, waived and released as a condition of and as consideration for the issuance, execution and acceptance of this Series 2024B Bond.

It is hereby certified that all acts, conditions and things required to be done, to occur or be performed precedent to and in the issuance of this Series 2024B Bond, or in the creation of the obligations of which this Bond is evidence, have been done, have occurred and have been performed in regular and due form and manner as required by law; that the faith, credit and revenue of the Lexington-Fayette Urban County Government are hereby irrevocably pledged for the prompt payment of the principal hereof and interest hereon; that the repayment obligation represented by this Bond is not in excess of any constitutional or statutory limitation; and that due provision has been made for the levy and collection of a tax sufficient in amount to pay the interest on this Series 2024B Bond as it falls due and to provide for the redemption of this Series 2024B Bond at maturity or upon earlier redemption.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Lexington-Fayette Urban County Government has caused this Series 2024B Bond to be signed either manually or by facsimile in its name by its Mayor and duly attested either manually or by facsimile by its Urban County Council Clerk and an impression or facsimile of the Lexington-Fayette Urban County Government's seal to be imprinted hereon, as of the date set forth above.

**LEXINGTON-FAYETTE URBAN COUNTY
GOVERNMENT**

By: _____
Linda Gorton
Mayor

(SEAL)

Attest:

By: _____
Abigail Allan
Clerk of the Urban County Council

CERTIFICATE OF AUTHENTICATION

This is to certify that this Series 2024B Bond is one of the Series 2024B Bonds described hereinabove.

**U.S. BANK TRUST COMPANY, NATIONAL
ASSOCIATION, Louisville, Kentucky**

By: _____
Name:
Title:

Unless this certificate is presented by an authorized representative of The Depository Trust Company to the Lexington-Fayette Urban County Government or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of CEDE & Co or such other name as requested by an authorized representative of The Depository Trust Company and any payment is made to CEDE & Co, ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered owner hereof, CEDE & Co, has an interest herein.

CERTIFICATE

It is hereby certified that the following is a correct and complete copy of the text of the legal opinion of Dinsmore & Shohl LLP, Attorneys, Cincinnati, Ohio, regarding the issue of which the within Series 2024B Bond is one, the original of which opinion was manually executed, dated and issued as of the date of delivery of and payment for said issue and a copy of which is on file with the undersigned.

Urban County Council Clerk

[INSERT FORM OF APPROVING OPINION]

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto:

(please print or typewrite social security number or other identifying number and name and address of transferee)

the within Series 2024B Bond and does hereby irrevocably constitute and appoint the _____ or its successor as Paying Agent and Registrar to transfer the said Series 2024B Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____

Note: The signature to this assignment must correspond with the name of the registered owner as it appears upon the face of the within Series 2024B Bond in every particular, without alteration or enlargement or any change whatever.

ORDINANCE NO. 032-2024

AN ORDINANCE OF LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT AUTHORIZING THE ISSUANCE OF LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT VARIOUS PURPOSE GENERAL OBLIGATION REFUNDING BONDS, SERIES 2024B, IN ONE OR MORE SUBSERIES, IN AN AGGREGATE PRINCIPAL AMOUNT OF \$7,720,000, (WHICH AMOUNT MAY BE INCREASED BY AN AMOUNT OF UP TO TEN PERCENT (10%) OR DECREASED BY AN UNLIMITED AMOUNT) FOR THE PURPOSE OF REFUNDING ALL OR A PORTION OF THE OUTSTANDING PRINCIPAL AMOUNT OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT VARIOUS PURPOSE GENERAL OBLIGATION REFUNDING BONDS, SERIES 2014A; APPROVING A FORM OF BOND; AUTHORIZING DESIGNATED OFFICERS TO EXECUTE AND DELIVER THE SERIES 2024B BONDS; PROVIDING FOR THE PAYMENT AND SECURITY OF THE SERIES 2024B BONDS; CREATING A BOND PAYMENT FUND AND ESCROW FUND(S); MAINTAINING THE HERETOFORE ESTABLISHED SINKING FUND; AUTHORIZING A CERTIFICATE OF AWARD FOR THE ACCEPTANCE OF THE BID OF THE BOND PURCHASER FOR THE PURCHASE OF THE SERIES 2024B BONDS; AUTHORIZING AN ESCROW TRUST AGREEMENT; AND REPEALING INCONSISTENT ORDINANCES.

WHEREAS, the Lexington-Fayette Urban County Government, heretofore issued its \$55,925,000 Various Purpose General Obligation Refunding Bonds, Series 2014A), currently outstanding in the principal amount of \$26,675,000, (the "Prior Bonds,") the proceeds of which were used to (i) refund the entire outstanding principal amount of \$60,470,000 of the Lexington-Fayette Urban County Government Taxable General Obligation Public Project Bonds, Series 2010A (Build America Bonds - Direct Pay), originally issued in the principal amount of \$69,320,000, the proceeds of which were used to finance various projects for departments within LFUCG, including, but not limited to, acquisition of computer equipment, telephone equipment, security equipment, motor vehicles, fire protection equipment, traffic control equipment and public safety equipment and finance various projects within LFUCG, including, but not limited to Lyric Theatre improvements, infrastructure improvements to the Lexington Distillery District (a redevelopment project in an area where several former liquor distilleries were located), government center design, parking lot resurfacing, park projects, building and facility renovations, streetscape improvements and purchasing of development rights (collectively, the "Prior Project"); and

WHEREAS, the Lexington-Fayette Urban County Government has determined that the present conditions of the municipal market are much more favorable than at the time the Prior Bonds were issued and that it is therefore advantageous and in the best interests of the Lexington-Fayette Urban County Government to proceed with the issuance of its Various Purpose General

Obligation Refunding Bonds, Series 2024B (the “Series 2024B Bonds”), in one or more subseries, on a tax-exempt or taxable basis in a principal amount of \$7,720,000, (which amount may be increased by an amount of up to ten percent (10%) or decreased by an unlimited amount) in order to refund all or a portion of the Prior Bonds and enable the Lexington-Fayette Urban County Government to realize debt service savings, provided that the final maturity of the Series 2024B Bonds shall be not later than September 1, 2030, and provided the refunding of the Prior Bonds shall result in debt service savings for the Lexington-Fayette Urban County Government as determined by the Commissioner of Finance and the financial advisor to the Lexington-Fayette Urban County Government; and

WHEREAS, pursuant to the Constitution and Laws of the Commonwealth of Kentucky, and particularly KRS 66.011 *et. seq.* (the “Act”), an urban county government may issue bonds, subject to the requirements of the Act, to refund outstanding bonds or obligations issued to pay all or any portion of the costs of any public project that an urban county government is authorized to acquire, improve or construct; and

WHEREAS, the Lexington-Fayette Urban County Government desires to refund the Prior Bonds through the issuance of the Series 2024B Bonds to be sold and awarded to the successful bidder (the “Purchaser”) at public, competitive sale in accordance with the provisions of Chapter 424 of the Kentucky Revised Statutes.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Lexington-Fayette Urban County Government (the “Urban County Council”), as follows:

SECTION 1. Necessity, Authorization and Purpose. The Lexington-Fayette Urban County Government hereby declares that it is necessary to issue and authorizes the issuance of its Various Purpose General Obligation Refunding Bonds, Series 2024B, in one or more subseries, on a tax-exempt or taxable basis in a principal amount of \$7,720,000 (which amount may be increased by an amount of up to ten percent (10%) or decreased by an unlimited amount), for the purpose of (i) refunding all or a portion of the Prior Bonds, and (ii) paying the costs of issuance of the Series 2024B Bonds.

The Series 2024B Bonds shall be offered for sale in accordance with the provisions hereof, and the determination of the best bids for the Series 2024B Bonds shall be made on the basis of all bids submitted for a principal amount of \$7,720,000 (which amount may be increased by an amount of up to ten percent (10%) or decreased by an unlimited amount) of Series 2024B Bonds.

The exact principal amount of Series 2024B Bonds to be issued and the determinations as to which Prior Bonds shall be refunded shall be established in the Certificate of Award to be executed by the Mayor of the Lexington-Fayette Urban County Government (the "Certificate of Award") awarding the Series 2024B Bonds to the Purchaser.

SECTION 2. Form. The Series 2024B Bonds shall be issued as fully registered Bonds, shall be designated "Various Purpose General Obligation Refunding Bonds, Series 2024B," or should other designation as provided in the Certificate of Award, shall express upon their faces the purpose for which they are issued, that they are issued under the Act and shall be substantially in the form set forth in *Annex A*. The Series 2024B Bonds shall be in denominations as requested by the Purchaser, which shall be in integral multiples of five thousand dollars (\$5,000). The Series 2024B Bonds shall be dated their date of issuance and delivery or such other date as is determined in the Certificate of Award. Interest on the Series 2024B Bonds shall be payable each March 1 and September 1 (an "Interest Payment Date"), commencing September 1, 2024 at the stated interest rate or rates on the principal amount thereof or as otherwise provided in the Certificate of Award. The Series 2024B Bonds shall be serial or term bonds maturing, on September 1 of the years and in the amounts to be established in the Certificate of Award after advertised competitive sale of the Series 2024B Bonds based on the interest rates bid in the successful bid (the "Bid") and the provisions of this Section 2, provided that the final maturity date of the Series 2024B Bonds shall be as set forth in the Certificate of Award but shall be no later than September 1, 2030. The interest rate or rates on the Series 2024B Bonds shall be determined in the Certificate of Award based on the Bid; provided that the aggregate true interest cost of the Series 2024B Bonds shall not exceed six percent (6.0%).

The Series 2024B Bonds shall be subject to optional and/or mandatory redemption as provided in the Certificate of Award. At least thirty (30) days before any optional or mandatory sinking fund redemption date of any Series 2024B Bonds, U.S. Bank Trust Company, National Association, Louisville, Kentucky (the "Paying Agent and Registrar") shall cause a notice of such redemption either in whole or in part, signed by the Paying Agent and Registrar, to be mailed, first class, postage prepaid, to all registered owners of the Series 2024B Bonds to be redeemed at their addresses as they appear on the registration books kept by the Paying Agent and Registrar, but failure to mail any such notice shall not affect the validity of the proceedings for such redemption of Series 2024B Bonds for which such notice has been sent. Each such notice shall set forth the

date fixed for redemption, the redemption price to be paid and, if less than all of the Series 2024B Bonds being payable by their terms on a single date then outstanding shall be called for redemption, the distinctive number or letters, if any, of such Series 2024B Bonds to be redeemed.

On the date so designated for redemption, notice having been mailed in the manner under the conditions hereinabove provided and moneys for payment of the redemption price being held in the Bond Payment Fund (as defined herein) by the Paying Agent and Registrar for the registered owners of the Series 2024B Bonds to be redeemed, the Series 2024B Bonds so called for redemption shall become and be due and payable at the redemption price provided for redemption of such Series 2024B Bonds on such date, interest on the Series 2024B Bonds so called for redemption shall cease to accrue, and the registered owners of such Series 2024B Bonds shall have no right in respect thereof except to receive payment of the redemption price thereof.

SECTION 3. Execution and Delivery. The Series 2024B Bonds shall be executed by the manual or facsimile signature of the Mayor and duly attested by the manual or facsimile signature of the Clerk of the Urban County Council (which, together with any other person as may be authorized by resolution are referred to as “Designated Officers”), shall have the seal of the Lexington-Fayette Urban County Government or a facsimile thereof affixed thereto, and shall bear the manual authenticating signature of an authorized representative of the bank designated in the Certificate of Award as the Paying Agent and Registrar for the Bonds (the “Paying Agent and Registrar”). The Designated Officers are further authorized and directed to deliver the Series 2024B Bonds to the Purchaser, upon the terms and conditions provided herein, in the Certificate of Award and in the Bid, receive the proceeds therefor, execute and deliver such certificates and other closing documents and take such other action as may be necessary or appropriate in order to effectuate the proper issuance, sale and delivery of the Series 2024B Bonds.

The Lexington-Fayette Urban County Government authorizes and directs the Paying Agent and Registrar to authenticate the Series 2024B Bonds and to deliver the Series 2024B Bonds to the Purchaser upon payment of the purchase price thereof.

SECTION 4. Payment. Payment of or on account of the interest on and principal of the Series 2024B Bonds shall be made directly to the Paying Agent and Registrar for the account of the registered owner. Interest on the Series 2024B Bonds shall be payable by check, mailed to the person whose name appears on the fifteenth day preceding an Interest Payment Date on the bond registration records as the registered owner, on each Interest Payment Date or by other transfer of

funds acceptable to such registered owner and the Paying Agent and Registrar. Principal shall be payable in such coin or currency of the United States of America as shall be legal tender for the payment of public and private debts at the time and place of payment upon delivery of the Series 2024B Bonds to the Paying Agent and Registrar or by other transfer of funds acceptable to the Paying Agent and Registrar and such registered owner. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bonds to the extent of the sum or sums so paid.

SECTION 5. Bond Payment Fund, Payment of Bonds. There is hereby established with the Paying Agent and Registrar a bond payment fund in the name of the Lexington-Fayette Urban County Government to be known as the Various Purpose General Obligation Refunding Bonds, Series 2024B Bond Payment Fund (the “Bond Payment Fund”), into which the Lexington-Fayette Urban County Government covenants to deposit, and into which the Designated Officers are hereby authorized and directed to deposit from the Sinking Fund (hereinafter established), on or before the twenty-fifth (25th) day of each month which precedes an Interest Payment Date on the Series 2024B Bonds, the amount required to pay principal of and interest due on the Series 2024B Bonds on such Interest Payment Date. The Paying Agent and Registrar shall, without further authorization from the Lexington-Fayette Urban County Government, withdraw from the Bond Payment Fund, on such Interest Payment Date of the Series 2024B Bonds, the amounts necessary to pay principal of, and interest on, the Series 2024B Bonds to the registered owner of the same.

The Paying Agent and Registrar is hereby appointed Bond Payment Fund Depository with respect to the Series 2024B Bonds.

If the Lexington-Fayette Urban County Government shall fail or refuse to make any required deposit in the Bond Payment Fund from the Sinking Fund, the Paying Agent and Registrar shall (i) notify any agency of the Commonwealth of Kentucky or any political subdivision thereof which may collect and distribute taxes or revenues for the Lexington-Fayette Urban County Government to seek any available necessary or proper remedial action; and (ii) upon being indemnified against cost and expense, exercise any remedy provided in the Act or at law or in equity for the benefit of the owner of the Series 2024B Bonds or its assignee, and shall disburse all funds so collected to the owners of the Series 2024B Bonds as payment of the Series 2024B Bonds.

SECTION 6. General Obligation; Maintenance of Sinking Fund. The Series 2024B Bonds shall be full general obligations of the Lexington-Fayette Urban County Government and, for the payment of said Series 2024B Bonds and the interest thereon, the full faith, credit and revenue of the Lexington-Fayette Urban County Government are hereby pledged for the prompt payment thereof. During the period the Series 2024B Bonds are outstanding, there shall be and there hereby is levied on all the taxable property in the Lexington-Fayette Urban County Government, in addition to all other taxes, without limitation as to rate, a direct tax annually in an amount sufficient to pay the principal of and interest on the Series 2024B Bonds when and as due, it being hereby found and determined that current tax rates are within all applicable limitations. Said tax shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers in the same manner and at the same time that taxes for general purposes for each of said years are certified, extended and collected. Said tax shall be placed before and in preference to all other items and for the full amount thereof provided, however, that in each year to the extent that the other lawfully available funds of the Lexington-Fayette Urban County Government are available for the payment of the Series 2024B Bonds and are appropriated for such purpose, the amount of such direct tax upon all of the taxable property in the Lexington-Fayette Urban County Government shall be reduced by the amount of such other funds so available and appropriated.

Pursuant to an ordinance of the Lexington-Fayette Urban County Government adopted on September 12, 2013, with respect to the Prior Bonds, there has heretofore been established with the Lexington-Fayette Urban County Government a sinking fund (the "Series 2014A Sinking Fund"), which Series 2014A Sinking Fund is hereby ordered to be maintained and continued. The funds derived from said tax levy hereby required or other lawfully available funds shall be placed in the Series 2014A Sinking Fund and, together with interest collected on the same, are irrevocably pledged for the payment of the interest on and principal of all bonds issued under the Act and Tax-Supported Leases when and as the same fall due. Amounts shall be transferred from the Series 2014A Sinking Fund to the Bond Payment Fund at the times and in the amounts required by Section 5 hereof.

SECTION 7. Award; Certificate of Award. The Designated Officers are hereby directed to sell the Series 2024B Bonds to the Purchaser at advertised competitive sale, the final principal amount of, the principal amortization of and the interest rate or rates on the Series 2024B

Bonds to be established in accordance with the requirements of Sections 1 and 2 hereof and the Certificate of Award. The Mayor is hereby authorized to execute the Certificate of Award without further action of the Urban County Council setting forth the terms of the Series 2024B Bonds and any other provisions required by and not inconsistent with this Bond Ordinance.

SECTION 8. Registered Owner; Transfer; Exchange. As long as the Series 2024B Bonds executed and delivered hereunder shall remain outstanding, the Paying Agent and Registrar shall maintain an office for the Registration of such Series 2024B Bonds and shall also keep at such office books for such registration and transfers. The registered owner of the Series 2024B Bonds, as set forth in the registration books maintained by the Paying Agent and Registrar on the fifteenth (15th) day preceding an Interest Payment Date, or its assignees, for purposes of this Bond Ordinance, to the extent of its interest, shall be treated as the owner of the Series 2024B Bonds and shall be entitled to all rights and security of the owner of the Series 2024B Bonds hereunder.

Upon surrender for registration of transfer of the Series 2024B Bonds at the office of the Paying Agent and Registrar with a written instrument of transfer satisfactory to the Paying Agent and Registrar, duly executed by the registered owner or the registered owner's duly authorized attorney, or, so long as the Series 2024B Bonds are in book-entry form in accordance with the Operational Arrangements of DTC, the Paying Agent and Registrar shall execute and deliver, in the name of the designated transferee or transferees, one or more Bonds of the same series of any authorized denomination and of a like tenor and effect.

All Series 2024B Bonds, upon surrender thereof at the office of the Paying Agent and Registrar, may, at the option of the registered owner thereof be exchanged for an equal aggregate principal amount of Series 2024B Bonds of the same series of any authorized denomination.

In all cases in which the privilege of exchanging or transferring Series 2024B Bonds is exercised, the Paying Agent and Registrar shall execute and deliver Series 2024B Bonds in accordance with the provisions of this Section. Every such exchange or transfer of Series 2024B Bonds, whether temporary or definitive, shall be without charge; provided that the Paying Agent and Registrar may impose a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, which sum or sums shall be paid by the person requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer.

SECTION 9. Book-entry System. For purposes of this Bond Ordinance, the following terms shall have the following meanings:

“Book entry form” or “book entry system” means a form or system under which (i) the beneficial right to payment of principal of and interest on the Series 2024B Bonds may be transferred only through a book entry, and (ii) physical Series 2024B Bond certificates in fully registered form are issued only to the Depository or its nominee as registered owner, with the Series 2024B Bonds “immobilized” to the custody of the Depository, and the book entry maintained by others than the Lexington-Fayette Urban County Government or the Paying Agent and Registrar is the record that identifies the owners of beneficial interests in those Series 2024B Bonds and that principal and interest.

“Depository” means any securities depository that is a clearing agency under federal law operating and maintaining, together with its Participants or otherwise, a book entry system to record ownership of beneficial interests in Series 2024B Bonds or principal and interest, and to effect transfers of Series 2024B Bonds, in book entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

“Participant” means any participant contracting with a Depository under a book entry system and includes security brokers and dealers, banks and trust companies, and clearing corporations.

All or any portion of the Series 2024B Bonds may be initially issued to a Depository for use in a book entry system, and the provisions of this Section 9 shall apply to such Series 2024B Bonds, notwithstanding any other provision of this Bond Ordinance. If and as long as a book entry system is utilized with respect to any such Series 2024B Bonds: (i) there shall be such number of Series 2024B Bonds of each maturity as the Depository shall specify; (ii) those Series 2024B Bonds shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners of Series 2024B Bonds in book entry form shall have no right to receive Series 2024B Bonds in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Series 2024B Bonds in book entry form shall be shown by book entry on the system maintained and operated by the Depository and its Participants, and transfers of the ownership of beneficial interests shall be made only by book entry by the Depository and its Participants; and (v) the Series 2024B Bonds as such shall not be transferable or exchangeable, except for transfer to another Depository or to another

nominee of a Depository, without further action by the Urban County Council. Debt service charges on Series 2024B Bonds in book entry form registered in the name of a Depository or its nominee shall be payable in the manner provided in the Lexington-Fayette Urban County Government's agreement with the Depository to the Depository or its authorized representative (i) in the case of interest, on each Interest Payment Date, and (ii) in all other cases, upon presentation and surrender of Series 2024B Bonds as provided in this Bond Ordinance.

The Paying Agent and Registrar may, with the approval of the Lexington-Fayette Urban County Government, enter into an agreement with the beneficial owner or registered owner of any Series 2024B Bond in the custody of a Depository providing for making all payments to that owner of principal and interest on that Series 2024B Bond or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided in this Bond Ordinance, without prior presentation or surrender of the Series 2024B Bond, upon any conditions which shall be satisfactory to the Paying Agent and Registrar and to the Lexington-Fayette Urban County Government. That payment in any event shall be made to the person who is the registered owner of that Series 2024B Bond on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Paying Agent and Registrar shall furnish a copy of each of those agreements, certified to be correct by the Paying Agent and Registrar, to any other paying agents for Series 2024B Bonds and to the Lexington-Fayette Urban County Government. Any payment of principal or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Bond Ordinance.

The Mayor of the Lexington-Fayette Urban County Government is authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the Lexington-Fayette Urban County Government a letter agreement among the Lexington-Fayette Urban County Government, the Paying Agent and Registrar and The Depository Trust Company, as Depository, to be delivered in connection with the issuance of the Series 2024B Bonds to the Depository for use in a book entry system.

If any Depository determines not to continue to act as depository for the Series 2024B Bonds for use in a book entry system, the Lexington-Fayette Urban County Government and the Paying Agent and Registrar may attempt to establish a securities depository/book entry relationship with another qualified Depository under this Bond Ordinance. If the Lexington-

Fayette Urban County Government and the Paying Agent and Registrar do not or are unable to do so, the Lexington-Fayette Urban County Government and the Paying Agent and Registrar, after the Paying Agent and Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Series 2024B Bonds from the Depository and authenticate and deliver Series 2024B Bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing definitive Series 2024B Bonds), if the event is not the result of action or inaction by the Urban County Council or the Paying Agent and Registrar, of those persons requesting such issuance.

SECTION 10. Disposition of Proceeds. The proceeds of the sale of the Series 2024B Bonds, except accrued interest, if any, shall be deposited as follows: (a) accrued interest, if any, shall be deposited to the Bond Payment Fund created in Section 5 hereof; (b) an amount sufficient to refund the Prior Bonds to be refunded, as set forth in the Certificate of Award, shall be deposited in the Escrow Fund created by the Escrow Trust Agreement authorized in Section 11 hereof and used to redeem the Prior Bonds as provided in the Escrow Trust Agreement for the Prior Bonds; and (c) the remainder of the proceeds shall be deposited to a special cost of issuance account in the name of Lexington-Fayette Urban County Government to be known as the Various Purpose General Obligation Refunding Bonds, Series 2024B Costs of Issuance Fund (the “Costs of Issuance Fund”) hereby established and directed to be held by the Paying Agent and Registrar and used to pay the costs of issuance of the Series 2024B Bonds.

SECTION 11. Authorization of Escrow Trust Agreement. The Lexington-Fayette Urban County Government shall enter into an escrow trust agreement (the “Escrow Trust Agreement”) with the escrow trustee named therein (the “Escrow Trustee”), for the purpose of providing sufficient funds to refund the Prior Bonds. The Escrow Trustee shall receive compensation for its services in accordance with the Escrow Trust Agreement. The Designated Officers are hereby each separately authorized and directed to execute said Escrow Trust Agreement on behalf of the Lexington-Fayette Urban County Government.

SECTION 12. Purchase of Escrow Securities. With respect to the funding of any escrow fund(s) necessary or appropriate in connection with the refunding of the Prior Bonds with a portion of the proceeds of the Series 2024B Bonds, the Designated Officers are hereby authorized to take any and all appropriate action for the order and purchase, at the appropriate time, of escrow securities such as state and local government securities, open market treasuries and similar

defeasance obligations (the “Escrow Securities”) for the credit of such escrow fund(s) pursuant to the provisions of the Escrow Trust Agreement. Such Escrow Securities may be in the form or forms recommended in writing by the Financial Advisor and approved by Dinsmore & Shohl LLP. The Financial Advisor is hereby specifically authorized to procure on behalf of the Lexington-Fayette Urban County Government, at the appropriate time, escrow securities such as open market treasuries and similar defeasance obligations for the credit of the escrow fund(s) as provided in the Escrow Trust Agreement. Any attorney with the firm of Dinsmore & Shohl LLP is hereby specifically authorized to execute and file on behalf of the Lexington-Fayette Urban County Government any subscriptions for United States Treasury Obligations, State and Local Government Series, as may be necessary, in order to fund, in part, such escrow fund(s) in connection with the refunding of the Prior Bonds. In addition, the Mayor of the Lexington-Fayette Urban County Government is hereby authorized to employ a verification agent with respect to the refunding of the Prior Bonds.

SECTION 13. Appointment and Engagement of Bond Counsel. Dinsmore & Shohl LLP, Lexington, Kentucky (“Bond Counsel”) is hereby appointed as bond counsel (“Bond Counsel”), to provide the Issuer with its services in connection with the issuance, sale, and delivery of the Series 2024B Bonds. Bond Counsel shall be paid a fee of \$3.00 per \$1,000 of Series 2024B Bonds issued, inclusive of related expenses, provided, however, that publication expenses and transcripts incurred by Bond Counsel shall be reimbursed separately. A Designated Officer is hereby authorized and directed to execute and deliver on behalf of the Lexington-Fayette Urban County Government any appropriate agreements and/or engagement letters in connection with such appointment.

SECTION 14. Financial Advisor. Robert W. Baird & Co. Incorporated (the “Municipal Advisor”) is hereby appointed Municipal Advisor to the Lexington-Fayette Urban County Government in connection with the issuance, sale and delivery of the Series 2024B Bonds. The Municipal Advisor shall be paid a fee of \$4.00 per \$1,000 of Series 2024B Bonds issued, inclusive of related expenses. A Designated Officer is hereby authorized and directed to execute and deliver on behalf of the Issuer any appropriate agreements and/or engagement letters in connection with such appointment.

SECTION 15. Discharge of Bond Ordinance. If the Lexington-Fayette Urban County Government shall pay or cause to be paid, or there shall otherwise be paid, to the owners

of the Series 2024B Bonds the total principal and interest due or to become due thereon through maturity, in the manner stipulated therein and in this Bond Ordinance, then the pledges made under this Bond Ordinance, and all covenants, agreements and other obligations of the Lexington-Fayette Urban County Government hereunder, shall thereupon cease, terminate and become void and be discharged and satisfied.

SECTION 16. Restriction on Use of Proceeds. This Urban County Council for and on behalf of the Lexington-Fayette Urban County Government hereby covenants that it will restrict the use of any tax-exempt proceeds of the Series 2024B Bonds hereby authorized in such manner and to such extent, if any, and take such other action as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute obligations the interest on which is subject to federal income taxation or “arbitrage bonds” under Sections 103(b)(2) and 148 of the Code, and the regulations prescribed thereunder. The Mayor or any other officer having responsibility with respect to the issuance of the certificates, is authorized and directed to give an appropriate certificate on behalf of the Lexington-Fayette Urban County Government, on the date of delivery of the Series 2024B Bonds, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances and reasonable expectations pertaining to the use of the proceeds thereof and the provisions of said Sections 103(b)(2) and 148 and regulations thereunder.

These Series 2024B Bonds are not designated “qualified tax-exempt obligations” for the purposes set forth Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

SECTION 17. Filing. The Designated Officers are hereby authorized to undertake and cause all filings of notices or information which may be required by law to be filed by the Lexington-Fayette Urban County Government, including, but not limited to, the filing with the State Local Debt Officer required by law.

SECTION 18. Severability. If any one or more of the provisions of this Bond Ordinance should be determined by a court of competent jurisdiction to be contrary to law, then such provisions shall be deemed to be severable from all remaining provisions and shall not affect the validity of such other provisions.

SECTION 19. Inconsistent Actions. All prior ordinances, resolutions or parts thereof inconsistent herewith are hereby repealed.

SECTION 20. Open Meetings Compliance. All meetings of the Urban County Council and of its committees and any other public bodies, at which the formal actions in connection with the issuance of the Series 2024B Bonds were taken, or at which deliberations that resulted in such formal actions were held, were open meetings, and such formal actions were taken and any such deliberations took place while such meetings, after proper notice, were open to the public, in compliance with all legal requirements including KRS Sections 61.810, 61.815, 61.820 and 61.825.

SECTION 21. Effective Date. This Bond Ordinance shall become effective immediately upon adoption and publication of a summary thereof, as provided by law.

[Remainder of page intentionally left blank]

INTRODUCED AND GIVEN FIRST READING at a duly convened meeting of the Urban County Council of the Lexington-Fayette Urban County Government on the 7th day of March, 2024.

GIVEN SECOND READING, ENACTED AND ADOPTED at a duly convened meeting of the Urban County Council of the Lexington-Fayette Urban County Government on the 21st day of March, 2024.

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

By: 
Linda Gorton
Mayor

ATTEST:

By: 
Abigail Allan
Urban County Council Clerk

Published: March 28, 2024-1t

CERTIFICATION

I, the undersigned, do hereby certify that I am the duly qualified and acting Urban County Council Clerk of the Lexington-Fayette Urban County Government, and as such Urban County Council Clerk, I further certify that the foregoing is a true, correct and complete copy of a Bond Ordinance duly enacted by the Urban County Council of the Lexington-Fayette Urban County Government at a duly convened meeting held on the 21st day of March, 2024, signed by the Mayor and now in full force and effect, all as appears from the official records of the Lexington-Fayette Urban County Government in my possession and under my control.

WITNESS my hand and the seal of said Urban County Government as of the 21 day of march, 2024.


Urban County Council Clerk

[SEAL]

CERTIFICATE

I do hereby certify that the title to this enactment contains an accurate synopsis of the contents thereof and may be used to satisfy the reading and publication requirements of law.

DINSMORE & SHOHL LLP

By:


John C. Merchant, Esq.
Attorney at Law

ANNEX A

FORM OF SERIES 2024B BOND

COMMONWEALTH OF KENTUCKY
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT
VARIOUS PURPOSE GENERAL OBLIGATION REFUNDING BOND,
SERIES 2024B

No. BR-__

| | | | | |
|----------------------|--------------|-----------------|------------------|--|
| <u>Maturity Date</u> | <u>CUSIP</u> | <u>Interest</u> | <u>Bond Date</u> | <u>Interest</u> |
| _____, 20__ | _____ | _____ % | _____, 2024 | <u>Payment Dates</u> |
| | | | | March 1 and September 1, commencing September 1, 2024 |

REGISTERED HOLDER: _____

PRINCIPAL AMOUNT: \$ _____
_____ DOLLARS

KNOW ALL PERSONS BY THESE PRESENTS: That the Lexington-Fayette Urban County Government (the "Lexington-Fayette Urban County Government"), for value received, hereby acknowledges itself obligated to, and promises to pay to the registered holder identified above, or registered assigns, the principal sum identified above (or, if any part thereof has been paid, the balance thereof remaining unpaid), on the maturity date specified above, and to pay interest on said principal sum (or, if any part thereof has been paid, the balance thereof remaining unpaid) from the date hereof, payable each March 1 and September 1, commencing September 1, 2024, at the Interest Rate per annum identified above, except as the provisions hereinafter set forth with respect to prior redemption may be and become applicable hereto. The principal and interest of this bond are payable, without deduction for exchange, collection, or service charges, in lawful money of the United States of America. Principal is payable at the principal office of U.S. Bank Trust Company, National Association, Louisville, Kentucky, or any successor (the "Paying Agent and Registrar") or by other transfer of funds acceptable to the Paying Agent and Registrar and such owner. All interest on this bond and principal payable prior to the final maturity date shall be payable by check or draft mailed to the record date registered owner hereof at the address shown on the registration records kept by the Paying Agent and Registrar or by other transfer of funds acceptable to the Trustee and such owner. The record date shall be the fifteenth day of the month preceding each interest payment date.

This Series 2024B Bond is one of an issue of Series 2024B Bonds of like tenor and effect, except as to denomination and maturity, numbered from BR-1 upward, inclusive, of the denomination of \$5,000 or any integral multiple thereof originally aggregating _____ dollars (\$ _____) in principal amount, issued for the purpose of (i) refunding all or a portion of the \$55,925,000 Various Purpose General Obligation Refunding Bonds Series 2014A, currently outstanding in the principal amount of \$26,675,000, (the "Prior Bonds,"); and (ii) paying the costs of issuance of the Series 2024B Bonds, all pursuant to and in

full compliance with the general laws of the Commonwealth of Kentucky and Chapter 66 of the Kentucky Revised Statutes, and pursuant to an ordinance duly adopted by the Urban County Council of the Lexington-Fayette Urban County Government on the ____ day of _____, 2024 (the "Bond Ordinance") upon the affirmative vote of at least a majority of the members of its Urban County Council at a public meeting duly and regularly held, and after filing proper notice with the State Local Debt Officer of the Commonwealth of Kentucky.

This Series 2024B Bond and the issue of which it forms a part is a general obligation of the Lexington-Fayette Urban County Government and the full faith, credit and revenue of the Lexington-Fayette Urban County Government are pledged to the payments due hereunder. THIS SERIES 2024B BOND IS CONTINUALLY SECURED BY THE FAITH, CREDIT AND REVENUE OF LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT.

The Series 2024B Bonds mature on the 1st day of September of the following years, in the respective principal amounts and bear interest at the following rates of interest:

| Year (May 1) | Amount | Interest Rate |
|-----------------|--------|------------------|
| 2024 | | |
| 2025 | | |
| 2026 | | |
| 2027 | | |
| 2028 | | |
| 2029 | | |
| 2030 | | |
| TOTAL | | |

Optional Redemption. The Series 2024B Bonds are not subject to optional redemption prior to maturity.

No recourse shall be had for the payment of the principal of or the interest on this Series 2024B Bond, or for any claim based hereon, against any officer, agent or employee, past, present or future, of the Lexington-Fayette Urban County Government, as such, either directly or through the Lexington-Fayette Urban County Government, whether by virtue of any constitutional provision, statute or rule of law, or by the enforcement of any assessment or penalty, or otherwise; all such liability of such officers, agents or employees is hereby renounced, waived and released as a condition of and as consideration for the issuance, execution and acceptance of this Series 2024B Bond.

[Remainder of page intentionally left blank]

It is hereby certified that all acts, conditions and things required to be done, to occur or be performed precedent to and in the issuance of this Series 2024B Bond, or in the creation of the obligations of which this Bond is evidence, have been done, have occurred and have been performed in regular and due form and manner as required by law; that the faith, credit and revenue of the Lexington-Fayette Urban County Government are hereby irrevocably pledged for the prompt payment of the principal hereof and interest hereon; that the repayment obligation represented by this Bond is not in excess of any constitutional or statutory limitation; and that due provision has been made for the levy and collection of a tax sufficient in amount to pay the interest on this Series 2024B Bond as it falls due and to provide for the redemption of this Series 2024B Bond at maturity or upon earlier redemption.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Lexington-Fayette Urban County Government has caused this Series 2024B Bond to be signed either manually or by facsimile in its name by its Mayor and duly attested either manually or by facsimile by its Urban County Council Clerk and an impression or facsimile of the Lexington-Fayette Urban County Government's seal to be imprinted hereon, as of the date set forth above.

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

By: _____
Linda Gorton
Mayor

(SEAL)

Attest:

By: _____
Abigail Allan
Clerk of the Urban County Council

CERTIFICATE OF AUTHENTICATION

This is to certify that this Series 2024B Bond is one of the Series 2024B Bonds described hereinabove.

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, Louisville, Kentucky

By: _____
Name:
Title:

Unless this certificate is presented by an authorized representative of The Depository Trust Company to the Lexington-Fayette Urban County Government or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of CEDE & Co or such other name as requested by an authorized representative of The Depository Trust Company and any payment is made to CEDE & Co, ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered owner hereof, CEDE & Co, has an interest herein.

CERTIFICATE

It is hereby certified that the following is a correct and complete copy of the text of the legal opinion of Dinsmore & Shohl LLP, Attorneys, Cincinnati, Ohio, regarding the issue of which the within Series 2024B Bond is one, the original of which opinion was manually executed, dated and issued as of the date of delivery of and payment for said issue and a copy of which is on file with the undersigned.

Urban County Council Clerk

[INSERT FORM OF APPROVING OPINION]

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto:

(please print or typewrite social security number or other identifying number and name and address of transferee)

the within Series 2024B Bond and does hereby irrevocably constitute and appoint the _____ or its successor as Paying Agent and Registrar to transfer the said Series 2024B Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____

Note: The signature to this assignment must correspond with the name of the registered owner as it appears upon the face of the within Series 2024B Bond in every particular, without alteration or enlargement or any change whatever.



Lexington-Fayette Urban County Government

Master

200 E. Main St
Lexington, KY 40507

File Number: 0217-24

File ID: 0217-24

Type: Resolution

Status: Approved

Version: 1

Contract #:

In Control: Urban County Council

File Created: 02/22/2024

File Name: FY24 GO Advertisement For Bids 2024A and 2024B

Final Action: 03/21/2024

Title:

A Resolution of the Lexington-Fayette Urban County Government authorizing the advertisement for bids and the distribution of a Preliminary Official Statement for the purchase of the principal amount of its (i) Various Purpose General Obligation Bonds, Series 2024A, in an aggregate principal amount of \$38,060,000 (which amount may be increased by an amount of up to ten percent (10%) or decreased by an unlimited amount) and (ii) Various Purpose General Obligation refunding bonds, Series 2024B, in an aggregate principal amount of \$7,720,000 (which amount may be increased or decreased by an amount of up to ten percent (10%)).
[Dept. of Finance, Hensley]

Notes:

Sponsors:

Enactment Date: 03/21/2024

Attachments: Memo FY24 Resolution Advertisement & Bids, Resolution-Ad for Bids (New Money and Refunding) - LFUCG - 2024A - GO - (2024)(30929403.3), R-114-2024

Enactment Number: R-114-2024

Deed #:

Hearing Date:

Drafter: Robin Adams

Effective Date:

History of Legislative File

| Ver- sion: | Acting Body: | Date: | Action: | Sent To: | Due Date: | Return Date: | Result: |
|---------------|-----------------------------------|------------|---------------------------------|----------------------|------------|-----------------|---------|
| 1 | Urban County Council Work Session | 03/05/2024 | Approved and Referred to Docket | Urban County Council | 03/07/2024 | | Pass |
| 1 | Urban County Council | 03/07/2024 | Received First Reading | Urban County Council | 03/21/2024 | | |
| 1 | Urban County Council | 03/21/2024 | Approved | | | | Pass |

Text of Legislative File 0217-24

Title

A Resolution of the Lexington-Fayette Urban County Government authorizing the advertisement for bids and the distribution of a Preliminary Official Statement for the purchase of the principal amount of its (i) Various Purpose General Obligation Bonds, Series 2024A, in an aggregate principal amount of \$38,060,000 (which amount may be increased by an amount of up to ten percent (10%) or decreased by an unlimited amount) and (ii) Various Purpose General Obligation refunding bonds, Series 2024B, in an aggregate principal amount of \$7,720,000 (which amount may be increased or decreased by an amount of up to ten percent (10%)). [Dept. of Finance, Hensley]

Summary

Authorization to approve advertisement of bids and distribution of a Preliminary Official Statement, for the purchase of the principal amount of its Various Purpose General Obligation Bonds, Series 2024A in an aggregate principal amount not to exceed \$38,060,000 and the Various Purpose General Obligation Refunding Bonds, Series 2024B in an aggregate principal amount not to exceed \$7,720,000. Costs are included in the issuance of the bonds. (L0217-24) (Hensley)

Budgetary Implications: No

Advance Document Review:

Law: Yes, Completed by David Barberie, February 12, 2024

Risk Management: No

Fully Budgeted: Cost is included in the issuance of the bonds per the Ordinance authorizing the sale of the bonds.

Account Number: 1101-141401-1680-78402

This Fiscal Year Impact: \$0

Annual Impact: \$0

Project:

Activity:

Budget Reference:

Current Balance:

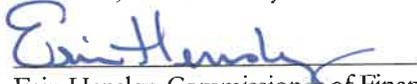
MAYOR LINDA GORTON



LEXINGTON

ERIN HENSLEY
COMMISSIONER
FINANCE

TO: Mayor Linda Gorton
Members, Urban County Council

FROM: 
Erin Hensley, Commissioner of Finance

DATE: February 22, 2024

SUBJECT: Resolution authorizing advertisement for bids for the FY24 Various Purpose General Obligation Project Bonds, Series 2024A and Various Purpose General Obligation Refunding Bonds, Series 2024B.

Request

Authorization to: approve advertisement of bids and distribution of a Preliminary Official Statement, for the purchase of the principal amount of its Various Purpose General Obligation Bonds, Series 2024A in an aggregate principal amount not to exceed \$38,060,000 and the Various Purpose General Obligation Refunding Bonds, Series 2024B in an aggregate principal amount not to exceed \$7,720,000.

Why are you requesting?

Department needs this action completed because: Advertisement for bids and distribution of a Preliminary Official Statement are required components of the Issuance of the FY 2024 General Obligation 2024A CIP Bonds and the 2024B General Obligation Refunding Bonds.

What is the cost in this budget year and future budget years?

The cost for this FY is: Cost is included in the Issuance of the Bonds per the Ordinance authorizing the sale of the bonds.

The cost for future FY is: \$0

Are the funds budgeted?

The funds are budgeted as they are included in the Issuance of the Bonds per the Ordinance authorizing sale of the bonds.

Account number: 1101-141401-1680-78402



File Number: 0217-24
Director/Commissioner: Erin Hensley



RESOLUTION NO. _____

A RESOLUTION OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT AUTHORIZING THE ADVERTISEMENT FOR BIDS AND THE DISTRIBUTION OF A PRELIMINARY OFFICIAL STATEMENT FOR THE PURCHASE OF THE PRINCIPAL AMOUNT OF ITS (I) VARIOUS PURPOSE GENERAL OBLIGATION BONDS, SERIES 2024A, IN AN AGGREGATE PRINCIPAL AMOUNT OF \$38,060,000 (WHICH AMOUNT MAY BE INCREASED BY AN AMOUNT OF UP TO TEN PERCENT (10%) OR DECREASED BY AN UNLIMITED AMOUNT) AND (II) VARIOUS PURPOSE GENERAL OBLIGATION REFUNDING BONDS, SERIES 2024B, IN AN AGGREGATE PRINCIPAL AMOUNT OF \$7,720,000 (WHICH AMOUNT MAY BE INCREASED OR DECREASED BY AN AMOUNT OF UP TO TEN PERCENT (10%))

WHEREAS, the Lexington-Fayette Urban County Government has previously determined the necessity of financing the acquisition of various projects for departments within the Lexington-Fayette Urban County Government, including, but not limited to (i) Phoenix Park development, radio replacement, new firetrucks and other fire safety related projects, new police cars, road construction and improvements, road resurfacing, road maintenance, road upgrades, streetscapes and sidewalk improvements, public art and beautification projects, renovations, repairs and upgrades related to public buildings, vehicle acquisitions, city hall pre-development project phase II, and various other improvements within departments of the Lexington-Fayette Urban County Government, (ii) providing funding for a program to preserve and manage agricultural, rural and natural lands, including the purchase of conservation easements or development rights (collectively, the “Series 2024A Project”); and

WHEREAS, the Lexington-Fayette Urban County Government, heretofore issued its \$55,925,000 Various Purpose General Obligation Refunding Bonds, Series 2014A), currently outstanding in the principal amount of \$ _____, (the “Prior Bonds,”) the proceeds of which were used to (i) refund the entire outstanding principal amount of \$60,470,000 of the Lexington-Fayette Urban County Government Taxable General Obligation Public Project Bonds, Series 2010A (Build America Bonds - Direct Pay), originally issued in the principal amount of \$69,320,000; and

WHEREAS, the Lexington-Fayette Urban County Government has determined that the present conditions of the municipal market are much more favorable than at the time the Prior Bonds were issued and that it is therefore advantageous and in the best interests of the Lexington-Fayette Urban County Government to proceed with the issuance of its Various Purpose General Obligation Refunding Bonds, Series 2024B (the “Series 2024B Bonds”), in one or more subseries, on a tax-exempt or taxable basis in a principal amount of \$7,720,000, (which amount may be increased or decreased by an amount of up to ten percent (10%)) in order to refund all or a portion

of the Prior Bonds and enable the Lexington-Fayette Urban County Government to realize debt service savings; and

WHEREAS, the Lexington-Fayette Urban County Government has determined to proceed with the advertisement of bids for the purchase of its (i) Various Purpose General Obligation Bonds, Series 2024A, in one or more subseries on a tax-exempt or taxable basis in the principal amount of \$38,060,000 (which amount may be increased by an amount of up to ten percent (10%) or decreased by an unlimited amount) (the “Series 2024A Bonds”), in order to (a) provide funds to finance a portion of the Series 2024A Project, and (b) pay the costs of issuing the Series 2024A Bonds; and its (ii) Various Purpose General Obligation Refunding Bonds, Series 2024B, in one or more subseries on a tax-exempt or taxable basis in the principal amount of \$7,720,000, (which amount may be increased or decreased by an amount of up to ten percent (10%)) (the “Series 2024B Bonds”), in order to (a) refund all or a portion of the Prior Bonds, and (b) pay the costs of issuing the Series 2024B Bonds; and

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT (THE “URBAN COUNTY COUNCIL”):

SECTION 1. The Lexington-Fayette Urban County Government, an urban county government and political subdivision of the Commonwealth of Kentucky, shall issue its (i) Series 2024A Bonds in one or more subseries on a tax-exempt or taxable basis in the principal amount of \$38,060,000 (which amount may be increased by an amount of up to ten percent (10%) or decreased by an unlimited amount), in order to (a) provide funds for the Series 2024A Project as identified above; and (b) pay the costs of issuing the Series 2024A Bonds, and (ii) Series 2024B Bonds in one or more subseries on a tax-exempt or taxable basis in the principal amount of \$7,720,000 (which amount may be increased or decreased by an amount of up to ten percent (10%)), in order to (a) refund all or a portion of the Prior Bonds, and (b) pay the costs of issuing the Series 2024B Bonds

SECTION 2. The Lexington-Fayette Urban County Government shall comply with the requirements of Chapter 66 and 424 of the Kentucky Revised Statutes by advertising for bids for the purchase of the Series 2024A Bonds and the Series 2024B Bonds. Advertisement may be publicized by newspaper publication in *The Courier-Journal*, published in Louisville, Kentucky; the *Lexington Herald-Leader*, published in Lexington, Kentucky; and *The Bond Buyer*, published in New York City, New York; or, in the alternative, by posting a notice of sale to a nationally

recognized electronic bidding system. The Mayor, the Clerk of the Urban County Council, the Commissioner of Finance and/or Chief Administrative Officer are hereby authorized to prepare such instruments and to distribute such information as shall be necessary to accomplish the foregoing, including preparation of a Preliminary Official Statement (the “Preliminary Official Statement”) which Preliminary Official Statement is to be deemed final in accordance with Rule 15c2-12 of the Securities and Exchange Commission (the “Rule”). In order to enable prospective purchasers to submit bids for the purchase of the Series 2024A Bonds and the Series 2024B Bonds, the Lexington-Fayette Urban County Government hereby covenants and agrees that it will execute, comply with and carry out all of the provisions of a continuing disclosure certificate (the “Continuing Disclosure Certificate”) in connection with the issuance of the Series 2024A Bonds and the Series 2024B Bonds. Failure to comply with any such provisions of the Continuing Disclosure Certificate shall not constitute a default on the Series 2024A Bonds or the Series 2024B Bonds; however, any holder of the Series 2024A Bonds or the Series 2024B Bonds, including the beneficial owners of the Series 2024A Bonds or the Series 2024B Bonds, may take such action as may be necessary and appropriate, including seeking specific performance, to cause the Lexington-Fayette Urban County Government to comply with its obligations under the Continuing Disclosure Certificate. Further, the Mayor is hereby authorized and directed on behalf of the Lexington-Fayette Urban County Government to execute all such instruments as shall be necessary to accomplish all of the foregoing.

SECTION 3. Such proposals shall be received and reviewed by the Commissioner of Finance and shall be acted upon by the Mayor on that same day in accordance with the terms of the bond ordinance with respect to the Series 2024A Bonds and the bond ordinance with respect to the Series 2024B Bonds.

SECTION 4. The Mayor shall, in a certificate of award accepting the successful bid for the Series 2024A Bonds (the “Series 2024A Certificate of Award”), determine the exact principal amount of Series 2024A Bonds to be issued, the subseries designations of the Series 2024A Bonds, the rate or rates of interest which said Series 2024A Bonds shall bear, redemption provisions and the interest rate or rates on said Series 2024A Bonds shall be automatically fixed at the rate or rates set out in the successful bid accepted by said Series 2024 Certificate of Award. The proceeds of the sale of the Series 2024A Bonds shall be applied to the costs of the Series 2024A Project and paying the costs of issuance of the Series 2024A Bonds, and shall be expended as provided in the bond ordinance authorizing the Series 2024A Bonds.

SECTION 5. The Mayor shall, in a certificate of award accepting the successful bid for the Series 2024B Bonds (the “Series 2024B Certificate of Award”), determine the exact principal amount of Series 2024B Bonds to be issued, the subseries designations of the Series 2024B Bonds, the rate or rates of interest which said Series 2024B Bonds shall bear, redemption provisions and the interest rate or rates on said Series 2024B Bonds shall be automatically fixed at the rate or rates set out in the successful bid accepted by said Series 2024B Certificate of Award. The proceeds of the sale of the Series 2024B Bonds shall be applied to the costs of the refunding the Prior Bonds and paying the costs of issuance of the Series 2024B Bonds, and shall be expended as provided in the bond ordinance authorizing the Series 2024B Bonds.

SECTION 6. In the event that no bid shall be accepted for the purchase of the Series 2024A Bonds or the Series 2024B Bonds, bids may again be solicited for the purchase of the Series 2024A Bonds and/or the Series 2024B Bonds at a future date and hour at the discretion of the Mayor and the Commissioner of Finance, without the necessity of further authorization by the Urban County Council of the Lexington-Fayette Urban County Government.

SECTION 7. All resolutions or orders or parts thereof, if any, in conflict with the provisions of this Resolution, are to the extent of such conflict, hereby repealed.

SECTION 8. This Resolution shall become effective upon the date of its passage.

[Remainder of page intentionally left blank]

INTRODUCED AND GIVEN FIRST READING AND SECOND READING AND ADOPTED at a duly convened meeting of Urban County Council of the Lexington-Fayette Urban County Government held on the ____ day of _____, 2024, signed by the Mayor, attested under seal by the Clerk of Urban County Council, and ordered to be published, filed and indexed as provided by law.

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

By: _____
Linda Gorton
Mayor

ATTEST:

By: _____
Abigail Allan
Urban County Council Clerk

CERTIFICATE

I, the undersigned, Urban County Council Clerk of the Lexington-Fayette Urban County Government, do hereby certify that the foregoing Resolution is a true and complete copy of a certain Resolution duly adopted by the Urban County Council of said Lexington-Fayette Urban County Government at a lawfully convened meeting of the Urban County Council of the Lexington-Fayette Urban County Government held on _____, 2024, signed by the Mayor and now in full force and effect, all as appears from the official records of the Lexington-Fayette Urban County Government in my possession and under my control.

I do hereby further certify that said Resolution has not been amended, modified, superseded or repealed and that same remains in full force and effect as of the date of this Certificate.

WITNESS my hand as of this ____ day of _____, 2024.

Urban County Council Clerk

[SEAL]

CERTIFICATE

I do hereby certify that the title to this enactment contains an accurate synopsis of the contents thereof and may be used to satisfy the reading and publication requirements of law.

DINSMORE & SHOHL LLP

By: _____
John C. Merchant, Esq.
Attorney at Law

RESOLUTION NO. 114-2024

A RESOLUTION OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT AUTHORIZING THE ADVERTISEMENT FOR BIDS AND THE DISTRIBUTION OF A PRELIMINARY OFFICIAL STATEMENT FOR THE PURCHASE OF THE PRINCIPAL AMOUNT OF ITS (I) VARIOUS PURPOSE GENERAL OBLIGATION BONDS, SERIES 2024A, IN AN AGGREGATE PRINCIPAL AMOUNT OF \$38,060,000 (WHICH AMOUNT MAY BE INCREASED BY AN AMOUNT OF UP TO TEN PERCENT (10%) OR DECREASED BY AN UNLIMITED AMOUNT) AND (II) VARIOUS PURPOSE GENERAL OBLIGATION REFUNDING BONDS, SERIES 2024B, IN AN AGGREGATE PRINCIPAL AMOUNT OF \$7,720,000 (WHICH AMOUNT MAY BE INCREASED BY AN AMOUNT OF UP TO TEN PERCENT (10%) OR DECREASED BY AN UNLIMITED AMOUNT)

WHEREAS, the Lexington-Fayette Urban County Government has previously determined the necessity of financing the acquisition of various projects for departments within the Lexington-Fayette Urban County Government, including, but not limited to (i) Phoenix Park development, radio replacement, new firetrucks and other fire safety related projects, new police cars, road construction and improvements, road resurfacing, road maintenance, road upgrades, streetscapes and sidewalk improvements, public art and beautification projects, renovations, repairs and upgrades related to public buildings, vehicle acquisitions, city hall pre-development project phase II, and various other improvements within departments of the Lexington-Fayette Urban County Government, (ii) providing funding for a program to preserve and manage agricultural, rural and natural lands, including the purchase of conservation easements or development rights (collectively, the “Series 2024A Project”); and

WHEREAS, the Lexington-Fayette Urban County Government, heretofore issued its \$55,925,000 Various Purpose General Obligation Refunding Bonds, Series 2014A), currently outstanding in the principal amount of \$26,675,000, (the “Prior Bonds,”) the proceeds of which were used to (i) refund the entire outstanding principal amount of \$60,470,000 of the Lexington-Fayette Urban County Government Taxable General Obligation Public Project Bonds, Series 2010A (Build America Bonds - Direct Pay), originally issued in the principal amount of \$69,320,000; and

WHEREAS, the Lexington-Fayette Urban County Government has determined that the present conditions of the municipal market are much more favorable than at the time the Prior Bonds were issued and that it is therefore advantageous and in the best interests of the Lexington-Fayette Urban County Government to proceed with the issuance of its Various Purpose General Obligation Refunding Bonds, Series 2024B (the “Series 2024B Bonds”), in one or more subseries, on a tax-exempt or taxable basis in a principal amount of \$7,720,000, (which amount may be increased by an amount of up to ten percent (10%) or decreased by an unlimited amount) in order

to refund all or a portion of the Prior Bonds and enable the Lexington-Fayette Urban County Government to realize debt service savings; and

WHEREAS, the Lexington-Fayette Urban County Government has determined to proceed with the advertisement of bids for the purchase of its (i) Various Purpose General Obligation Bonds, Series 2024A, in one or more subseries on a tax-exempt or taxable basis in the principal amount of \$38,060,000 (which amount may be increased by an amount of up to ten percent (10%) or decreased by an unlimited amount) (the “Series 2024A Bonds”), in order to (a) provide funds to finance a portion of the Series 2024A Project, and (b) pay the costs of issuing the Series 2024A Bonds; and

WHEREAS, the Lexington-Fayette Urban County Government has determined to proceed with the advertisement of bids for the purchase of its (ii) Various Purpose General Obligation Refunding Bonds, Series 2024B, in one or more subseries on a tax-exempt or taxable basis in the principal amount of \$7,720,000, (which amount may be increased by an amount of up to ten percent (10%) or decreased by an unlimited amount) (the “Series 2024B Bonds”), in order to (a) refund all or a portion of the Prior Bonds, and (b) pay the costs of issuing the Series 2024B Bonds; and

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT (THE “URBAN COUNTY COUNCIL”):

SECTION 1. The Lexington-Fayette Urban County Government, an urban county government and political subdivision of the Commonwealth of Kentucky, shall issue its (i) Series 2024A Bonds in one or more subseries on a tax-exempt or taxable basis in the principal amount of \$38,060,000 (which amount may be increased by an amount of up to ten percent (10%) or decreased by an unlimited amount), in order to (a) provide funds for the Series 2024A Project as identified above; and (b) pay the costs of issuing the Series 2024A Bonds, and (ii) Series 2024B Bonds in one or more subseries on a tax-exempt or taxable basis in the principal amount of \$7,720,000 (which amount may be increased by an amount of up to ten percent (10%) or decreased by an unlimited amount), in order to (a) refund all or a portion of the Prior Bonds, and (b) pay the costs of issuing the Series 2024B Bonds

SECTION 2. The Lexington-Fayette Urban County Government shall comply with the requirements of Chapter 66 and 424 of the Kentucky Revised Statutes by advertising for bids for the purchase of the Series 2024A Bonds and the Series 2024B Bonds. Advertisement may be

publicized by newspaper publication in *The Courier-Journal*, published in Louisville, Kentucky; the *Lexington Herald-Leader*, published in Lexington, Kentucky; and *The Bond Buyer*, published in New York City, New York; or, in the alternative, by posting a notice of sale to a nationally recognized electronic bidding system. The Mayor, the Clerk of the Urban County Council, the Commissioner of Finance and/or Chief Administrative Officer are hereby authorized to prepare such instruments and to distribute such information as shall be necessary to accomplish the foregoing, including preparation of a Preliminary Official Statement (the “Preliminary Official Statement”) which Preliminary Official Statement is to be deemed final in accordance with Rule 15c2-12 of the Securities and Exchange Commission (the “Rule”). In order to enable prospective purchasers to submit bids for the purchase of the Series 2024A Bonds and the Series 2024B Bonds, respectively, the Lexington-Fayette Urban County Government hereby covenants and agrees that it will execute, comply with and carry out all of the provisions of a continuing disclosure certificate (the “Continuing Disclosure Certificate”) in connection with the issuance of the Series 2024A Bonds and the Series 2024B Bonds. Failure to comply with any such provisions of the Continuing Disclosure Certificate shall not constitute a default on the Series 2024A Bonds or the Series 2024B Bonds; however, any holder of the Series 2024A Bonds or the Series 2024B Bonds, including the beneficial owners of the Series 2024A Bonds or the Series 2024B Bonds, may take such action as may be necessary and appropriate, including seeking specific performance, to cause the Lexington-Fayette Urban County Government to comply with its obligations under the Continuing Disclosure Certificate. Further, the Mayor is hereby authorized and directed on behalf of the Lexington-Fayette Urban County Government to execute all such instruments as shall be necessary to accomplish all of the foregoing.

SECTION 3. Such proposals shall be received and reviewed by the Commissioner of Finance and shall be acted upon by the Mayor on that same day in accordance with the terms of the bond ordinance with respect to the Series 2024A Bonds and the bond ordinance with respect to the Series 2024B Bonds.

SECTION 4. The Mayor shall, in a certificate of award accepting the successful bid for the Series 2024A Bonds (the “Series 2024A Certificate of Award”), determine the exact principal amount of Series 2024A Bonds to be issued, the subseries designations of the Series 2024A Bonds, the rate or rates of interest which said Series 2024A Bonds shall bear, redemption provisions and the interest rate or rates on said Series 2024A Bonds shall be automatically fixed at the rate or rates set out in the successful bid accepted by said Series 2024 Certificate of Award. The proceeds of

the sale of the Series 2024A Bonds shall be applied to the costs of the Series 2024A Project and paying the costs of issuance of the Series 2024A Bonds, and shall be expended as provided in the bond ordinance authorizing the Series 2024A Bonds.

SECTION 5. The Mayor shall, in a certificate of award accepting the successful bid for the Series 2024B Bonds (the “Series 2024B Certificate of Award”), determine the exact principal amount of Series 2024B Bonds to be issued, the subseries designations of the Series 2024B Bonds, the rate or rates of interest which said Series 2024B Bonds shall bear, redemption provisions and the interest rate or rates on said Series 2024B Bonds shall be automatically fixed at the rate or rates set out in the successful bid accepted by said Series 2024B Certificate of Award. The proceeds of the sale of the Series 2024B Bonds shall be applied to the costs of the refunding the Prior Bonds and paying the costs of issuance of the Series 2024B Bonds, and shall be expended as provided in the bond ordinance authorizing the Series 2024B Bonds.

SECTION 6. In the event that no bid shall be accepted for the purchase of the Series 2024A Bonds or the Series 2024B Bonds, bids may again be solicited for the purchase of the Series 2024A Bonds and/or the Series 2024B Bonds at a future date and hour at the discretion of the Mayor and the Commissioner of Finance, without the necessity of further authorization by the Urban County Council of the Lexington-Fayette Urban County Government.

SECTION 7. All resolutions or orders or parts thereof, if any, in conflict with the provisions of this Resolution, are to the extent of such conflict, hereby repealed.

SECTION 8. This Resolution shall become effective upon the date of its passage.

[Remainder of page intentionally left blank]

INTRODUCED AND GIVEN FIRST READING AND SECOND READING AND ADOPTED at a duly convened meeting of Urban County Council of the Lexington-Fayette Urban County Government held on the 21st day of March, 2024, signed by the Mayor, attested under seal by the Clerk of Urban County Council, and ordered to be published, filed and indexed as provided by law.

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

By: 
Linda Gorton
Mayor

ATTEST:

By: 
Abigail Allan
Urban County Council Clerk

CERTIFICATE

I, the undersigned, Urban County Council Clerk of the Lexington-Fayette Urban County Government, do hereby certify that the foregoing Resolution is a true and complete copy of a certain Resolution duly adopted by the Urban County Council of said Lexington-Fayette Urban County Government at a lawfully convened meeting of the Urban County Council of the Lexington-Fayette Urban County Government held on March 21, 2024, signed by the Mayor and now in full force and effect, all as appears from the official records of the Lexington-Fayette Urban County Government in my possession and under my control.

I do hereby further certify that said Resolution has not been amended, modified, superseded or repealed and that same remains in full force and effect as of the date of this Certificate.

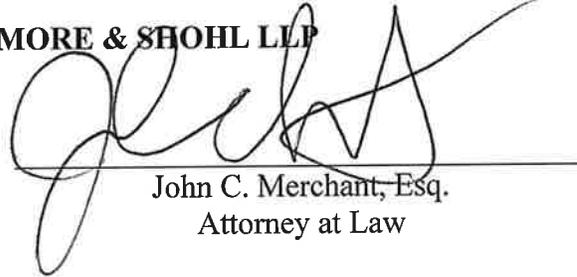
WITNESS my hand as of this 21st day of March, 2024.


Urban County Council Clerk

[SEAL]

CERTIFICATE

I do hereby certify that the title to this enactment contains an accurate synopsis of the contents thereof and may be used to satisfy the reading and publication requirements of law.

DINSMORE & SHOHL LLP
By: 
John C. Merchant, Esq.
Attorney at Law



Lexington-Fayette Urban County Government

Master

200 E. Main St
Lexington, KY 40507

File Number: 0223-24

File ID: 0223-24

Type: Resolution

Status: Approved

Version: 1

Contract #: 049-2024

In Control: Urban County Council

File Created: 02/23/2024

File Name: Friends of Wolf Run Grant Assistance

Final Action: 03/21/2024

Title: A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute the Purchase of Service Agreement with Friends of Wolf Run, Inc. for services related to the Wolf Run Watershed Water Quality Basins and Update Project, for the Div. of Environmental Services, at a cost not to exceed \$9,600. [Div. of Environmental Services, Carey]

Notes: In office 2/26/2024. MS

Stamped and filed in the CCO. Returned to Crystal Goodwin via IOM 3/22/2024. MS

Sponsors:

Enactment Date: 03/21/2024

Attachments: bluesheet memo FOWR Wolf Run 319(h) Grant Assistance edited, PSA FWR .3 . 4861-0063-8623 and all exhibits, 0223-24- PSA with FWR 4871-4160-1450 v.1.docx, R-115-2024, Contract #049-2024

Enactment Number: R-115-2024

Deed #:

Hearing Date:

Drafter: Crystal Williams Goodwin

Effective Date:

History of Legislative File

| Ver- sion: | Acting Body: | Date: | Action: | Sent To: | Due Date: | Return Date: | Result: |
|---------------|--------------------------------------|------------|------------------------------------|-------------------------|------------|-----------------|---------|
| 1 | Urban County Council Work Session | 03/05/2024 | Approved and Referred to Docket | Urban County Council | 03/07/2024 | | Pass |
| 1 | Urban County Council | 03/07/2024 | Received First Reading | Urban County Council | 03/21/2024 | | |
| 1 | Urban County Council | 03/21/2024 | Approved | | | | Pass |

Text of Legislative File 0223-24

Title

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute the Purchase of Service Agreement with Friends of Wolf Run, Inc. for services related to the Wolf Run Watershed Water Quality Basins and Update Project,

for the Div. of Environmental Services, at a cost not to exceed \$9,600. [Div. of Environmental Services, Carey]

Summary

Authorization to execute a Purchase of Service Agreement with the Friends of Wolf Run, Inc. to serve as the organization partner in the implementation of the 319(h) Grant-funded Wolf Run Watershed Water Quality Basins and Update Project at a cost not to exceed \$9,600. Funds are Budgeted. (L0223-24) (Carey/Albright)

Budgetary Implications [select]: Yes/NO

Advance Document Review:

Law: { Select Yes, Completed by Evan Thompson 1/25/2024

Risk Management: {Select Yes/No, Completed by [Official, Date]}

Fully Budgeted [select]: Yes/No/Partial

Account Number: 4051-313201-3092-71299

This Fiscal Year Impact: \$4800

Annual Impact: \$

Project:

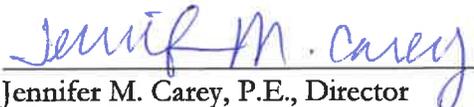
Activity:

Budget Reference:

Current Balance: \$14,342.16



TO: Mayor Linda Gorton
Urban County Council

FROM: 
Jennifer M. Carey, P.E., Director
Division of Environmental Services

DATE: February 23, 2024

SUBJECT: Agreement with Friends of Wolf Run, Inc. to serve as the organization partner in the implementation of the 319(h) grant-funded Wolf Run Watershed Water Quality Basins and Update Project

Request

The purpose of this memorandum is to request Council authorization for the Mayor to execute a Purchase of Service Agreement with the Friends of Wolf Run, Inc. to serve as the organization partner in the implementation of the 319(h) grant-funded Wolf Run Watershed Water Quality Basins and Update Project at a cost not to exceed \$9,600.

Why are you requesting?

LFUCG's approved work plan for this project included provisions for a partnership with an organization to assist with re-establishing the Wolf Run Watershed Council and convening that group four times during the duration of the grant. The Friends of Wolf Run, Inc., as the watershed's preeminent champion, has the broadest reach to engage WRWC participants and will be an engaged entity throughout the project's progress.

What is the cost in this budget year and future budget years?

The cost for FY25 and FY26 is \$4,800 per year.

Are the funds budgeted?

Yes, funds are budgeted and available in 4051-313201-3092-71299

File Number: 0223-24

Director / Commissioner: Carey / Albright



PURCHASE OF SERVICE AGREEMENT

THIS PURCHASE OF SERVICE AGREEMENT, made and entered into on the _____ day of _____ 2024, by and between the **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, an urban county government of the COMMONWEALTH OF KENTUCKY created pursuant to KRS Chapter 67A ("LFUCG"), 200 East Main Street, Lexington, Kentucky 40507, and **FRIENDS OF WOLF RUN, INC.** ("Organization"), whose post office address is 639 Cardinal Lane, Lexington, KY 40503.

WITNESSETH

WHEREAS, LFUCG has been awarded federal funds pursuant to Section 319(h) of the Clean Water Act, from the Commonwealth of Kentucky Energy and Environment Cabinet, Department for Environmental Protection, Kentucky Division of Water (Award No. PON2 129 2400000129);

WHEREAS, LFUCG's approved work plan provides for a partnership with a citizen organization, Organization, that will be responsible for performing work related to the development of a watershed based plan;

WHEREAS, LFUCG's responsibility for ensuring compliance with all grant requirements necessitates a written agreement with Organization;

NOW, THEREFORE, in consideration of the foregoing and mutually agreed upon promises, conditions, and covenants hereinafter set forth, pursuant to grant requirements, the parties hereto agree as follows:

1. EFFECTIVE DATE; TERM. This Agreement shall commence on July 1, 2024 and shall last for a period of 2 years, unless terminated by LFUCG at an earlier time.

2. RELATED DOCUMENTS. This Agreement shall consist of the terms herein as well as the following additional documents, which are attached hereto as exhibits and incorporated herein by reference as if fully stated:

- a. Exhibit "A" – Scope of Work
- b. Exhibit "B" – Certification of Compliance for Expenditures using Federal Grant Funds
- c. Exhibit "C" – LFUCG's Grant Contract with Commonwealth of Kentucky

To the extent that there is any conflict between or among any of these documents, the terms and provisions of Exhibit B shall prevail first, then C, then the terms and conditions of this Agreement, then the terms and conditions of A, in that order.

3. SCOPE OF SERVICES. Organization shall perform the services outlined in the attached Exhibit "A" – Scope of Work for LFUCG in a timely, workmanlike and professional manner (the "Services").

4. PAYMENT. LFUCG shall pay Organization a total amount not to exceed Four Thousand Eight Hundred Dollars and Zero Cents (\$4,800.00) annually (for a cumulative amount of Nine Thousand Six Hundred Dollars and Zero Cents (\$9,600.00) over the entire term) for the performance of the approved Services. Payments shall be made quarterly for expenditures the Organization actually incurred, only after receipt of quarterly invoices. The funds are limited to the approved Services provided herein and may not be spent by the Organization for any other purpose without the prior written consent of LFUCG. In no event shall Organization receive more than Twelve Hundred Dollars and Zero Cents (\$1,200.00) per convened Watershed Council meeting, up to the "not to exceed" amount provided above. Absent any additional written agreement stating otherwise any travel or other expenses are included in the above payment.

a. LFUCG shall make payment under this Agreement upon timely submission of an approved invoice(s) from Organization specifying the information required in Section 11 of this Agreement, accompanied by data satisfactory to LFUCG to document entitlement to payment for the Services performed to date. LFUCG shall have thirty (30) days from the date of receipt of an approved invoice to pay the invoice amount. LFUCG reserves the right to refuse payment if it is determined by LFUCG that the Services performed or materials provided for the Services are inadequate or defective.

b. LFUCG also reserves the right to reject any invoice submitted for services rendered in previous quarters. Termination of the Agreement and reallocation of unspent funds may occur for failure to submit an invoice, at the discretion of the LFUCG.

5. FEDERAL LAW. The Organization understands that the Funds paid by LFUCG were awarded under Section 319(h) of the Clean Water Act. Organization agrees to comply with any requests from LFUCG related to LFUCG's ongoing monitoring and reporting obligations set by federal law. Organization understands that the failure to comply may result in termination of this Agreement. Organization further agrees and by entering this Agreement, it hereby certifies to its ability to comply with all terms included within Exhibit B attached hereto. Organization further agrees to comply with all elements of LFUCG's work plan as provided for in its approved grant application.

6. UNABLE TO COMPLETE; RETURN OF FUNDS. If it becomes apparent to Organization that it will be unable to complete the Services either in the manner or for the amount described in this Agreement, then the Organization shall immediately provide written notice to the LFUCG with a complete and detailed written explanation of its inability to comply with the terms of the Agreement, any proposed changes, and the

reasons for those changes. If the Organization fails to use any amount of funds provided under this Agreement within the term provided above, then the Organization agrees to return the balance of the funds to the LFUCG within thirty (30) days of the termination of this Agreement.

7. RECAPTURE OF FUNDS; SUSPENDING AUTHORITY TO DRAW FUNDS.

In the event of any of the following events, LFUCG may suspend Organization's authority to request payment by giving thirty days (30) days written notice:

- (a) Organization fails to diligently pursue the activities detailed in Exhibit A.
- (b) Organization violates any of the terms of this Agreement or any federal law governing the use of these funds;
- (c) Any representation or warranty made herein, or in any certificate, report, or statement furnished to the LFUCG in connection with the funds proves to have been untrue or misleading in any material respect when made.

After providing the aforementioned written notice of the Breach, LFUCG has the right, in its sole discretion, to terminate the Agreement by providing written notice in accordance with this Agreement, which shall thereby terminate any obligation to disburse any remaining Funds allocated under this Agreement, and/or require repayment of Funds already disbursed. Organization expressly agrees that LFUCG may exercise any available remedies at law, in equity, or in bankruptcy, if the Organization commits any Breach specified above.

8. PERFORMANCE MONITORING. The LFUCG's Department of Environmental Quality, Division of Environmental Services shall monitor the performance of the Organization under the terms of the Agreement. Substandard performance as determined by the LFUCG will constitute noncompliance with the Agreement. If action to correct such substandard performance is not taken within the period specified in Section 9 of this Agreement after being notified by the Government, the LFUCG may take any action specified herein.

9. TERMINATION. LFUCG, through the Mayor or the Mayor's designee, may terminate this Agreement for any reason whatsoever by providing Organization with at least thirty (30) days advance written notice. Organization shall be entitled for payment of all work performed up to that period of time, calculated on a reasonable basis.

a. In the event of a termination based upon a material condition of non-performance or default by Organization, LFUCG shall provide Organization advance written notice and a reasonable period of time to cure the breach.

b. Organization may only terminate this Agreement based upon LFUCG's failure to timely pay for properly invoiced and accepted work. Organization shall provide LFUCG with at least thirty (30) days advance written notice and an opportunity to cure prior to termination.

c. Organization acknowledges that LFUCG is a governmental entity, and that the validity of this Agreement is based upon the availability of appropriated funding. In the event that such funding is not appropriated in a future fiscal year, LFUCG's obligations under this Agreement shall automatically expire without penalty to the LFUCG thirty (30) days after written notice to Organization. LFUCG shall exercise any application of this provision in good faith.

10. LICENSE. If this Agreement results in any copyrightable material or inventions, the LFUCG and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, the work or materials for LFUCG's purposes.

11. REPORTING. With each quarterly invoice, Organization shall also provide LFUCG with reports and updates related to the provisions of the Services in the form and manner reasonably specified by LFUCG for the previous quarter. Organization shall enter the information of each person serviced and all activities assisted into the Neighborly program or as otherwise provided by the LFUCG.

12. REGISTRATION; COMPLIANCE; AUTHORITY TO SIGN. Organization shall be lawfully registered or authorized to do business in the Commonwealth of Kentucky and Lexington-Fayette County and shall at all times comply with any and all applicable federal, state, and local laws, ordinances, and regulations. LFUCG may request proof that Organization has timely filed federal, state, or local tax forms which shall be provided by Organization on a timely basis. The person signing this Agreement on behalf of Organization is fully authorized to do so.

13. INSURANCE; INDEMNITY.

a. At all times relevant to the performance of this Agreement, Organization shall maintain insurance coverages in at least the following amounts, which shall be properly filed and approved by the Kentucky Department of Insurance. Evidence of such coverage shall be made available to LFUCG upon request. General Liability (\$1 million per occurrence, \$2 million aggregate or \$2 million combined single limit); Commercial Automobile Liability (combined single, \$1 million per occurrence); (if applicable) Professional Liability (\$1 million per occurrence, \$2 million aggregate); Worker's Compensation (Statutory); and Employer's Liability (\$1 million).

b. Organization shall indemnify, defend and hold harmless LFUCG and its elected and appointed officials, employees, agents, volunteers, and successors in interest, from and against any and all liability, damages, and losses, including but not limited to: demands, claims, liens, suits, notices of violation from governmental agencies, obligations, causes of action, judgments, penalties, fines, liens, costs, expenses, interest, 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 Organization's performance of, or breach of this Agreement and/or the provision of goods or services, provided that (a) it 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 the negligent acts, errors or omissions or willful misconduct of Organization or its officials, employees, or agents; and (b) not caused solely by willful misconduct of LFUCG.

c. Organization understands and agrees that its obligation to defend LFUCG includes the obligation to investigate, handle, respond to, resist, provide a defense for, and defend claims, at Organization's expense, using attorneys approved in writing by the LFUCG, which approval shall not be unreasonably withheld.

d. Organization further understands and agrees that its obligation to indemnify includes, but is not limited to: attorney fees and expenses, costs of litigation, court and administrative costs, expert witness fees and expenses, judgments, fines, penalties, interest, all environmental cleanups and remediation costs of whatever kind, and any liability arising from death, injury, or damage of any kind, to any person, including employees and agents of Organization and LFUCG, and damage to, or destruction of, any property, including the property of LFUCG.

e. This provision shall in no way be limited by any financial responsibility or insurance requirements, and shall survive the termination of this Agreement.

f. Organization understands that LFUCG is a political subdivision of the Commonwealth of Kentucky and acknowledges and agrees that LFUCG is unable to provide indemnity or otherwise save, hold harmless, or defend the Organization in any manner.

14. RECORDS. Organization shall keep and make available to LFUCG, the grantor agency or their designees, or the federal or state governments, any records related to this Agreement as are necessary, in the discretion of the LFUCG, the grantor agency or their designees, or the federal or state governments, to support its performance of the services, or to audit or examine such performance, for a period of at least five (5) years following the expiration or termination of this Agreement, or as otherwise required depending upon the source of funds. Books of accounts shall be kept by Organization and entries shall be made therein of all money, goods, effects, debts, sales, purchases, receipts, payments and any other transactions of Organization related to this Agreement and shall be made available to LFUCG upon request.

a. LFUCG shall be the owner of all final documents, data, studies, plans, reports, and information prepared by Organization under this Agreement.

b. Organization understands and agrees that this Agreement and any related documents may be subject to disclosure under the Kentucky Open Records Act and will

comply with any reasonable request by LFUCG to provide assistance with such a request.

15. ACCESS. Organization shall allow LFUCG any necessary reasonable access to monitor its performance under this Agreement.

16. CONTRACTUAL RELATIONSHIP ONLY. In no event shall the parties be construed, held or become in any way for any purpose the employee of the other party, or partners, associates or joint ventures in the conduct of their respective endeavors or otherwise.

17. EQUAL OPPORTUNITY; FAIRNESS ORDINANCE. Organization shall provide equal opportunity in employment for all qualified persons, and shall (a) prohibit discrimination in employment because of race, color, creed, national origin, sex, age, sexual orientation, gender identity, or handicap, (b) promote equal employment through a positive, continuing program of equal employment, and (c) cause any subcontractor or agency receiving funds provided pursuant to this Agreement to do so. This program of equal employment opportunity shall apply to every aspect of its employment policies and practices. Organization shall include, in all solicitations or advertisements for employees that it is an Equal Opportunity Employer. Organization agrees to comply with LFUCG's Fairness Ordinance (Ordinance No. 201-99) and all sources of applicable law, including those specified in any Exhibit attached to this Agreement and incorporated herein by reference.

18. SEXUAL HARASSMENT. Organization must adopt or have adopted a written sexual harassment policy, which shall, at a minimum, contain a statement of current law; a list of prohibited behaviors; a complaint process; and a procedure which provides for a confidential investigation of all complaints. The policy shall be given to all employees and clients and shall be posted at all locations where Organization conducts business. The policy shall be made available to LFUCG upon request.

19. CLOSE-OUTS. Except for all requirements that shall survive termination of this Agreement, including, but not limited to any indemnification requirements, insurance requirements, applicable federal law requirements, and record retention requirements, Organization's obligations to the LFUCG shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances and accounts receivable to the LFUCG and determining the custodianship of records.

20. INVESTMENT. Any investment of the funds received pursuant to this Agreement must fully comply with any restrictions imposed by law.

21. NO ASSIGNMENT. Organization may not assign any of its rights and duties under this Agreement without the prior written consent of LFUCG.

22. 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 Organization or LFUCG.

23. KENTUCKY LAW AND VENUE. This Agreement shall be governed in all respects by the laws of the Commonwealth of Kentucky and venue for all actions shall lie in the Circuit Court of Fayette County, Kentucky.

24. AMENDMENTS. By mutual agreement, the parties to this Agreement may, from time to time, make written changes to any provision hereof. Organization acknowledges that LFUCG may make such changes only upon approval of its legislative authority, the Lexington-Fayette Urban County Council, and the signature of its Mayor.

25. NOTICE. Any written notice required by the Agreement shall be delivered by certified mail, return receipt requested, to the following:

For Organization:

Friends of Wolf Run, Inc.
c/o Ken Cooke
639 Cardinal Ln
Lexington, Ky 40503

For Government:

Lexington-Fayette Urban County Government
Division of Environmental Services
200 East Main Street, 9th Floor
Lexington, Kentucky 40507
Attn: Demetria Kimball-Mehlhorn

26. WAIVER. The waiver by either party of any breach of any provision of this Agreement shall not constitute a continuing waiver or waiver of any subsequent breach by either party of either the same or another provision.

27. ENTIRE AGREEMENT. This Agreement shall constitute the entire agreement between the parties and no representations, inducements, promises or agreements, oral or otherwise, which are not embodied herein shall be effective for any purpose. This Agreement shall replace any previous agreement between the parties on the same subject matter. Notwithstanding the above, this Agreement shall not replace those parts of previous agreements pertaining to the same subject matter which cover previous terms.

EXHIBIT "A"

Lexington/Fayette Urban County Government Scope of Work

1. Work with LFUCG and its contractors on identifying Watershed Council participants.
2. Work with LFUCG and contractors to develop Watershed Council meeting schedules, agendas and expected outcomes.
3. Convene and administer up to 4 Watershed Council meetings per year for the duration of the grant.
4. Make facility arrangements for meeting space for each meeting. This includes setup, refreshments and cleanup.
5. Send out meeting announcements/invitations and agendas to interested parties.
6. Provide Watershed Council meeting facilitation, including speaker services/assistance and audiovisual support.
7. Providing meeting notes/minutes and records of participation.
8. Participate in Technical Committee meetings and BMP design Public Input meetings.
9. Provide documentation of volunteer hours worked by Watershed Council participants that can be used as match for the grant at a rate of \$26.85 an hour.
10. Identify a Primary Point of Contact to serve as the "Wolf Run Watershed Council Administrator" to participate in project planning meetings as requested by the LFUCG Grant Administrator.

EXHIBIT "B"

CERTIFICATION OF COMPLIANCE FOR EXPENDITURES USING FEDERAL FUNDS

The Lexington-Fayette Urban County Government ("LFUCG") may use Federal funding to pay for the goods and/or services that are the subject matter of the Memorandum of Agreement, executed _____, 2024. That Federal funding may include funds received by LFUCG under the American Rescue Plan Act of 2021. Expenditures using Federal funds require evidence of the contractor's compliance with Federal law. Therefore, by the signature below of an authorized company representative, you certify that the information below is understood, agreed, and correct. 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.

The contractor agrees and understands that the following conditions will apply toward payment of goods and/or services referenced in this Agreement. The contractor also agrees and understands that if there is a conflict between the terms included elsewhere in this Agreement and the terms of this Exhibit B, then the terms of Exhibit B shall control. The contractor further certifies that it can and will comply with these conditions in the performance of this Agreement:

1. This Agreement may be governed in accordance with 2 CFR Part 200, 40 CFR Parts 7, 29, 34, 35, 39, 45, and 47, and all other applicable Federal law and regulations and guidance issued by the U.S. Department of the Treasury and the U.S. Environmental Protection Agency, as applicable.
2. Pursuant to 24 CFR § 85.43, this Agreement can be terminated if the contractor fails to comply with any term of the award. This Agreement may be terminated for convenience in accordance with 24 CFR § 85.44 upon written notice by LFUCG. Either party may terminate this Agreement with thirty (30) days written notice to the other party, in which case the Agreement shall terminate on the thirtieth day. In the event of termination, the contractor shall be entitled to that portion of total compensation due under this Agreement as the services rendered bears to the services required. However, if LFUCG suspects a breach of the terms of the Agreement and/or that the contractor is violating the terms of any applicable law governing the use of Federal funds, LFUCG may suspend the contractor's ability to receive payment by giving thirty (30) days' advance written notice. Further, either party may terminate this Agreement for cause shown with thirty (30) days written notice, which shall explain the party's cause for the termination. If the parties do not reach a settlement before the end of the 30 days, then the Agreement shall terminate on the thirtieth day. In the event of a breach, LFUCG reserves the right to pursue any and all applicable legal, equitable, and/or administrative remedies against the contractor.

3. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

- (1) 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 apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- (4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- (7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part, and the contractor may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

Provided, however, that in the event a contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

4. If fulfillment of the contract requires the contractor to employ mechanic's or laborers, the contractor further agrees that it can and will comply with the following:
 - (1) Overtime requirements: No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such a workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such a workweek.
 - (2) Violation: liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

- (3) Withholding for unpaid wages and liquidated damages. LFUCG shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
 - (4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower-tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.
5. The contractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
 6. The contractor shall report each violation to LFUCG and understands and agrees that LFUCG will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency Regional Office.
 7. The contractor shall include these requirements in numerical paragraphs 5 and 6 in each subcontract exceeding \$100,000 financed in whole or in part with Federal funding.
 8. The contractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.
 9. The contractor shall report each violation to LFUCG and understands and agrees that LFUCG will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency Regional Office.
 10. The contractor shall include these requirements in numerical paragraphs 8 and 9 in each subcontract exceeding \$100,000 financed in whole or in part with Federal funds.

11. The contractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.

12. The contractor shall report each violation to LFUCG and understands and agrees that LFUCG will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency regional office.

13. The contractor shall include these requirements in numerical paragraphs 11 and 12 in each subcontract exceeding \$100,000 financed in whole or in part with American Rescue Plan Act funds.

14. The contractor agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086. The Contractor agrees that no person shall on the ground of race, color, creed, religion, sex, age, handicap, disability, ancestry, national origin, marital status, familial status, or any other basis prohibited by applicable law be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with Federal funds. The Organization agrees to comply with any federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), which prohibits discrimination against the handicapped in any federally assisted program.

15. The contractor shall include this language in any subcontract it executes to fulfill the terms of this Agreement: "the sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with 'Limited English Proficiency' in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement."

16. a. The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an

officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

b. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

17. The contractor acknowledges and certifies that it has not been debarred or suspended and further acknowledges and agrees that it must comply with regulations regarding debarred or suspended entities in accordance with 24 CFR § 570.489(I). Funds may not be provided to excluded or disqualified persons.

18. The contractor agrees and certifies that to the greatest extent practicable, it will prefer the purchase, acquisition, and use of all applicable goods, products or materials produced in the United States, in conformity with 2 CFR 200.322 and/or section 70914 of Public Law No. 117-58, §§ 70901-52, also known as the Infrastructure Investment and Jobs Act, whichever is applicable.

19. The contractor agrees and certifies that all activities performed pursuant to any Agreement entered as a result of this Agreement, and all goods and services procured under that Agreement, shall comply with 2 C.F.R. § 200.216 (Prohibition on certain telecommunications and video surveillance services and equipment) and 2 C.F.R. 200 § 200.323 (Procurement of recovered materials), to the extent either section is applicable.

20. If this Agreement involves construction work for a project totaling \$10 million or more, then the contractor further agrees that all laborers and mechanics, etc.,

employed in the construction of the public facility project assisted with funds provided under this Agreement, whether employed by contractor, or contractor's contractors, or subcontractors, shall be paid wages complying with the Davis-Bacon Act (40 U.S.C. 3141-3144). Contractor agrees that all of contractor's contractors and subcontractors will pay laborers and mechanics the prevailing wage as determined by the Secretary of Labor and that said laborers and mechanics will be paid not less than once a week. The contractor agrees to comply with the Copeland Anti- Kick Back Act (18 U.S.C. § 874) and its implementing regulations of the U.S. Department of Labor at 29 CFR part 3 and part 5. The contractor further agrees to comply with the applicable provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. Section 327-333), and the applicable provisions of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. et seq.). Contractor further agrees that it will report all suspected or reported violations of any of the laws identified in this paragraph to LFUCG.

21. The contractor is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities, sectarian or religious activities, lobbying, political patronage, and nepotism activities. The contractor agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

22. The contractor shall administer a policy designed to ensure that the organization is free from the illegal use, possession, or distribution of drugs or alcohol by its employees and beneficiaries.

23. The contractor shall administer its program in conformance with 20 CFR 200, Subpart E. These cost principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

4861-0063-8623, v. 2

EXHIBIT "C"

LFUCG's Grant Contract with Commonwealth of Kentucky



Commonwealth of Kentucky

CONTRACT

DOC ID NUMBER:

PON2 129 2400000129

Version: 1

Record Date:

Document Description: Wolf Run Watershed Water Quality Basins and Update

 Cited Authority: PL319
Federal Clean Water Act

Reason for Modification:

Issuer Contact:

 Name: MICHAEL REED
 Phone: 502-782-7046
 E-mail: Mike.Reed@ky.gov

Vendor Name:

 LEXINGTON FAYETTE URBAN CO GOVERNMENT

 200 EAST MAIN STREET

 LEXINGTON KY 40507

Vendor No.

KY0032969

Vendor Contact

 Name: Demetria Kimball Mehlhorn
 Phone: 8594252554
 Email: dkimball@lexingtonky.gov

Effective From: 11/01/2023

Effective To: 09/30/2027

| Line Item | Delivery Date | Quantity | Unit | Description | Unit Price | Contract Amount | Total Price |
|-----------|---------------|----------|------|--|------------|-----------------|--------------|
| 1 | | 0.00000 | | Wolf Run Watershed Water Quality Basins and Update | \$0.000000 | \$320,000.00 | \$320,000.00 |

Extended Description:

Through this project, LFUCG will improve water quality within the Wolf Run Watershed through implementing Best Management Practices (BMPs) and Chapter 7 as recommended by the Wolf Run Watershed Management Plan (WRWMP, 2013). BMP #48 will improve warm water habitat and reduce nonpoint source (NPS) pollution from entering Wolf Run Creek through retrofitting the Regency Road Detention Basin. BMP #49 will improve warm water habitat and reduce NPS pollution from entering Wolf Run Creek through creation of a detention basin, as suggested in the Southland Association's Green Infrastructure Feasibility Study. Implementing Chapter 7 recommendations to update the BMP Table when significant changes have occurred, and new monitoring data has been collected will allow continued momentum in this watershed and new projects to be identified.

| Shipping Information: | Billing Information: |
|--|--|
| Division of Water 300 Sower Blvd, 3rd Floor Frankfort KY 40601 | Division of Water 300 Sower Blvd, 3rd Floor Frankfort KY 40601 |

| | |
|-------------------------------|---------------------|
| TOTAL CONTRACT AMOUNT: | \$320,000.00 |
|-------------------------------|---------------------|

| | | |
|-------------------|---|---------------|
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| 2400000129 | Wolf Run Watershed Water Quality Basins and Update | |

Memorandum of Agreement Terms and Conditions
Revised October 2020

This Memorandum of Agreement (MOA) is entered into, by and between the Commonwealth of Kentucky, Energy and Environment Cabinet, Department for Environmental Protection, Division of Water (“the Commonwealth”) and the Lexington Fayette Urban County Government (LFUCG) (“the Contractor”) to establish an agreement for the implementation of the “Wolf Run Watershed Water Quality Basins and Update” project. The initial MOA is effective from November 1, 2023 through September 30, 2027.

I. Scope of Services:

Through this project, LFUCG will improve water quality within the Wolf Run Watershed through implementing Best Management Practices (BMPs) and Chapter 7 as recommended by the Wolf Run Watershed Management Plan (WRWMP, 2013). BMP #48 will improve warm water habitat and reduce nonpoint source (NPS) pollution from entering Wolf Run Creek through retrofitting the Regency Road Detention Basin. BMP #49 will improve warm water habitat and reduce NPS pollution from entering Wolf Run Creek through creation of a detention basin, as suggested in the Southland Association’s Green Infrastructure Feasibility Study. Implementing Chapter 7 recommendations to update the BMP Table when significant changes have occurred, and new monitoring data has been collected will allow continued momentum in this watershed and new projects to be identified.

LFUCG shall complete the following goals, objectives and activities.

Goal: Improve warm water habitat and reduce NPS pollution from entering Wolf Run Creek through retrofitting the Regency Road Detention Basin (BMP #48 in the WRWMP, 2013).

Objective: Reduce stormwater runoff and pollutant levels through infiltration or storage (WRWMP Objective 2.1).

Activities:

LFUCG will remove the concrete channels (500 LF) from existing commercial stormwater basin and, if possible, naturalize channels to encourage infiltration and dispersal of stormwater flows across more of the basin bottom.

Objective: Reduce nutrients entering Wolf Run Creek (WRWMP Objective 4.2).

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Activities:

Install native plants and trees in the water quality basin to filter and absorb excess nutrients.

Objective: Reduce temperature of stormwater discharge (WRWMP Objective 4.1).

Activities:

Install native trees in water quality basin and upstream watershed, where possible.

Objective: Create passive recreational and educational opportunities (WRWMP Objective 4.3).

Activities:

Determine if existing chain-link fence may be removed to create public access to basin. Hold one on-site meeting, to engage local stakeholders, to comment on draft project design.

Create and install educational signage. Topics could include, but are not limited to, how native plants work, habitat creation within basin, and/or how citizens can help the environment.

If the fence is removed, benches will be placed at the edges of the basin to provide an outdoor setting for lunches and breaks for nearby offices.

Remove invasive species and replant with native species to promote pollinator species.

Objective: Determine effectiveness of project (WRWMP Objective 5.2).

Activities:

Complete two pre- and post-construction water quality monitoring events, per LFUCG 2017 approved Watershed-Focused Monitoring Program QAPP.

Publish results at appropriate locations, including but not limited to the following webpages: LFUCG Wolf Run Watershed, KY River Watershed Watch, and/or Friends of Wolf Run.

Goal: Improve Warm Water Habitat and Reduce Non-Point Source Pollution from Entering Wolf Run Creek through creation of a detention basin, as suggested in the Southland Association's Green Infrastructure Feasibility Study (BMP #49 in the WRWMP, 2013).

Objective: Reduce pollutant levels through stormwater treatment, storage or redirection (WRWMP Objective 5.1).

Activities:

Divert stormwater from a drainage channel parallel to the railroad tracks into a constructed filtration basin on Derby Drive, and discharge the filtered flow back into the storm sewer parallel to Regency Road.

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Investigate and install, if funding allows, best value-added BMP (structural or chemical) to reduce fine sediment from railroad tracks.

Objective: Reduce nutrients entering Wolf Run Creek (WRWMP Objective 4.2).

Activities:

Install native plants and trees in water quality basin to filter and absorb excess nutrients.

Objective: Reduce temperature of stormwater discharge (WRWMP Objective 4.1).

Activities:

Install native trees in water quality basin and upstream watershed, where possible.

Objective: Create passive recreational and educational opportunities (WRWMP Objective 4.3).

Activities:

Hold one on-site meeting, to engage local stakeholders, to comment on draft project design.

Create and install educational signage. Topics could include, but are not limited to, how native plants work, habitat creation within basin, and/or how citizens can help the environment.

Remove invasive species and replant with native species to promote pollinator species.

Objective: Determine effectiveness of project (WRWMP Objective 5.2).

Activities:

Complete two pre- and post-construction water quality monitoring events, per LFUCG 2017 approved Watershed-Focused Monitoring Program QAPP.

Publish results at appropriate locations, including but not limited to the following webpages: LFUCG Wolf Run Watershed, KY River Watershed Watch, and/or Friends of Wolf Run.

Goal: Implement Chapter 7 Recommendations of the WRWMP (2013) to update the BMP Table when significant changes have occurred and new monitoring data has been collected by following Division of Water (DOW) NPS & Basin Team Section Watershed Plan Update Guidance (2022).

Objective: Implement water quality monitoring.

Activities:

Complete two instream wet weather monitoring activities, per LFUCG 2017 approved Watershed-Focused Monitoring Program Quality Assurance Project Plan (QAPP).

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Objective: Update pollutant load reduction spreadsheet.

Activities:

- Compile all existing water quality data from 2013 to present.
- Update pollutant load reduction tables from WRWMP 2013.
- Compare pollutant load tables from 2013 to present.
- Determine additional BMPs, if any, needed to achieve water quality standards/ benchmarks.
- Update Water Quality Maps.

Objective: Update WRWMP BMP Table.

Activities:

- Reconvene Wolf Run Watershed Council (WRWC) and meet, at a minimum, every quarter during grant.
- Update WRWMP BMP Table using information from Goal Objective 3.2 and following Chapter 6 of the Kentucky (KY) Watershed Planning Guidebook.
- Update WRWMP BMP Maps.
- Create an addendum in the WRWMP showing all projects completed to date.

Plan of Work

The overall goal of implementing water quality projects recommended in the WRWMP (2013) and by updating the BMP Table in the WRWMP is to continue the momentum to improve water quality that the residents, professionals, and government officials have created over the years of dedication to the Wolf Run Watershed. This will be achieved through several activities noted above and detailed below.

One project the WRWMP BMP Table (#48) recommends is to retrofit a commercial basin that drains 22 acres of professional office area. There is 500LF of concrete channel running through this basin, 280LF is classified as an ephemeral stream, and the entire concrete channel will be removed and a more natural drainage waterway within the detention basin will be created. This drainage channel will not be a full stream restoration due to constraints and integrity of the detention basin; however, by removing the concrete channels, it will encourage infiltration, dispersal of stormwater flows across more of the basin bottom, and filtration through native plants and trees. The basin is currently turf mowed, but through this retrofit process, the grass and any invasive species will be removed and native plants and trees installed. In addition, evaluation of the necessity of the chain-link fence will occur. If possible, this fence will be removed and benches will be placed at the edges of the basin to provide an outdoor setting for passive recreation.

LFUCG Division of Water Quality (DWQ) completed a portion of WRWMP BMP #49 - Southland Association's Green Infrastructure Feasibility Study (aka Southland Area Storm Drainage Project) in 2018. One project the Southland Study recommended was

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to divert stormwater from a drainage channel parallel to the railroad tracks (3,200 LF) into a filtration basin to capture pollutants, specifically sediment, from this drainage area (21 acres). There is a storm sewer system that captures this drainage area 75 feet from LFUCG-owned water quality lots off Derby Drive. This project proposes to divert this stormwater onto city property, thru an existing utility easement, and allow it to migrate through a filtration basin prior to it flowing back into the stormwater system off Regency Road. This property is within a small neighborhood and to enhance the look, along with function, flowering native plants and trees will be installed for color and to encourage pollinator species to use this area. Additionally, educational signage will be installed and this area will be used for BMP tours, a geocaching location, passive recreation (bird watching), etc.

To determine effectiveness of these two BMPs, pre- and post–construction monitoring at the instream outfall on Southland Drive will occur during 4 wet weather events (2 pre and 2 post). These monitoring events will follow the QAPP approved for the LFUCG Watershed-Focused Monitoring Program. The results will be incorporated into the updated WRWMP, 2013, discussed below.

Public input and education is a large part of the detention basin projects. As a part of this grant, the WRWC will be reactivated to meet, at a minimum, on a quarterly basis to discuss design ideas, educational signs, and monitoring results. The public will be invited to attend these meetings through advertisement in various platforms and outlets, such as, but not limited to, Facebook (Live Green Lexington, Friends of Wolf Run, etc.), Council Member Newsletters, Next Door, and email.

While the Council is reconvened, it is also an ideal time to update the BMP Table of the WRWMP using the Watershed Plan Update Guidance (KDOW 2022). The WRWC will also work closely with other stakeholders in the watershed, including but not limited to, Friends of Wolf Run, University of Kentucky, Kentucky River Watershed Watch, etc., to assist in updating this BMP Table.

Since the completion of the approved WRWMP, 2013, 30-40 projects have been implemented and recommended studies completed. In addition, the LFUCG Watershed-Focused Monitoring Program is completing an instream sampling within the Wolf Run Watershed in 2022-2023. The results from this monitoring program, and two additional wet weather monitoring events, will be used to compare to the original water quality data to see if these projects have made an improvement in the watershed. Not only will this comparison be made, the new water quality monitoring information will be used to update the pollutant load calculation worksheets and determine if any additional projects need to be added to the WRWMP BMP Table. Several other studies, such as the Urban Tree Canopy Report (UTC, 2022) will also be used to identify additional small scale projects with the watershed. The BMP Table will also be updated by removing the projects completed to date and creating an addendum to the WRWMP with project information. In addition, water quality maps and BMP implementation maps will be

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updated. This information will be shared through an interactive map on-line (similar to the tool created for the West Hickman Watershed). The end goal is to add this updated BMP Table as an approved addendum to the WRWMP, 2013.

Through the purchasing process, LFUCG will contract with a qualified engineering firm to complete all required work associated with the two detention basin projects and the BMP Table update. In addition, LFUCG will hire Friends of Wolf Run to assist in advertising and running on-site public input meetings and Wolf Run Watershed Council meetings.

Quality Assurance Project Plan (QAPP)

This section is only applicable if monitoring or sampling occurs during this project.

LFUCG will develop and submit to the Cabinet for review and approval, a QAPP for the environmental monitoring activities associated with the project described in this Agreement. No project monitoring activities will occur until the QAPP has been reviewed and approved by the Cabinet. LFUCG will ensure that all environmental monitoring activities in this Agreement will be conducted in accordance with the approved QAPP. The approved QAPP will be incorporated into this Agreement by reference.

The Kentucky Division of Water (DOW) requires submittal of a data package after each sampling period, which should include Chain-of-Custody forms, field notes, calibration records of all instrumentation, and a raw data file as submitted from the laboratory. The package will also include relevant notes from field work identifying issues encountered, action needed or changes made to the sampling plan or QAPP. All issues or changes must also be communicated to DOW nonpoint source staff as soon as possible.

A final summary of overall project quality assurance will be submitted at the end of the project. The final Quality Assurance (QA) report should explain and detail the quality processes and controls used in sampling, both by the laboratory and in the field. Examples of QA report content are listed below. The report should summarize the sampling results and outline any and all deficiencies or discrepancies in the data collection and analysis process.

Examples of a QA report content are:

Types and results of quality control samples; field blanks, field splits, field duplicates. Discussion of how the Quality Control (QC) samples met the precision, accuracy, completeness, bias data quality objectives from the QAPP. Explanation of data qualifiers and how it affected the data results (data that is flagged by the laboratory). Corrective action taken for any data quality issues.

Best Management Practices Implementation Plan

This section is only applicable if BMP's occur during this project.

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LFUCG shall develop and submit to the Cabinet for review and approval, a Best Management Practices (BMP) Implementation Plan for all BMP implementation activities associated with the project described in this Agreement. No BMP implementation activities shall occur until the BMP Implementation Plan has been approved by the Cabinet. LFUCG shall ensure that all BMP implementation activities in this Agreement shall be conducted in accordance with the approved BMP Implementation Plan. The approved BMP Implementation Plan shall be incorporated into this Agreement by reference.

The BMP Implementation Plan shall include: (1) a list of BMP technologies to be installed; (2) a description of the technology selection process, to include the estimated cost, relative treatment efficiency, and the minimum operation and maintenance required for the BMP to operate efficiently; (3) a description of how BMPs shall be targeted to specific locations and if locations are known, a map(s) clearly showing the location where the BMP technologies shall be demonstrated; (4) a means of notifying the Division of Water, Nonpoint Point Source (NPS) Section prior to BMP implementation; (5) a financial plan of action, which describes how financial assistance shall be provided for technology demonstration; (6) the type of maintenance agreement to be made with the landowner; and (7) a statement that ensures that all agricultural or forestry BMPs will be consistent with the Kentucky Agriculture Water Quality Act and/or the Forest Conservation Act.

Education Materials

LFUCG shall ensure that all materials to be used in school-based education shall conform to the Kentucky Academic Standards for Assessment. When materials are submitted, the corresponding section of the Kentucky Academic Standards must be cited.

LFUCG shall ensure that all outreach materials conform to the North American Association for Environmental Education's (NAAEE) *Environmental Education Materials: Guidelines for Excellence* (www.NAAEE.org).

Geographic Information System (GIS) Activities

LFUCG shall ensure that all geospatial data created shall be consistent with Federal Geographic Data Committee (FGDC) endorsed standards. Information on these standards shall be obtained from the web site "www.fgdc.gov" under the topics of "standards" and "publications".

Animal Feeding Operation (AFO) Activities

LFUCG shall ensure that any AFO receiving financial assistance from 319(h) funds will implement a nutrient management plan. An AFO is defined by 40 C.F.R. § 122.23(b) as any lot or facility (other than an aquatic animal production facility) where i) animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12 month period, and ii) where crops,

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vegetation forage growth, or post-harvest residues are not sustained over any portion of the lot or facility.

Training

All personnel involved in monitoring activities that are performed by LFUCG or sub-contractor will be provided (or required to develop) standard operating procedures (SOPs), and will be trained in sampling techniques by DOW staff. This training will be a part of the NPS project conditions, and will not incur any additional cost to the vendor.

Measures of Success

LFUCG staff will:

Goal: Improve Warm Water Habitat and Reduce Non-Point Source Pollution from entering Wolf Run Creek through Retrofitting the Regency Road Detention Basin (BMP #48 in the WRWMP, 2013).

Objective: Reduce stormwater runoff and pollutant levels through infiltration or storage.

Measures of Success:

In-Stream Water Quality Monitoring Results
 Pre, Mid & Post Construction Photo Documentation
 Square Feet (SqFt) of Native Plants Installed
 Numbers of Trees Installed

Objective: Reduce nutrients entering Wolf Run Creek.

Measures of Success:

In-Stream Water Quality Monitoring Results
 Pre, Mid & Post Construction Photo Documentation
 SqFt of Native Plants Installed
 Numbers of Trees Installed

Objective: Reduce temperature of stormwater discharge.

Measures of Success:

In-Stream Water Quality Monitoring Results
 SqFt of Native Plants Installed
 Numbers of Trees Installed

Objective: Create passive recreational and educational opportunities.

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Measures of Success:

SqFt of Native Plants Installed
 Numbers of Trees Installed
 Numbers of Educational Signs Installed
 Attendance at Public Meetings
 Updated WRWMP BMP Table
 Update WRWMP Water Quality & BMP Maps
 Create online interactive map with BMP information

Objective: Determine effectiveness of project.

Measures of Success:

In-Stream Water Quality Monitoring Results
 Pre, Mid & Post Construction Photo Documentation

Goal: Improve Warm Water Habitat and Reduce Non-Point Source Pollution from Entering Wolf Run Creek through creation of a detention basin, as suggested in the Southland Association's Green Infrastructure Feasibility Study (BMP #49 in the WRWMP, 2013).

Objective: Reduce pollutant levels through stormwater treatment, storage or redirection.

Measures of Success:

In-Stream Water Quality Monitoring Results
 Pre, Mid & Post Construction Photo Documentation
 SqFt of Native Plants Installed
 Numbers of Trees Installed

Objective: Reduce nutrients entering Wolf Run Creek.

Measures of Success:

In-Stream Water Quality Monitoring Results
 Pre, Mid & Post Construction Photo Documentation
 SqFt of Native Plants Installed
 Numbers of Trees Installed

Objective: Reduce temperature of stormwater discharge.

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| 2400000129 | Wolf Run Watershed Water Quality Basins and Update | |

Measures of Success:

In-Stream Water Quality Monitoring Results
 SqFt of Native Plants Installed
 Numbers of Trees Installed

Objective: Create passive recreational and educational opportunities.

Measures of Success:

SqFt of Native Plants Installed
 Numbers of Trees Installed
 Numbers of Educational Signs Installed
 Attendance at Public Meetings
 Updated WRWMP BMP Table
 Update WRWMP Water Quality & BMP Maps
 Create online interactive map with BMP information

Objective: Determine effectiveness of project.

Measures of Success:

In-Stream Water Quality Monitoring Results
 Pre, Mid & Post Construction Photo Documentation

Goal: Implement Chapter 7 Recommendations of the WRWMP (2013) to update the BMP Table when significant changes have occurred and new monitoring data has been collected by following DOW NPS & Basin Team Section Watershed Plan Update Guidance (2022).

Objective: Implement water quality monitoring.

Measures of Success:

In-Stream Water Quality Monitoring Results
 Pre, Mid & Post Construction Photo Documentation

Objective: Update pollutant load reduction spreadsheet.

Measures of Success:

In-Stream Water Quality Monitoring Results
 Update WRWMP Water Quality & BMP Maps

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Objective: Update WRWMP BMP Table

Measures of Success:

- Updated WRWMP BMP Table
- Update WRWMP Water Quality & BMP Maps
- Create online interactive map with BMP information

Reports

LFUCG shall:

Provide a quarterly programmatic report. The report shall cover progress to date, any problems encountered and actions taken and any anticipated activity and work products expected during the next quarter as outlined in the Project Status Report Template below. Provide a final report detailing activities and deliverables completed during the agreement period. The final report is due 30 days after the end of the project. All reports shall be submitted electronically to the Commonwealth within specified timeframes listed above and in the format included in the Project Status Report Template.

Project Status Report Template

Grant Recipient Name: Lexington Fayette Urban County Government

Project Name: Wolf Run Watershed Water Quality Basins and Update

Principal Investigator/Project Manager: Demetria Kimball Mehlhorn

Reporting Period: (month & year)

Accomplishments, publicity, news:

(Provide an update on project activities, any publicity on the project, including links to articles)

Performance outcome data/metrics:

(Provide updates on specific activity targets, project timelines and/or metrics from the grant agreement)

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Problems, issues, variances from plan:

(Provide updates on any problems with project activities, timelines, any variances from the original work plan)

Project Status Report Template

Section 319(h) Nonpoint Source Project Progress Report

Reporting Period:--/--/-- to --/--/--/ Grant: PPG –BG-00D21423 State: Kentucky

Project Name: Wolf Run Watershed Water Quality Basins and Update

Contractor: LFUCG

Federal amount: \$320,000

Budget Period Start Date: 11/1/23 End Date: 9/30/27 Total Project Cost: \$533,333

Expended this Period: \$_____ Total Expenditures to Date: \$_____

Waterbody/Watershed Identification: Kentucky

NPS Category: Sedimentation/Siltation, Suspended Solids, Pathogens/Bacteria, Pesticides, Oil and Grease, Nutrients

Purpose Statement: The goal of this project is to improve water quality within the Wolf Run Watershed through implementing Best Management Practices (BMPs) and Chapter 7 as recommended by the Wolf Run Watershed Management Plan (WRWMP, 2013).

LFUCG’s Milestones

All milestones will begin on November 1, 2023 and end on September 30, 2027.

Develop and submit materials to Division of Water for review and comment. Duration of Contract

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Submit advanced written notice to Nonpoint Source (NPS) Program staff for all educational public meetings, field days, workshops, etc. Duration of Contract

Submit draft news articles, brochures, newsletter articles and other educational outreach materials to NPS Program staff for approval - includes drafts of flyers and postcards inviting public to meetings and events. Duration of Contract

Submit an Annual Load Reduction Report to NPS program staff if requested. Duration of Contract

Notice to Proceed & Council Acceptance. November 2023 – November 2024

Obtain Consulting Engineer through LFUCG Procurement Process for Engineering Services. November 2023 – January 2024

Start gathering information and contacts for public involvement. November 2023 – January 2024

Quarterly Wolf Run Watershed Council Meetings, Duration of Contract

Update Webpage with project information as available. Duration of Contract

Develop and submit a BMP Implementation Plan for DOW staff approval. January 2024 – February 2024

Submit Approved LFUCG Watershed-Focused Monitoring QAPP with updated Wolf Run Sampling Location, if needed, to DOW. February 2024

Create preliminary design plans and hold public input meeting. February 2024 – June 2024

Complete two rounds of wet weather in-stream water quality monitoring. March 2024 – May 2024

Meet with permitting agencies on stream permitting requirements. March 2024

Update pollutant load reduction calculation sheet. May 2024 – July 2024

Submit preliminary design plans for review to DOW NPS staff, LFUCG staff, utilities, and Wolf Run Watershed Council. June 2024

Submit Pollutant Load Reduction Information to DOW and share with WRWC. July 2024

Create addendum to WRWMP of completed projects. July 2024 – July 2025

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Prepare design plans for permit submittals. July 2024 – September 2024

Submit required permit applications. September 2024

Prepare final design plans, specifications, quantity take-offs, and construction cost estimates. October 2024 – January 2025

Update WRWMP BMP Table & Maps. October 2024 – July 2025

Obtain Construction Contractor through LFUCG Bid Procurement Process for Construction Contracts. January 2025 – March 2025

Design & Submit Educational Signage to KDOW NPS staff and WRWC for review and approval. January 2025 – March 2025

Construct Improvements. April 2025 – September 2026

Submit WRWMP Completed Projects Addendum & Updated BMP Table to KDOW. August 2025 – November 2025

Install Education Signage. March 2026 – May 2026

Project Completion Tour. September 2026

Complete two post-construction monitoring events. May 2026 – September 2026

Prepare and Submit Draft Final Report. August 2027

Incorporate any changes and submit Approved Final Report. September 2027

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31.

Signature Date

Notifications

All notices, requests, demands, waivers, and other communications given as provided in this Agreement shall be in writing and sent to the following:

LFUCG
 Attn: Demetria Kimball Mehlhorn
 200 East Main Street, 9th Floor
 Lexington, Kentucky 40507
 859-425-2554
 dkimball@lexingtonky.gov
 Vendor UEI Number: VM1GLHWZXA96

Division of Water
 Attn: Mike Reed
 300 Sower Blvd., Third Floor NW/29
 Frankfort, Kentucky 40601
 502-782-6892
 Mike.Reed@ky.gov

II. Pricing:

The Commonwealth shall reimburse LFUCG up to \$320,000 for services and activities as outlined in the Program Budget table below.

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Program Budget

| Categories | The Commonwealth | Cost Share/ In-kind Match | Total |
|--|-------------------------|----------------------------------|------------------|
| Personnel | \$0 | \$0 | \$0 |
| Fringe Benefits | \$0 | \$0 | \$0 |
| Travel | \$0 | \$0 | \$0 |
| Equipment | \$0 | \$0 | \$0 |
| Supplies | \$0 | \$6,000 | \$6,000 |
| Construction | \$0 | \$0 | \$0 |
| Other | \$0 | \$0 | \$0 |
| Total Direct Charges | \$0 | \$6,000 | \$6,000 |
| Indirect Charges (up to 10% of the Commonwealth's Total Direct Charges) ** | \$0 | \$0 | \$0 |
| Contractual | \$320,000 | \$207,333 | \$527,333 |
| Total | \$320,000 | \$213,333 | \$533,333 |
| Program Income | \$0 | \$0 | \$0 |

A detailed budget template provided by the Commonwealth shall be completed and submitted to DOW prior to the start of the project and before the start of each fiscal year

INDIRECT COST:

If the contractor is receiving state funds the contractor may not charge indirect costs in excess of ten (10) percent of total direct costs. An indirect rate **shall not** be charged on contractual expenditures. Indirect charges exceeding the ten (10) percent shall be considered as cost share provided by the contractor.

If the contractor is receiving federal funds the Contractor shall use the indirect rate corresponding with the agreement the contractor has with the federal entity or ten (10) percent. The contractor shall provide a copy of the indirect agreement prior to the federal funds being awarded.

III. Invoicing

LFUCG shall:

Invoice the Commonwealth quarterly for authorized expenditures by budget line item.

The invoice must indicate:

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1. The Document ID number, which can be found at the top of the MOA/PSC. The Document ID number can be recognized by the beginning letters "PON2" or "SC"
2. Invoice number
3. Invoice date
4. Dates of service covered
5. Current expenditures with each item listed separately
6. Cumulative expenditures to date
7. Current cost share or match, if identified in the Program Budget
8. Cumulative cost share or match
9. Include a copy of the transaction detail report if available and/or receipt

Backup documentation must be maintained for each invoice, as required by the record retention schedule in Kentucky's Administrative Regulation 725 KAR 1:061 and/ or 2CFR 200.334 through 200.338. The backup documentation can either be submitted with the invoice or kept for inspection by the Commonwealth, if or when requested.

Examples of backup documentation may include:

1. Personnel – payroll spreadsheet showing time worked within the invoice period. Spreadsheet shall contain salary information, name of employee or some identifiable number, percent of time applied to grant, along with the number of hours and fringe benefits per person.
2. Fringe – include in payroll spreadsheet.
3. Travel – travel voucher or invoices showing airfare, hotel expenses, etc. Mileage will be paid based on rate established through a travel policy by the recipient. If no rate has been established, the recipient may use the state or federal mileage rate.
4. Equipment – receipt marked paid (an invoice shall be submitted after equipment is paid for).
5. Supplies – receipt marked paid (an invoice shall be submitted after supplies are paid for).
6. Contractual – invoice and documentation that item has been paid (recipient shall verify invoice).
7. Construction – invoices, receipts marked paid and any other documents that properly verify expenses.
8. Indirect costs – will be verified not to exceed the allowable rate established in the MOA.

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9. Other – invoice and documentation that item has been paid (recipient shall verify invoice).

In the event that LFUCG incurs no expenses within a reporting timeframe, LFUCG shall submit an invoice for zero (0) dollars or provide a “notice of no expenses,” based on the Commonwealth’s requirements.

Final Invoice: The final invoice should be clearly marked as “FINAL INVOICE” to indicate that all funds that will be expended, have been expended.

Where to submit invoices:

All invoices shall be submitted via email to:

Division of Water
 Attn: Mike Reed
 300 Sower Blvd., Third Floor NW/29
 Frankfort, Kentucky 40601
 502-782-6892
 Mike.Reed@ky.gov

In the subject line of the email list:

Project Number 23-07, Invoice #

IV. Assurances:

Award Number: FFY-2023 Performance Partnership Grant–PPG BG - 00D21423, CFDA 66.605.

The parties shall abide by all terms of the award:

LFUCG agrees to comply with the current EPA general terms and conditions available at

<https://www.epa.gov/grants/epa-general-terms-and-conditions-effective-october-1-2019-or-later>

The following is a list of statutory, regulatory, and Executive Order requirements for subrecipients on EPA funded projects per 2 CFR 200.331(a) (2). As a subrecipient of EPA funding, you must agree to abide by the applicable requirements listed below.

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1. Nondiscrimination Laws and Social Policies

Most EPA financial assistance recipients are subject to the laws and policies described below. This list of nondiscrimination and social policy requirements is for informational purposes only and is not intended to provide guidance on compliance in the context of a particular EPA assistance agreement.

Disadvantaged Business Enterprises

EPA regulations at 40 CFR Part 33, "Participation by Disadvantaged Business Enterprises in U.S. Environmental Protection Agency Programs" set forth requirements for making good faith efforts to ensure that Disadvantaged Business Enterprises, including Minority Business Enterprises and Women's Business Enterprises receive a fair share of contracts awarded with funds provided by EPA financial assistance agreements. These requirements apply to subrecipients in accordance with 40 CFR 33.102 and the definition of "Recipient" in 40 CFR 33.103.

2. Financial Management Policies

These policies apply to transactions financed by EPA financial assistance funds and apply to both pass-through entities and subrecipients on the basis of either regulatory requirement or the General Terms and Conditions (T&C) of the pass-through entity's agreement with EPA.

Federal Funding Accountability and Transparency Act

As set forth in the General Condition of the pass-through entity's agreement with EPA entitled "Reporting Subawards and Executive Compensation" the pass-through entity must ensure that subrecipients comply with Federal Funding Accountability and Transparency Act (FFATA) reporting requirements.

Suspension and Debarment

The pass-through entities responsibilities are described at 2 CFR Part 180, Subpart C and the "Debarment and Suspension" T&C of the pass-through entity's agreement with EPA. These requirements, which include checking SAM to ensure that potential contractors, subrecipients and their principals and agents are not suspended, debarred or otherwise ineligible to participate in Federal assistance programs also apply to subrecipients. It is important to note that in addition to being precluded from all first tier contracts and all contracts requiring EPA approval in accordance with 2 CFR 180.220 under 2 CFR 1532.220 suspended or debarred parties may not receive EPA funded contracts in excess of \$25,000 at any tier. Also, at 2 CFR 1532.995 EPA has identified activities that suspended or debarred parties may not perform as a "Principal" in EPA financial assistance agreements and subawards.

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New Restriction on Lobbying, 40 CFR Part 34

Subrecipients must submit certification and disclosure forms required by 40 CFR 34.110 and the “Lobbying and Litigation” T&C for subawards in excess of \$100,000.

Uniform Grant Guidance Requirements (UGG)

Subrecipients must comply with 2 CFR Part 200 requirements when they award procurement contracts, make subawards, and incur other costs borne by EPA financial assistance.

3. Environmental Authorities

These requirements typically apply when an EPA funded project involves construction, remediation of contamination in water, soil, or buildings, and similar activities which alter the physical environment. Other environmental laws may apply to a project independent of EPA funding. Financial assistance for research, training, technical assistance and related outreach, environmental education, program operations, or installation of pollution control equipment on vehicles or vessels, are generally not affected by these requirements. Note that this list of environmental authorities is for informational purposes only and is not intended to provide guidance on compliance in the context of a particular EPA assistance agreement.

Clean Air Act and Clean Water Act

Section 306 of the Clean Air Act (CAA) and section 508 of the Clean Water Act (CWA), as implemented by Executive Order 11738 (1973), prohibit performance of Federal assistance agreements at facilities disqualified due to certain violations of the CAA or CWA. Disqualified facilities are listed in the System for Award Management. Subrecipients are required to check SAM, to determine if facilities that will be used to perform contracts or subawards are listed in SAM.

National Environmental Policy Act

Where applicable, the National Environmental Policy Act (NEPA) requires federal agencies to conduct an environmental review of their proposed actions, with a view toward ensuring informed decision-making and public input. EPA’s NEPA regulations are at 40 CFR Part 6, and note that certain EPA actions are exempt from NEPA. Pass-through entities and subrecipients may be required to assist EPA with NEPA compliance, where appropriate.

National Historic Preservation Act

Section 106 of the NHPA requires federal agencies to take into account the effects of their undertakings on historic properties and to provide the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment on such undertakings. Under the ACHP’s regulations, consultations generally occur in the first instance with state and/or tribal historic preservation officials, with direct ACHP involvement

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in certain cases. EPA funded projects with the potential to affect historic properties – i.e., properties listed in or eligible for listing in the National Register of Historic Places – may implicate this statute. This may include, for instance, EPA-funded projects that involve alteration of structures (e.g., asbestos abatement) that are historic properties or construction/remediation on culturally sensitive lands. Pass-through entities should work with their Project Officer to ensure that subrecipients are available to work with EPA on any required consultation process with the State or Tribal Historic Preservation Office prior to commencing the project to ensure compliance with section 106 of the NHPA.

Protection of Wetlands, Executive Order 11990 (1973), as amended

EPA funded projects involving new construction in wetlands may implicate this Executive Order. The terms and conditions of the EPA assistance agreement may require pass-through entities to ensure that subrecipients assist EPA in determining whether a proposed project will be located in (or affect) a wetland, and if so, evaluating practicable alternative locations for the project or other mitigation.

Coastal Zone Management Act

This statute requires EPA to ensure that Agency funded activities in coastal areas are consistent with state coastal zone management plans that have been approved by the Department of Commerce. Pass-through entities and subrecipients should consult directly with the state Coastal Zone Management agency during the planning stages to ensure that the EPA funded project will be consistent with the state’s coastal zone management plan.

Coastal Barriers Resources Act

This statute restricts federal financial assistance that would encourage development in the Coastal Barriers Resources System, a collection of undeveloped and ecologically sensitive barrier formations along the Atlantic and Gulf Coasts of the United States, and the shore areas of the Great Lakes, and adjacent wetlands, marshes, estuaries, inlets, and near-shore waters. During the planning phase of a proposed project located in the Coastal Barriers Resources System, pass-through entities and subrecipients should consult with the state Coastal Zone Management agency to determine whether a proposed project will have an effect on the system, and if so, the alternative sites or mitigating measures that must be incorporated in the project's design.

Wild and Scenic Rivers Act

This statute prohibits federal assistance for water resource projects that would have direct and adverse effects on, invade, or unreasonably diminish, the special values of a congressionally designated wild and scenic river. Pass-through entities and subrecipients should consult with appropriate state or federal (National Park Service or Bureau of Land Management) agency to determine whether the project or any alternatives under consideration may affect a designated river.

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Endangered Species Act (ESA)

This statute requires Federal agencies to ensure that their activities are not likely to jeopardize endangered species, adversely modify designated critical habitats, or incidentally take (injure or kill) endangered animals without authorization, in consultation with the appropriate federal wildlife agency (the U.S. Fish and Wildlife Service or National Marine Fisheries Service) as described in 50 CFR Part 402. The ESA consultation process is triggered when an action “may affect” ESA-protected species or critical habitat. Pass-through entities and subrecipients should coordinate with EPA to ensure consultation occurs where appropriate.”

Safe Drinking Water Act

Precludes the use of EPA financial assistance for projects that would contaminate sole source aquifers. Pass-through entities and subrecipients must contact state officials to determine whether a sole source aquifer is in the vicinity of the proposed project. If a sole source aquifer is in the project planning area, then the assistance recipient, in consultation with state ground water officials, must conduct investigations to determine if the aquifer could be contaminated by the project. If the project could potentially affect ground water supplies, the assistance recipient, in consultation with ground water officials, must elect an alternative site or devise adequate mitigating measures.

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**Memorandum of Agreement Standard Terms and Conditions
Revised January 2023**

1.00 Effective Date

All Memorandum of Agreements are not effective until the Secretary of the Finance and Administration Cabinet or his authorized designee has approved the agreement and until the agreement has been submitted to the government contract review committee. However, in accordance with KRS 45A.700, memoranda of agreement in aggregate amounts of \$50,000 or less are exempt from review by the committee and need only be filed with the committee within 30 days of their effective date for informational purposes.

KRS 45A.695(7) provides that payments on personal service contracts and memoranda of agreement shall not be authorized for services rendered after government contract review committee disapproval, unless the decision of the committee is overridden by the Secretary of the Finance and Administration Cabinet or agency head, if the agency has been granted delegation authority by the Secretary.

2.00 EEO Requirements

The Equal Employment Opportunity Act of 1978 applies to All State government projects with an estimated value exceeding \$500,000. The contractor shall comply with all terms and conditions of the Act.

3.00 Cancellation Clause

Both parties shall have the right to terminate and cancel this contract at any time not to exceed thirty (30) days' written notice served on the Contractor by registered or certified mail.

4.00 Funding Out Provision

The state agency may terminate this agreement if funds are not appropriated to the contracting agency or are not otherwise available for the purpose of making payments without incurring any obligation for payment after the date of termination, regardless of the terms of the agreement. The state agency shall provide the Contractor thirty (30) calendar day's written notice of termination of the agreement due to lack of available funding.

5.00 Reduction in Contract Worker Hours

The Kentucky General Assembly may allow for a reduction in contract worker hours in conjunction with a budget balancing measure for some professional and non-professional

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service contracts. If under such authority the agency is required by Executive Order or otherwise to reduce contract hours, the agreement will be reduced by the amount specified in that document. If the contract funding is reduced, then the scope of work related to the contract may also be reduced commensurate with the reduction in funding. This reduction of the scope shall be agreeable to both parties and shall not be considered a breach of contract.

6.00 Access to Records

The state agency certifies that it is in compliance with the provisions of KRS 45A.695, "Access to contractor's books, documents, papers, records, or other evidence directly pertinent to the contract." The Contractor, as defined in KRS 45A.030, agrees that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this agreement for the purpose of financial audit or program review. The Contractor also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the agreement and shall be exempt from disclosure as provided in KRS 61.878(1)(c).

7.00 Violation of tax and employment laws

KRS 45A.485 requires the Contractor and all subcontractors performing work under the contract to reveal to the Commonwealth any final determination of a violation by the Contractor within the previous five (5) year period of the provisions of KRS chapters 136, 139, 141, 337, 338, 341, and 342. These statutes relate to corporate and utility tax, sales and use tax, income tax, wages and hours laws, occupational safety and health laws, unemployment insurance laws, and workers compensation insurance laws, respectively. Disclosure of any violations is required prior to the award of any state contract and throughout the duration the contract.

Failure to disclose violations, shall be grounds for the Commonwealth's disqualification of a contractor or subcontractor from eligibility for future state contracts for a period of two (2) years.

To comply with KRS 45A.485, the Contractor and all subcontractors performing work

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under this contract shall report any such final determination(s) of any violation(s) within the previous five (5) years to the Commonwealth by providing a list of the following information regarding any violation(s): (1) specific KRS violated, (2) date of any final determination of a violation, and (3) state agency which issued the final determination.

A list of any disclosures made prior to award of a contract shall be attached to the contract.

The Contractor affirms that it has not violated any of the provisions of the above statutes within the previous five (5) year period, aside from violations explicitly disclosed and attached to this contract. Contractor further affirms that it will (1) communicate the above KRS 45A.485 disclosure requirements to any subcontractors and (2) disclose any subcontractor violations it becomes aware of to the Commonwealth.

8.00 Discrimination

This section applies only to agreements disbursing federal funds, in whole or part, when the terms for receiving those funds mandate its inclusion. Discrimination (because of race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability) is prohibited. During the performance of this agreement, the Contractor agrees as follows:

The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity or age. The Contractor further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The Contractor agrees to provide, upon request, needed reasonable accommodations. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability. 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 compensations; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

In all solicitations or advertisements for employees placed by or on behalf of the Contractor, the Contractor will, state that all qualified applicants will receive consideration

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for employment without regard to race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability.

The Contractor will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965 as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.

The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

In the event of the Contractor's noncompliance with the nondiscrimination clauses of this agreement or with any of the said rules, regulations or orders, this agreement may be cancelled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.

The Contractor will include the provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor, issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency,

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the contractor may request the United States to enter into such litigation to protect the interests of the United States.

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Approvals

This contract is subject to the terms and conditions stated herein. By affixing signatures below, the parties verify that they are authorized to enter into this contract and that they accept and consent to be bound by the terms and conditions stated herein. In addition, the parties agree that (i) electronic approvals may serve as electronic signatures, and (ii) this contract may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all counterparts together shall constitute a single contract.

AGREED TO BY:

LEXINGTON FAYETTE URBAN COUNTY GOVERNMENT:

Linda Gorton
 Linda Gorton, Mayor

9/28/2023
 Date

DEPT. FOR ENVIRONMENTAL PROTECTION:

Anthony R. Hatton
 Anthony R. Hatton, Commissioner

10/2/2023
 Date

ENERGY AND ENVIRONMENT CABINET:

Rebecca W. Goodman
 Rebecca W. Goodman, Secretary

10/2/2023
 Date

APPROVED AS TO FORM AND LEGALITY:

Joseph A. Newberg
 Joseph A. Newberg, General Counsel
 Office of Legal Services

10/2/2023
 Date

RESOLUTION NO. _____ – 2024

A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE THE PURCHASE OF SERVICE AGREEMENT WITH FRIENDS OF WOLF RUN, INC. FOR SERVICES RELATED TO THE WOLF RUN WATERSHED WATER QUALITY BASINS AND UPDATE PROJECT, FOR THE DIVISION OF ENVIRONMENTAL SERVICES, AT A COST NOT TO EXCEED \$9,600.00.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized and directed to execute the Purchase of Service Agreement, which is attached hereto and incorporated herein by reference, with Friends of Wolf Run, Inc., for services related to the Wolf Run Watershed Water Quality Basins and Update Project, for the Division of Environmental Services.

Section 2 – That an amount, not to exceed the sum of \$9,600.00, be and hereby is approved for payment to Friends of Wolf Run, Inc., from account # 4051-313201-3092-71299, pursuant to the terms of the Purchase of Service Agreement.

Section 3 – This Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF THE URBAN COUNTY COUNCIL

0223-24:EPT_4871-4160-1450, v. 1

RESOLUTION NO. 115 – 2024

A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE THE PURCHASE OF SERVICE AGREEMENT WITH FRIENDS OF WOLF RUN, INC. FOR SERVICES RELATED TO THE WOLF RUN WATERSHED WATER QUALITY BASINS AND UPDATE PROJECT, FOR THE DIVISION OF ENVIRONMENTAL SERVICES, AT A COST NOT TO EXCEED \$9,600.00.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized and directed to execute the Purchase of Service Agreement, which is attached hereto and incorporated herein by reference, with Friends of Wolf Run, Inc., for services related to the Wolf Run Watershed Water Quality Basins and Update Project, for the Division of Environmental Services.

Section 2 – That an amount, not to exceed the sum of \$9,600.00, be and hereby is approved for payment to Friends of Wolf Run, Inc., from account # 4051-313201-3092-71299, pursuant to the terms of the Purchase of Service Agreement.

Section 3 – This Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: March 21, 2024

Linda Gorton

MAYOR

ATTEST:

[Signature]

CLERK OF THE URBAN COUNTY COUNCIL

0223-24:EPT_4871-4160-1450, v. 1

PURCHASE OF SERVICE AGREEMENT

THIS PURCHASE OF SERVICE AGREEMENT, made and entered into on the 22 day of March 2024, by and between the **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, an urban county government of the COMMONWEALTH OF KENTUCKY created pursuant to KRS Chapter 67A ("LFUCG"), 200 East Main Street, Lexington, Kentucky 40507, and **FRIENDS OF WOLF RUN, INC.** ("Organization"), whose post office address is 639 Cardinal Lane, Lexington, KY 40503.

WITNESSETH

WHEREAS, LFUCG has been awarded federal funds pursuant to Section 319(h) of the Clean Water Act, from the Commonwealth of Kentucky Energy and Environment Cabinet, Department for Environmental Protection, Kentucky Division of Water (Award No. PON2 129 2400000129);

WHEREAS, LFUCG's approved work plan provides for a partnership with a citizen organization, Organization, that will be responsible for performing work related to the development of a watershed based plan;

WHEREAS, LFUCG's responsibility for ensuring compliance with all grant requirements necessitates a written agreement with Organization;

NOW, THEREFORE, in consideration of the foregoing and mutually agreed upon promises, conditions, and covenants hereinafter set forth, pursuant to grant requirements, the parties hereto agree as follows:

1. EFFECTIVE DATE; TERM. This Agreement shall commence on July 1, 2024 and shall last for a period of 2 years, unless terminated by LFUCG at an earlier time.

2. RELATED DOCUMENTS. This Agreement shall consist of the terms herein as well as the following additional documents, which are attached hereto as exhibits and incorporated herein by reference as if fully stated:

- a. Exhibit "A" – Scope of Work
- b. Exhibit "B" – Certification of Compliance for Expenditures using Federal Grant Funds
- c. Exhibit "C" – LFUCG's Grant Contract with Commonwealth of Kentucky

To the extent that there is any conflict between or among any of these documents, the terms and provisions of Exhibit B shall prevail first, then C, then the terms and conditions of this Agreement, then the terms and conditions of A, in that order.

3. SCOPE OF SERVICES. Organization shall perform the services outlined in the attached Exhibit "A" – Scope of Work for LFUCG in a timely, workmanlike and professional manner (the "Services").

4. PAYMENT. LFUCG shall pay Organization a total amount not to exceed Four Thousand Eight Hundred Dollars and Zero Cents (\$4,800.00) annually (for a cumulative amount of Nine Thousand Six Hundred Dollars and Zero Cents (\$9,600.00) over the entire term) for the performance of the approved Services. Payments shall be made quarterly for expenditures the Organization actually incurred, only after receipt of quarterly invoices. The funds are limited to the approved Services provided herein and may not be spent by the Organization for any other purpose without the prior written consent of LFUCG. In no event shall Organization receive more than Twelve Hundred Dollars and Zero Cents (\$1,200.00) per convened Watershed Council meeting, up to the "not to exceed" amount provided above. Absent any additional written agreement stating otherwise any travel or other expenses are included in the above payment.

a. LFUCG shall make payment under this Agreement upon timely submission of an approved invoice(s) from Organization specifying the information required in Section 11 of this Agreement, accompanied by data satisfactory to LFUCG to document entitlement to payment for the Services performed to date. LFUCG shall have thirty (30) days from the date of receipt of an approved invoice to pay the invoice amount. LFUCG reserves the right to refuse payment if it is determined by LFUCG that the Services performed or materials provided for the Services are inadequate or defective.

b. LFUCG also reserves the right to reject any invoice submitted for services rendered in previous quarters. Termination of the Agreement and reallocation of unspent funds may occur for failure to submit an invoice, at the discretion of the LFUCG.

5. FEDERAL LAW. The Organization understands that the Funds paid by LFUCG were awarded under Section 319(h) of the Clean Water Act. Organization agrees to comply with any requests from LFUCG related to LFUCG's ongoing monitoring and reporting obligations set by federal law. Organization understands that the failure to comply may result in termination of this Agreement. Organization further agrees and by entering this Agreement, it hereby certifies to its ability to comply with all terms included within Exhibit B attached hereto. Organization further agrees to comply with all elements of LFUCG's work plan as provided for in its approved grant application.

6. UNABLE TO COMPLETE; RETURN OF FUNDS. If it becomes apparent to Organization that it will be unable to complete the Services either in the manner or for the amount described in this Agreement, then the Organization shall immediately provide written notice to the LFUCG with a complete and detailed written explanation of its inability to comply with the terms of the Agreement, any proposed changes, and the

reasons for those changes. If the Organization fails to use any amount of funds provided under this Agreement within the term provided above, then the Organization agrees to return the balance of the funds to the LFUCG within thirty (30) days of the termination of this Agreement.

7. RECAPTURE OF FUNDS; SUSPENDING AUTHORITY TO DRAW FUNDS.

In the event of any of the following events, LFUCG may suspend Organization's authority to request payment by giving thirty days (30) days written notice:

- (a) Organization fails to diligently pursue the activities detailed in Exhibit A.
- (b) Organization violates any of the terms of this Agreement or any federal law governing the use of these funds;
- (c) Any representation or warranty made herein, or in any certificate, report, or statement furnished to the LFUCG in connection with the funds proves to have been untrue or misleading in any material respect when made.

After providing the aforementioned written notice of the Breach, LFUCG has the right, in its sole discretion, to terminate the Agreement by providing written notice in accordance with this Agreement, which shall thereby terminate any obligation to disburse any remaining Funds allocated under this Agreement, and/or require repayment of Funds already disbursed. Organization expressly agrees that LFUCG may exercise any available remedies at law, in equity, or in bankruptcy, if the Organization commits any Breach specified above.

8. PERFORMANCE MONITORING. The LFUCG's Department of Environmental Quality, Division of Environmental Services shall monitor the performance of the Organization under the terms of the Agreement. Substandard performance as determined by the LFUCG will constitute noncompliance with the Agreement. If action to correct such substandard performance is not taken within the period specified in Section 9 of this Agreement after being notified by the Government, the LFUCG may take any action specified herein.

9. TERMINATION. LFUCG, through the Mayor or the Mayor's designee, may terminate this Agreement for any reason whatsoever by providing Organization with at least thirty (30) days advance written notice. Organization shall be entitled for payment of all work performed up to that period of time, calculated on a reasonable basis.

a. In the event of a termination based upon a material condition of non-performance or default by Organization, LFUCG shall provide Organization advance written notice and a reasonable period of time to cure the breach.

b. Organization may only terminate this Agreement based upon LFUCG's failure to timely pay for properly invoiced and accepted work. Organization shall provide LFUCG with at least thirty (30) days advance written notice and an opportunity to cure prior to termination.

c. Organization acknowledges that LFUCG is a governmental entity, and that the validity of this Agreement is based upon the availability of appropriated funding. In the event that such funding is not appropriated in a future fiscal year, LFUCG's obligations under this Agreement shall automatically expire without penalty to the LFUCG thirty (30) days after written notice to Organization. LFUCG shall exercise any application of this provision in good faith.

10. LICENSE. If this Agreement results in any copyrightable material or inventions, the LFUCG and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, the work or materials for LFUCG's purposes.

11. REPORTING. With each quarterly invoice, Organization shall also provide LFUCG with reports and updates related to the provisions of the Services in the form and manner reasonably specified by LFUCG for the previous quarter. Organization shall enter the information of each person serviced and all activities assisted into the Neighborly program or as otherwise provided by the LFUCG.

12. REGISTRATION; COMPLIANCE; AUTHORITY TO SIGN. Organization shall be lawfully registered or authorized to do business in the Commonwealth of Kentucky and Lexington-Fayette County and shall at all times comply with any and all applicable federal, state, and local laws, ordinances, and regulations. LFUCG may request proof that Organization has timely filed federal, state, or local tax forms which shall be provided by Organization on a timely basis. The person signing this Agreement on behalf of Organization is fully authorized to do so.

13. INSURANCE; INDEMNITY.

a. At all times relevant to the performance of this Agreement, Organization shall maintain insurance coverages in at least the following amounts, which shall be properly filed and approved by the Kentucky Department of Insurance. Evidence of such coverage shall be made available to LFUCG upon request. General Liability (\$1 million per occurrence, \$2 million aggregate or \$2 million combined single limit); Commercial Automobile Liability (combined single, \$1 million per occurrence); (if applicable) Professional Liability (\$1 million per occurrence, \$2 million aggregate); Worker's Compensation (Statutory); and Employer's Liability (\$1 million).

b. Organization shall indemnify, defend and hold harmless LFUCG and its elected and appointed officials, employees, agents, volunteers, and successors in interest, from and against any and all liability, damages, and losses, including but not limited to: demands, claims, liens, suits, notices of violation from governmental agencies, obligations, causes of action, judgments, penalties, fines, liens, costs, expenses, interest, 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 Organization's performance of, or breach of this Agreement and/or the provision of goods or services, provided that (a) it 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 the negligent acts, errors or omissions or willful misconduct of Organization or its officials, employees, or agents; and (b) not caused solely by willful misconduct of LFUCG.

c. Organization understands and agrees that its obligation to defend LFUCG includes the obligation to investigate, handle, respond to, resist, provide a defense for, and defend claims, at Organization's expense, using attorneys approved in writing by the LFUCG, which approval shall not be unreasonably withheld.

d. Organization further understands and agrees that its obligation to indemnify includes, but is not limited to: attorney fees and expenses, costs of litigation, court and administrative costs, expert witness fees and expenses, judgments, fines, penalties, interest, all environmental cleanups and remediation costs of whatever kind, and any liability arising from death, injury, or damage of any kind, to any person, including employees and agents of Organization and LFUCG, and damage to, or destruction of, any property, including the property of LFUCG.

e. This provision shall in no way be limited by any financial responsibility or insurance requirements, and shall survive the termination of this Agreement.

f. Organization understands that LFUCG is a political subdivision of the Commonwealth of Kentucky and acknowledges and agrees that LFUCG is unable to provide indemnity or otherwise save, hold harmless, or defend the Organization in any manner.

14. RECORDS. Organization shall keep and make available to LFUCG, the grantor agency or their designees, or the federal or state governments, any records related to this Agreement as are necessary, in the discretion of the LFUCG, the grantor agency or their designees, or the federal or state governments, to support its performance of the services, or to audit or examine such performance, for a period of at least five (5) years following the expiration or termination of this Agreement, or as otherwise required depending upon the source of funds. Books of accounts shall be kept by Organization and entries shall be made therein of all money, goods, effects, debts, sales, purchases, receipts, payments and any other transactions of Organization related to this Agreement and shall be made available to LFUCG upon request.

a. LFUCG shall be the owner of all final documents, data, studies, plans, reports, and information prepared by Organization under this Agreement.

b. Organization understands and agrees that this Agreement and any related documents may be subject to disclosure under the Kentucky Open Records Act and will

comply with any reasonable request by LFUCG to provide assistance with such a request.

15. ACCESS. Organization shall allow LFUCG any necessary reasonable access to monitor its performance under this Agreement.

16. CONTRACTUAL RELATIONSHIP ONLY. In no event shall the parties be construed, held or become in any way for any purpose the employee of the other party, or partners, associates or joint ventures in the conduct of their respective endeavors or otherwise.

17. EQUAL OPPORTUNITY; FAIRNESS ORDINANCE. Organization shall provide equal opportunity in employment for all qualified persons, and shall (a) prohibit discrimination in employment because of race, color, creed, national origin, sex, age, sexual orientation, gender identity, or handicap, (b) promote equal employment through a positive, continuing program of equal employment, and (c) cause any subcontractor or agency receiving funds provided pursuant to this Agreement to do so. This program of equal employment opportunity shall apply to every aspect of its employment policies and practices. Organization shall include, in all solicitations or advertisements for employees that it is an Equal Opportunity Employer. Organization agrees to comply with LFUCG's Fairness Ordinance (Ordinance No. 201-99) and all sources of applicable law, including those specified in any Exhibit attached to this Agreement and incorporated herein by reference.

18. SEXUAL HARASSMENT. Organization must adopt or have adopted a written sexual harassment policy, which shall, at a minimum, contain a statement of current law; a list of prohibited behaviors; a complaint process; and a procedure which provides for a confidential investigation of all complaints. The policy shall be given to all employees and clients and shall be posted at all locations where Organization conducts business. The policy shall be made available to LFUCG upon request.

19. CLOSE-OUTS. Except for all requirements that shall survive termination of this Agreement, including, but not limited to any indemnification requirements, insurance requirements, applicable federal law requirements, and record retention requirements, Organization's obligations to the LFUCG shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances and accounts receivable to the LFUCG and determining the custodianship of records.

20. INVESTMENT. Any investment of the funds received pursuant to this Agreement must fully comply with any restrictions imposed by law.

21. NO ASSIGNMENT. Organization may not assign any of its rights and duties under this Agreement without the prior written consent of LFUCG.

22. 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 Organization or LFUCG.

23. KENTUCKY LAW AND VENUE. This Agreement shall be governed in all respects by the laws of the Commonwealth of Kentucky and venue for all actions shall lie in the Circuit Court of Fayette County, Kentucky.

24. AMENDMENTS. By mutual agreement, the parties to this Agreement may, from time to time, make written changes to any provision hereof. Organization acknowledges that LFUCG may make such changes only upon approval of its legislative authority, the Lexington-Fayette Urban County Council, and the signature of its Mayor.

25. NOTICE. Any written notice required by the Agreement shall be delivered by certified mail, return receipt requested, to the following:

For Organization:

Friends of Wolf Run, Inc.
c/o Ken Cooke
639 Cardinal Ln
Lexington, Ky 40503

For Government:

Lexington-Fayette Urban County Government
Division of Environmental Services
200 East Main Street, 9th Floor
Lexington, Kentucky 40507
Attn: Demetria Kimball-Mehlhorn

26. WAIVER. The waiver by either party of any breach of any provision of this Agreement shall not constitute a continuing waiver or waiver of any subsequent breach by either party of either the same or another provision.

27. ENTIRE AGREEMENT. This Agreement shall constitute the entire agreement between the parties and no representations, inducements, promises or agreements, oral or otherwise, which are not embodied herein shall be effective for any purpose. This Agreement shall replace any previous agreement between the parties on the same subject matter. Notwithstanding the above, this Agreement shall not replace those parts of previous agreements pertaining to the same subject matter which cover previous terms.

IN WITNESS WHEREOF, the parties have executed this Agreement at Lexington, Kentucky, the day and year first above written.

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

Linda Gorton

Linda Gorton, Mayor

ATTEST:

Mackenzie Gock
Clerk of the Urban County Council

Deputy

FRIENDS OF WOLF RUN, INC.

Ken Cole

OFFICER WITH AUTHORITY TO BIND ORGANIZATION

COMMONWEALTH OF KENTUCKY)
)
COUNTY OF FAYETTE)

The foregoing instrument was acknowledged before me this the 31st day of January, 2024, by Kenneth B. Cooke Treasurer of Friends of Wolf Run, Inc., a Kentucky nonprofit organization.

James King
Notary Public, State At Large, Kentucky

My Commission Expires: 4/20/2026

Commission Number: KY NR 49086



EXHIBIT "A"Lexington/Fayette Urban County Government
Scope of Work

1. Work with LFUCG and its contractors on identifying Watershed Council participants.
2. Work with LFUCG and contractors to develop Watershed Council meeting schedules, agendas and expected outcomes.
3. Convene and administer up to 4 Watershed Council meetings per year for the duration of the grant.
4. Make facility arrangements for meeting space for each meeting. This includes setup, refreshments and cleanup.
5. Send out meeting announcements/invitations and agendas to interested parties.
6. Provide Watershed Council meeting facilitation, including speaker services/assistance and audiovisual support.
7. Providing meeting notes/minutes and records of participation.
8. Participate in Technical Committee meetings and BMP design Public Input meetings.
9. Provide documentation of volunteer hours worked by Watershed Council participants that can be used as match for the grant at a rate of \$26.85 an hour.
10. Identify a Primary Point of Contact to serve as the "Wolf Run Watershed Council Administrator" to participate in project planning meetings as requested by the LFUCG Grant Administrator.

EXHIBIT "B"

CERTIFICATION OF COMPLIANCE FOR EXPENDITURES USING FEDERAL FUNDS

The Lexington-Fayette Urban County Government ("LFUCG") may use Federal funding to pay for the goods and/or services that are the subject matter of the Memorandum of Agreement, executed _____, 2024. That Federal funding may include funds received by LFUCG under the American Rescue Plan Act of 2021. Expenditures using Federal funds require evidence of the contractor's compliance with Federal law. Therefore, by the signature below of an authorized company representative, you certify that the information below is understood, agreed, and correct. 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.

The contractor agrees and understands that the following conditions will apply toward payment of goods and/or services referenced in this Agreement. The contractor also agrees and understands that if there is a conflict between the terms included elsewhere in this Agreement and the terms of this Exhibit B, then the terms of Exhibit B shall control. The contractor further certifies that it can and will comply with these conditions in the performance of this Agreement:

1. This Agreement may be governed in accordance with 2 CFR Part 200, 40 CFR Parts 7, 29, 34, 35, 39, 45, and 47, and all other applicable Federal law and regulations and guidance issued by the U.S. Department of the Treasury and the U.S. Environmental Protection Agency, as applicable.
2. Pursuant to 24 CFR § 85.43, this Agreement can be terminated if the contractor fails to comply with any term of the award. This Agreement may be terminated for convenience in accordance with 24 CFR § 85.44 upon written notice by LFUCG. Either party may terminate this Agreement with thirty (30) days written notice to the other party, in which case the Agreement shall terminate on the thirtieth day. In the event of termination, the contractor shall be entitled to that portion of total compensation due under this Agreement as the services rendered bears to the services required. However, if LFUCG suspects a breach of the terms of the Agreement and/or that the contractor is violating the terms of any applicable law governing the use of Federal funds, LFUCG may suspend the contractor's ability to receive payment by giving thirty (30) days' advance written notice. Further, either party may terminate this Agreement for cause shown with thirty (30) days written notice, which shall explain the party's cause for the termination. If the parties do not reach a settlement before the end of the 30 days, then the Agreement shall terminate on the thirtieth day. In the event of a breach, LFUCG reserves the right to pursue any and all applicable legal, equitable, and/or administrative remedies against the contractor.

3. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

- (1) 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 apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- (4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- (7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part, and the contractor may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

Provided, however, that in the event a contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

4. If fulfillment of the contract requires the contractor to employ mechanic's or laborers, the contractor further agrees that it can and will comply with the following:
- (1) Overtime requirements: No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such a workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such a workweek.
- (2) Violation: liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

- (3) Withholding for unpaid wages and liquidated damages. LFUCG shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
- (4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower-tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.
5. The contractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
6. The contractor shall report each violation to LFUCG and understands and agrees that LFUCG will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency Regional Office.
7. The contractor shall include these requirements in numerical paragraphs 5 and 6 in each subcontract exceeding \$100,000 financed in whole or in part with Federal funding.
8. The contractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.
9. The contractor shall report each violation to LFUCG and understands and agrees that LFUCG will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency Regional Office.
10. The contractor shall include these requirements in numerical paragraphs 8 and 9 in each subcontract exceeding \$100,000 financed in whole or in part with Federal funds.

11. The contractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.

12. The contractor shall report each violation to LFUCG and understands and agrees that LFUCG will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency regional office.

13. The contractor shall include these requirements in numerical paragraphs 11 and 12 in each subcontract exceeding \$100,000 financed in whole or in part with American Rescue Plan Act funds.

14. The contractor agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086. The Contractor agrees that no person shall on the ground of race, color, creed, religion, sex, age, handicap, disability, ancestry, national origin, marital status, familial status, or any other basis prohibited by applicable law be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with Federal funds. The Organization agrees to comply with any federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), which prohibits discrimination against the handicapped in any federally assisted program.

15. The contractor shall include this language in any subcontract it executes to fulfill the terms of this Agreement: "the sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with 'Limited English Proficiency' in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement."

16. a. The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an

officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

b. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

17. The contractor acknowledges and certifies that it has not been debarred or suspended and further acknowledges and agrees that it must comply with regulations regarding debarred or suspended entities in accordance with 24 CFR § 570.489(l). Funds may not be provided to excluded or disqualified persons.

18. The contractor agrees and certifies that to the greatest extent practicable, it will prefer the purchase, acquisition, and use of all applicable goods, products or materials produced in the United States, in conformity with 2 CFR 200.322 and/or section 70914 of Public Law No. 117-58, §§ 70901-52, also known as the Infrastructure Investment and Jobs Act, whichever is applicable.

19. The contractor agrees and certifies that all activities performed pursuant to any Agreement entered as a result of this Agreement, and all goods and services procured under that Agreement, shall comply with 2 C.F.R. § 200.216 (Prohibition on certain telecommunications and video surveillance services and equipment) and 2 C.F.R. 200 § 200.323 (Procurement of recovered materials), to the extent either section is applicable.

20. If this Agreement involves construction work for a project totaling \$10 million or more, then the contractor further agrees that all laborers and mechanics, etc.,

employed in the construction of the public facility project assisted with funds provided under this Agreement, whether employed by contractor, or contractor's contractors, or subcontractors, shall be paid wages complying with the Davis-Bacon Act (40 U.S.C. 3141-3144). Contractor agrees that all of contractor's contractors and subcontractors will pay laborers and mechanics the prevailing wage as determined by the Secretary of Labor and that said laborers and mechanics will be paid not less than once a week. The contractor agrees to comply with the Copeland Anti- Kick Back Act (18 U.S.C. § 874) and its implementing regulations of the U.S. Department of Labor at 29 CFR part 3 and part 5. The contractor further agrees to comply with the applicable provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. Section 327-333), and the applicable provisions of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. et seq.). Contractor further agrees that it will report all suspected or reported violations of any of the laws identified in this paragraph to LFUCG.

21. The contractor is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities, sectarian or religious activities, lobbying, political patronage, and nepotism activities. The contractor agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

22. The contractor shall administer a policy designed to ensure that the organization is free from the illegal use, possession, or distribution of drugs or alcohol by its employees and beneficiaries.

23. The contractor shall administer its program in conformance with 20 CFR 200, Subpart E. These cost principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

4861-0063-8623, v. 2

EXHIBIT "C"

LFUCG's Grant Contract with Commonwealth of Kentucky



Commonwealth of Kentucky

CONTRACT

DOC ID NUMBER:

PON2 129 2400000129

Version: 1

Record Date:

Document Description: Wolf Run Watershed Water Quality Basins and Update

Cited Authority: PL319
Federal Clean Water Act

Reason for Modification:
Issuer Contact:
Name: MICHAEL REED
Phone: 502-782-7046
E-mail: Mike.Reed@ky.gov

Vendor Name:
LEXINGTON FAYETTE URBAN CO GOVERNMENT

200 EAST MAIN STREET

LEXINGTON

KY 40507

Vendor No. KY0032969

Vendor Contact
Name: Demetria Kimball Mehlhorn
Phone: 8594252554
Email: dkimball@lexingtonky.gov

Effective From: 11/01/2023

Effective To: 09/30/2027

| Line Item | Delivery Date | Quantity | Unit | Description | Unit Price | Contract Amount | Total Price |
|-----------|---------------|----------|------|--|------------|-----------------|--------------|
| 1 | | 0.00000 | | Wolf Run Watershed Water Quality Basins and Update | \$0.000000 | \$320,000.00 | \$320,000.00 |

Extended Description:

Through this project, LFUCG will improve water quality within the Wolf Run Watershed through implementing Best Management Practices (BMPs) and Chapter 7 as recommended by the Wolf Run Watershed Management Plan (WRWMP, 2013). BMP #48 will improve warm water habitat and reduce nonpoint source (NPS) pollution from entering Wolf Run Creek through retrofitting the Regency Road Detention Basin. BMP #49 will improve warm water habitat and reduce NPS pollution from entering Wolf Run Creek through creation of a detention basin, as suggested in the Southland Association's Green Infrastructure Feasibility Study. Implementing Chapter 7 recommendations to update the BMP Table when significant changes have occurred, and new monitoring data has been collected will allow continued momentum in this watershed and new projects to be identified.

| Shipping Information: | Billing Information: |
|--|--|
| Division of Water 300 Sower Blvd, 3rd Floor | Division of Water 300 Sower Blvd, 3rd Floor |
| Frankfort KY 40601 | Frankfort KY 40601 |

TOTAL CONTRACT AMOUNT:
\$320,000.00

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| 2400000129 | Wolf Run Watershed Water Quality Basins and Update | |

Memorandum of Agreement Terms and Conditions
Revised October 2020

This Memorandum of Agreement (MOA) is entered into, by and between the Commonwealth of Kentucky, Energy and Environment Cabinet, Department for Environmental Protection, Division of Water (“the Commonwealth”) and the Lexington Fayette Urban County Government (LFUCG) (“the Contractor”) to establish an agreement for the implementation of the “Wolf Run Watershed Water Quality Basins and Update” project. The initial MOA is effective from November 1, 2023 through September 30, 2027.

I. Scope of Services:

Through this project, LFUCG will improve water quality within the Wolf Run Watershed through implementing Best Management Practices (BMPs) and Chapter 7 as recommended by the Wolf Run Watershed Management Plan (WRWMP, 2013). BMP #48 will improve warm water habitat and reduce nonpoint source (NPS) pollution from entering Wolf Run Creek through retrofitting the Regency Road Detention Basin. BMP #49 will improve warm water habitat and reduce NPS pollution from entering Wolf Run Creek through creation of a detention basin, as suggested in the Southland Association’s Green Infrastructure Feasibility Study. Implementing Chapter 7 recommendations to update the BMP Table when significant changes have occurred, and new monitoring data has been collected will allow continued momentum in this watershed and new projects to be identified.

LFUCG shall complete the following goals, objectives and activities.

Goal: Improve warm water habitat and reduce NPS pollution from entering Wolf Run Creek through retrofitting the Regency Road Detention Basin (BMP #48 in the WRWMP, 2013).

Objective: Reduce stormwater runoff and pollutant levels through infiltration or storage (WRWMP Objective 2.1).

Activities:

LFUCG will remove the concrete channels (500 LF) from existing commercial stormwater basin and, if possible, naturalize channels to encourage infiltration and dispersal of stormwater flows across more of the basin bottom.

Objective: Reduce nutrients entering Wolf Run Creek (WRWMP Objective 4.2).

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| 2400000129 | Wolf Run Watershed Water Quality Basins and Update | |

Activities:

Install native plants and trees in the water quality basin to filter and absorb excess nutrients.

Objective: Reduce temperature of stormwater discharge (WRWMP Objective 4.1).

Activities:

Install native trees in water quality basin and upstream watershed, where possible.

Objective: Create passive recreational and educational opportunities (WRWMP Objective 4.3).

Activities:

Determine if existing chain-link fence may be removed to create public access to basin. Hold one on-site meeting, to engage local stakeholders, to comment on draft project design.

Create and install educational signage. Topics could include, but are not limited to, how native plants work, habitat creation within basin, and/or how citizens can help the environment.

If the fence is removed, benches will be placed at the edges of the basin to provide an outdoor setting for lunches and breaks for nearby offices.

Remove invasive species and replant with native species to promote pollinator species.

Objective: Determine effectiveness of project (WRWMP Objective 5.2).

Activities:

Complete two pre- and post-construction water quality monitoring events, per LFUCG 2017 approved Watershed-Focused Monitoring Program QAPP.

Publish results at appropriate locations, including but not limited to the following webpages: LFUCG Wolf Run Watershed, KY River Watershed Watch, and/or Friends of Wolf Run.

Goal: Improve Warm Water Habitat and Reduce Non-Point Source Pollution from Entering Wolf Run Creek through creation of a detention basin, as suggested in the Southland Association's Green Infrastructure Feasibility Study (BMP #49 in the WRWMP, 2013).

Objective: Reduce pollutant levels through stormwater treatment, storage or redirection (WRWMP Objective 5.1).

Activities:

Divert stormwater from a drainage channel parallel to the railroad tracks into a constructed filtration basin on Derby Drive, and discharge the filtered flow back into the storm sewer parallel to Regency Road.

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| 2400000129 | Wolf Run Watershed Water Quality Basins and Update | |

Investigate and install, if funding allows, best value-added BMP (structural or chemical) to reduce fine sediment from railroad tracks.

Objective: Reduce nutrients entering Wolf Run Creek (WRWMP Objective 4.2).

Activities:

Install native plants and trees in water quality basin to filter and absorb excess nutrients.

Objective: Reduce temperature of stormwater discharge (WRWMP Objective 4.1).

Activities:

Install native trees in water quality basin and upstream watershed, where possible.

Objective: Create passive recreational and educational opportunities (WRWMP Objective 4.3).

Activities:

Hold one on-site meeting, to engage local stakeholders, to comment on draft project design.

Create and install educational signage. Topics could include, but are not limited to, how native plants work, habitat creation within basin, and/or how citizens can help the environment.

Remove invasive species and replant with native species to promote pollinator species.

Objective: Determine effectiveness of project (WRWMP Objective 5.2).

Activities:

Complete two pre- and post-construction water quality monitoring events, per LFUCG 2017 approved Watershed-Focused Monitoring Program QAPP.

Publish results at appropriate locations, including but not limited to the following webpages: LFUCG Wolf Run Watershed, KY River Watershed Watch, and/or Friends of Wolf Run.

Goal: Implement Chapter 7 Recommendations of the WRWMP (2013) to update the BMP Table when significant changes have occurred and new monitoring data has been collected by following Division of Water (DOW) NPS & Basin Team Section Watershed Plan Update Guidance (2022).

Objective: Implement water quality monitoring.

Activities:

Complete two instream wet weather monitoring activities, per LFUCG 2017 approved Watershed-Focused Monitoring Program Quality Assurance Project Plan (QAPP).

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Objective: Update pollutant load reduction spreadsheet.

Activities:

Compile all existing water quality data from 2013 to present.

Update pollutant load reduction tables from WRWMP 2013.

Compare pollutant load tables from 2013 to present.

Determine additional BMPs, if any, needed to achieve water quality standards/benchmarks.

Update Water Quality Maps.

Objective: Update WRWMP BMP Table.

Activities:

Reconvene Wolf Run Watershed Council (WRWC) and meet, at a minimum, every quarter during grant.

Update WRWMP BMP Table using information from Goal Objective 3.2 and following Chapter 6 of the Kentucky (KY) Watershed Planning Guidebook.

Update WRWMP BMP Maps.

Create an addendum in the WRWMP showing all projects completed to date.

Plan of Work

The overall goal of implementing water quality projects recommended in the WRWMP (2013) and by updating the BMP Table in the WRWMP is to continue the momentum to improve water quality that the residents, professionals, and government officials have created over the years of dedication to the Wolf Run Watershed. This will be achieved through several activities noted above and detailed below.

One project the WRWMP BMP Table (#48) recommends is to retrofit a commercial basin that drains 22 acres of professional office area. There is 500LF of concrete channel running through this basin, 280LF is classified as an ephemeral stream, and the entire concrete channel will be removed and a more natural drainage waterway within the detention basin will be created. This drainage channel will not be a full stream restoration due to constraints and integrity of the detention basin; however, by removing the concrete channels, it will encourage infiltration, dispersal of stormwater flows across more of the basin bottom, and filtration through native plants and trees. The basin is currently turf mowed, but through this retrofit process, the grass and any invasive species will be removed and native plants and trees installed. In addition, evaluation of the necessity of the chain-link fence will occur. If possible, this fence will be removed and benches will be placed at the edges of the basin to provide an outdoor setting for passive recreation.

LFUCG Division of Water Quality (DWQ) completed a portion of WRWMP BMP #49 - Southland Association's Green Infrastructure Feasibility Study (aka Southland Area Storm Drainage Project) in 2018. One project the Southland Study recommended was

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to divert stormwater from a drainage channel parallel to the railroad tracks (3,200 LF) into a filtration basin to capture pollutants, specifically sediment, from this drainage area (21 acres). There is a storm sewer system that captures this drainage area 75 feet from LFUCG-owned water quality lots off Derby Drive. This project proposes to divert this stormwater onto city property, thru an existing utility easement, and allow it to migrate through a filtration basin prior to it flowing back into the stormwater system off Regency Road. This property is within a small neighborhood and to enhance the look, along with function, flowering native plants and trees will be installed for color and to encourage pollinator species to use this area. Additionally, educational signage will be installed and this area will be used for BMP tours, a geocaching location, passive recreation (bird watching), etc.

To determine effectiveness of these two BMPs, pre- and post–construction monitoring at the instream outfall on Southland Drive will occur during 4 wet weather events (2 pre and 2 post). These monitoring events will follow the QAPP approved for the LFUCG Watershed-Focused Monitoring Program. The results will be incorporated into the updated WRWMP, 2013, discussed below.

Public input and education is a large part of the detention basin projects. As a part of this grant, the WRWC will be reactivated to meet, at a minimum, on a quarterly basis to discuss design ideas, educational signs, and monitoring results. The public will be invited to attend these meetings through advertisement in various platforms and outlets, such as, but not limited to, Facebook (Live Green Lexington, Friends of Wolf Run, etc.), Council Member Newsletters, Next Door, and email.

While the Council is reconvened, it is also an ideal time to update the BMP Table of the WRWMP using the Watershed Plan Update Guidance (KDOW 2022). The WRWC will also work closely with other stakeholders in the watershed, including but not limited to, Friends of Wolf Run, University of Kentucky, Kentucky River Watershed Watch, etc., to assist in updating this BMP Table.

Since the completion of the approved WRWMP, 2013, 30-40 projects have been implemented and recommended studies completed. In addition, the LFUCG Watershed-Focused Monitoring Program is completing an instream sampling within the Wolf Run Watershed in 2022-2023. The results from this monitoring program, and two additional wet weather monitoring events, will be used to compare to the original water quality data to see if these projects have made an improvement in the watershed. Not only will this comparison be made, the new water quality monitoring information will be used to update the pollutant load calculation worksheets and determine if any additional projects need to be added to the WRWMP BMP Table. Several other studies, such as the Urban Tree Canopy Report (UTC, 2022) will also be used to identify additional small scale projects with the watershed. The BMP Table will also be updated by removing the projects completed to date and creating an addendum to the WRWMP with project information. In addition, water quality maps and BMP implementation maps will be

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updated. This information will be shared through an interactive map on-line (similar to the tool created for the West Hickman Watershed). The end goal is to add this updated BMP Table as an approved addendum to the WRWMP, 2013.

Through the purchasing process, LFUCG will contract with a qualified engineering firm to complete all required work associated with the two detention basin projects and the BMP Table update. In addition, LFUCG will hire Friends of Wolf Run to assist in advertising and running on-site public input meetings and Wolf Run Watershed Council meetings.

Quality Assurance Project Plan (QAPP)

This section is only applicable if monitoring or sampling occurs during this project.

LFUCG will develop and submit to the Cabinet for review and approval, a QAPP for the environmental monitoring activities associated with the project described in this Agreement. No project monitoring activities will occur until the QAPP has been reviewed and approved by the Cabinet. LFUCG will ensure that all environmental monitoring activities in this Agreement will be conducted in accordance with the approved QAPP. The approved QAPP will be incorporated into this Agreement by reference.

The Kentucky Division of Water (DOW) requires submittal of a data package after each sampling period, which should include Chain-of-Custody forms, field notes, calibration records of all instrumentation, and a raw data file as submitted from the laboratory. The package will also include relevant notes from field work identifying issues encountered, action needed or changes made to the sampling plan or QAPP. All issues or changes must also be communicated to DOW nonpoint source staff as soon as possible.

A final summary of overall project quality assurance will be submitted at the end of the project. The final Quality Assurance (QA) report should explain and detail the quality processes and controls used in sampling, both by the laboratory and in the field. Examples of QA report content are listed below. The report should summarize the sampling results and outline any and all deficiencies or discrepancies in the data collection and analysis process.

Examples of a QA report content are:

Types and results of quality control samples; field blanks, field splits, field duplicates. Discussion of how the Quality Control (QC) samples met the precision, accuracy, completeness, bias data quality objectives from the QAPP. Explanation of data qualifiers and how it affected the data results (data that is flagged by the laboratory). Corrective action taken for any data quality issues.

Best Management Practices Implementation Plan

This section is only applicable if BMP's occur during this project.

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LFUCG shall develop and submit to the Cabinet for review and approval, a Best Management Practices (BMP) Implementation Plan for all BMP implementation activities associated with the project described in this Agreement. No BMP implementation activities shall occur until the BMP Implementation Plan has been approved by the Cabinet. LFUCG shall ensure that all BMP implementation activities in this Agreement shall be conducted in accordance with the approved BMP Implementation Plan. The approved BMP Implementation Plan shall be incorporated into this Agreement by reference.

The BMP Implementation Plan shall include: (1) a list of BMP technologies to be installed; (2) a description of the technology selection process, to include the estimated cost, relative treatment efficiency, and the minimum operation and maintenance required for the BMP to operate efficiently; (3) a description of how BMPs shall be targeted to specific locations and if locations are known, a map(s) clearly showing the location where the BMP technologies shall be demonstrated; (4) a means of notifying the Division of Water, Nonpoint Point Source (NPS) Section prior to BMP implementation; (5) a financial plan of action, which describes how financial assistance shall be provided for technology demonstration; (6) the type of maintenance agreement to be made with the landowner; and (7) a statement that ensures that all agricultural or forestry BMPs will be consistent with the Kentucky Agriculture Water Quality Act and/or the Forest Conservation Act.

Education Materials

LFUCG shall ensure that all materials to be used in school-based education shall conform to the Kentucky Academic Standards for Assessment. When materials are submitted, the corresponding section of the Kentucky Academic Standards must be cited.

LFUCG shall ensure that all outreach materials conform to the North American Association for Environmental Education's (NAAEE) *Environmental Education Materials: Guidelines for Excellence* (www.NAAEE.org).

Geographic Information System (GIS) Activities

LFUCG shall ensure that all geospatial data created shall be consistent with Federal Geographic Data Committee (FGDC) endorsed standards. Information on these standards shall be obtained from the web site "www.fgdc.gov" under the topics of "standards" and "publications".

Animal Feeding Operation (AFO) Activities

LFUCG shall ensure that any AFO receiving financial assistance from 319(h) funds will implement a nutrient management plan. An AFO is defined by 40 C.F.R. § 122.23(b) as any lot or facility (other than an aquatic animal production facility) where i) animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12 month period, and ii) where crops,

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vegetation forage growth, or post-harvest residues are not sustained over any portion of the lot or facility.

Training

All personnel involved in monitoring activities that are performed by LFUCG or sub-contractor will be provided (or required to develop) standard operating procedures (SOPs), and will be trained in sampling techniques by DOW staff. This training will be a part of the NPS project conditions, and will not incur any additional cost to the vendor.

Measures of Success

LFUCG staff will:

Goal: Improve Warm Water Habitat and Reduce Non-Point Source Pollution from entering Wolf Run Creek through Retrofitting the Regency Road Detention Basin (BMP #48 in the WRWMP, 2013).

Objective: Reduce stormwater runoff and pollutant levels through infiltration or storage.

Measures of Success:

In-Stream Water Quality Monitoring Results
Pre, Mid & Post Construction Photo Documentation
Square Feet (SqFt) of Native Plants Installed
Numbers of Trees Installed

Objective: Reduce nutrients entering Wolf Run Creek.

Measures of Success:

In-Stream Water Quality Monitoring Results
Pre, Mid & Post Construction Photo Documentation
SqFt of Native Plants Installed
Numbers of Trees Installed

Objective: Reduce temperature of stormwater discharge.

Measures of Success:

In-Stream Water Quality Monitoring Results
SqFt of Native Plants Installed
Numbers of Trees Installed

Objective: Create passive recreational and educational opportunities.

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Measures of Success:

SqFt of Native Plants Installed
 Numbers of Trees Installed
 Numbers of Educational Signs Installed
 Attendance at Public Meetings
 Updated WRWMP BMP Table
 Update WRWMP Water Quality & BMP Maps
 Create online interactive map with BMP information

Objective: Determine effectiveness of project.

Measures of Success:

In-Stream Water Quality Monitoring Results
 Pre, Mid & Post Construction Photo Documentation

Goal: Improve Warm Water Habitat and Reduce Non-Point Source Pollution from Entering Wolf Run Creek through creation of a detention basin, as suggested in the Southland Association's Green Infrastructure Feasibility Study (BMP #49 in the WRWMP, 2013).

Objective: Reduce pollutant levels through stormwater treatment, storage or redirection.

Measures of Success:

In-Stream Water Quality Monitoring Results
 Pre, Mid & Post Construction Photo Documentation
 SqFt of Native Plants Installed
 Numbers of Trees Installed

Objective: Reduce nutrients entering Wolf Run Creek.

Measures of Success:

In-Stream Water Quality Monitoring Results
 Pre, Mid & Post Construction Photo Documentation
 SqFt of Native Plants Installed
 Numbers of Trees Installed

Objective: Reduce temperature of stormwater discharge.

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Measures of Success:

In-Stream Water Quality Monitoring Results
 SqFt of Native Plants Installed
 Numbers of Trees Installed

Objective: Create passive recreational and educational opportunities.

Measures of Success:

SqFt of Native Plants Installed
 Numbers of Trees Installed
 Numbers of Educational Signs Installed
 Attendance at Public Meetings
 Updated WRWMP BMP Table
 Update WRWMP Water Quality & BMP Maps
 Create online interactive map with BMP information

Objective: Determine effectiveness of project.

Measures of Success:

In-Stream Water Quality Monitoring Results
 Pre, Mid & Post Construction Photo Documentation

Goal: Implement Chapter 7 Recommendations of the WRWMP (2013) to update the BMP Table when significant changes have occurred and new monitoring data has been collected by following DOW NPS & Basin Team Section Watershed Plan Update Guidance (2022).

Objective: Implement water quality monitoring.

Measures of Success:

In-Stream Water Quality Monitoring Results
 Pre, Mid & Post Construction Photo Documentation

Objective: Update pollutant load reduction spreadsheet.

Measures of Success:

In-Stream Water Quality Monitoring Results
 Update WRWMP Water Quality & BMP Maps

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Objective: Update WRWMP BMP Table

Measures of Success:

Updated WRWMP BMP Table
 Update WRWMP Water Quality & BMP Maps
 Create online interactive map with BMP information

Reports

LFUCG shall:

Provide a quarterly programmatic report. The report shall cover progress to date, any problems encountered and actions taken and any anticipated activity and work products expected during the next quarter as outlined in the Project Status Report Template below. Provide a final report detailing activities and deliverables completed during the agreement period. The final report is due 30 days after the end of the project. All reports shall be submitted electronically to the Commonwealth within specified timeframes listed above and in the format included in the Project Status Report Template.

Project Status Report Template

Grant Recipient Name: Lexington Fayette Urban County Government

Project Name: Wolf Run Watershed Water Quality Basins and Update

Principal Investigator/Project Manager: Demetria Kimball Mehlhorn

Reporting Period: (month & year)

Accomplishments, publicity, news:

(Provide an update on project activities, any publicity on the project, including links to articles)

Performance outcome data/metrics:

(Provide updates on specific activity targets, project timelines and/or metrics from the grant agreement)

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Problems, issues, variances from plan:

(Provide updates on any problems with project activities, timelines, any variances from the original work plan)

Project Status Report Template

Section 319(h) Nonpoint Source Project Progress Report

Reporting Period:--/-- to --/--/-- Grant: PPG --BG-00D21423 State: Kentucky

Project Name: Wolf Run Watershed Water Quality Basins and Update

Contractor: LFUCG

Federal amount: \$320,000

Budget Period Start Date: 11/1/23 End Date: 9/30/27 Total Project Cost: \$533,333

Expended this Period: \$_____ Total Expenditures to Date: \$_____

Waterbody/Watershed Identification: Kentucky

NPS Category: Sedimentation/Siltation, Suspended Solids, Pathogens/Bacteria, Pesticides, Oil and Grease, Nutrients

Purpose Statement: The goal of this project is to improve water quality within the Wolf Run Watershed through implementing Best Management Practices (BMPs) and Chapter 7 as recommended by the Wolf Run Watershed Management Plan (WRWMP, 2013).

LFUCG's Milestones

All milestones will begin on November 1, 2023 and end on September 30, 2027.

Develop and submit materials to Division of Water for review and comment. Duration of Contract

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Submit advanced written notice to Nonpoint Source (NPS) Program staff for all educational public meetings, field days, workshops, etc. Duration of Contract

Submit draft news articles, brochures, newsletter articles and other educational outreach materials to NPS Program staff for approval - includes drafts of flyers and postcards inviting public to meetings and events. Duration of Contract

Submit an Annual Load Reduction Report to NPS program staff if requested. Duration of Contract

Notice to Proceed & Council Acceptance. November 2023 – November 2024

Obtain Consulting Engineer through LFUCG Procurement Process for Engineering Services. November 2023 – January 2024

Start gathering information and contacts for public involvement. November 2023 – January 2024

Quarterly Wolf Run Watershed Council Meetings, Duration of Contract

Update Webpage with project information as available. Duration of Contract

Develop and submit a BMP Implementation Plan for DOW staff approval. January 2024 – February 2024

Submit Approved LFUCG Watershed-Focused Monitoring QAPP with updated Wolf Run Sampling Location, if needed, to DOW. February 2024

Create preliminary design plans and hold public input meeting. February 2024 – June 2024

Complete two rounds of wet weather in-stream water quality monitoring. March 2024 – May 2024

Meet with permitting agencies on stream permitting requirements. March 2024

Update pollutant load reduction calculation sheet. May 2024 – July 2024

Submit preliminary design plans for review to DOW NPS staff, LFUCG staff, utilities, and Wolf Run Watershed Council. June 2024

Submit Pollutant Load Reduction Information to DOW and share with WRWC. July 2024

Create addendum to WRWMP of completed projects. July 2024 – July 2025

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Prepare design plans for permit submittals. July 2024 – September 2024

Submit required permit applications. September 2024

Prepare final design plans, specifications, quantity take-offs, and construction cost estimates. October 2024 – January 2025

Update WRWMP BMP Table & Maps. October 2024 – July 2025

Obtain Construction Contractor through LFUCG Bid Procurement Process for Construction Contracts. January 2025 – March 2025

Design & Submit Educational Signage to KDOW NPS staff and WRWC for review and approval. January 2025 – March 2025

Construct Improvements. April 2025 – September 2026

Submit WRWMP Completed Projects Addendum & Updated BMP Table to KDOW. August 2025 – November 2025

Install Education Signage. March 2026 – May 2026

Project Completion Tour. September 2026

Complete two post-construction monitoring events. May 2026 – September 2026

Prepare and Submit Draft Final Report. August 2027

Incorporate any changes and submit Approved Final Report. September 2027

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31.

Signature Date

Notifications

All notices, requests, demands, waivers, and other communications given as provided in this Agreement shall be in writing and sent to the following:

LFUCG

Attn: Demetria Kimball Mehlhorn

200 East Main Street, 9th Floor

Lexington, Kentucky 40507

859-425-2554

dkimball@lexingtonky.gov

Vendor UEI Number: VM1GLHWZXA96

Division of Water

Attn: Mike Reed

300 Sower Blvd., Third Floor NW/29

Frankfort, Kentucky 40601

502-782-6892

Mike.Reed@ky.gov

II. Pricing:

The Commonwealth shall reimburse LFUCG up to \$320,000 for services and activities as outlined in the Program Budget table below.

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Program Budget

| Categories | The Commonwealth | Cost Share/ In-kind Match | Total |
|--|-------------------------|----------------------------------|------------------|
| Personnel | \$0 | \$0 | \$0 |
| Fringe Benefits | \$0 | \$0 | \$0 |
| Travel | \$0 | \$0 | \$0 |
| Equipment | \$0 | \$0 | \$0 |
| Supplies | \$0 | \$6,000 | \$6,000 |
| Construction | \$0 | \$0 | \$0 |
| Other | \$0 | \$0 | \$0 |
| Total Direct Charges | \$0 | \$6,000 | \$6,000 |
| Indirect Charges (up to 10% of the Commonwealth's Total Direct Charges) ** | \$0 | \$0 | \$0 |
| Contractual | \$320,000 | \$207,333 | \$527,333 |
| Total | \$320,000 | \$213,333 | \$533,333 |
| Program Income | \$0 | \$0 | \$0 |

A detailed budget template provided by the Commonwealth shall be completed and submitted to DOW prior to the start of the project and before the start of each fiscal year

INDIRECT COST:

If the contractor is receiving state funds the contractor may not charge indirect costs in excess of ten (10) percent of total direct costs. An indirect rate **shall not** be charged on contractual expenditures. Indirect charges exceeding the ten (10) percent shall be considered as cost share provided by the contractor.

If the contractor is receiving federal funds the Contractor shall use the indirect rate corresponding with the agreement the contractor has with the federal entity or ten (10) percent. The contractor shall provide a copy of the indirect agreement prior to the federal funds being awarded.

III. Invoicing

LFUCG shall:

Invoice the Commonwealth quarterly for authorized expenditures by budget line item.

The invoice must indicate:

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1. The Document ID number, which can be found at the top of the MOA/PSC. The Document ID number can be recognized by the beginning letters "PON2" or "SC"
2. Invoice number
3. Invoice date
4. Dates of service covered
5. Current expenditures with each item listed separately
6. Cumulative expenditures to date
7. Current cost share or match, if identified in the Program Budget
8. Cumulative cost share or match
9. Include a copy of the transaction detail report if available and/or receipt

Backup documentation must be maintained for each invoice, as required by the record retention schedule in Kentucky's Administrative Regulation 725 KAR 1:061 and/ or 2CFR 200.334 through 200.338. The backup documentation can either be submitted with the invoice or kept for inspection by the Commonwealth, if or when requested.

Examples of backup documentation may include:

1. Personnel – payroll spreadsheet showing time worked within the invoice period. Spreadsheet shall contain salary information, name of employee or some identifiable number, percent of time applied to grant, along with the number of hours and fringe benefits per person.
2. Fringe – include in payroll spreadsheet.
3. Travel – travel voucher or invoices showing airfare, hotel expenses, etc. Mileage will be paid based on rate established through a travel policy by the recipient. If no rate has been established, the recipient may use the state or federal mileage rate.
4. Equipment – receipt marked paid (an invoice shall be submitted after equipment is paid for).
5. Supplies – receipt marked paid (an invoice shall be submitted after supplies are paid for).
6. Contractual – invoice and documentation that item has been paid (recipient shall verify invoice).
7. Construction – invoices, receipts marked paid and any other documents that properly verify expenses.
8. Indirect costs – will be verified not to exceed the allowable rate established in the MOA.

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9. Other – invoice and documentation that item has been paid (recipient shall verify invoice).

In the event that LFUCG incurs no expenses within a reporting timeframe, LFUCG shall submit an invoice for zero (0) dollars or provide a “notice of no expenses,” based on the Commonwealth’s requirements.

Final Invoice: The final invoice should be clearly marked as “FINAL INVOICE” to indicate that all funds that will be expended, have been expended.

Where to submit invoices:

All invoices shall be submitted via email to:

Division of Water
 Attn: Mike Reed
 300 Sower Blvd., Third Floor NW/29
 Frankfort, Kentucky 40601
 502-782-6892
 Mike.Reed@ky.gov

In the subject line of the email list:

Project Number 23-07, Invoice #

IV. Assurances:

Award Number: FFY-2023 Performance Partnership Grant–PPG BG - 00D21423, CFDA 66.605.

The parties shall abide by all terms of the award:

LFUCG agrees to comply with the current EPA general terms and conditions available at

<https://www.epa.gov/grants/epa-general-terms-and-conditions-effective-october-1-2019-or-later>

The following is a list of statutory, regulatory, and Executive Order requirements for subrecipients on EPA funded projects per 2 CFR 200.331(a) (2). As a subrecipient of EPA funding, you must agree to abide by the applicable requirements listed below.

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1. Nondiscrimination Laws and Social Policies

Most EPA financial assistance recipients are subject to the laws and policies described below. This list of nondiscrimination and social policy requirements is for informational purposes only and is not intended to provide guidance on compliance in the context of a particular EPA assistance agreement.

Disadvantaged Business Enterprises

EPA regulations at 40 CFR Part 33, "Participation by Disadvantaged Business Enterprises in U.S. Environmental Protection Agency Programs" set forth requirements for making good faith efforts to ensure that Disadvantaged Business Enterprises, including Minority Business Enterprises and Women's Business Enterprises receive a fair share of contracts awarded with funds provided by EPA financial assistance agreements. These requirements apply to subrecipients in accordance with 40 CFR 33.102 and the definition of "Recipient" in 40 CFR 33.103.

2. Financial Management Policies

These policies apply to transactions financed by EPA financial assistance funds and apply to both pass-through entities and subrecipients on the basis of either regulatory requirement or the General Terms and Conditions (T&C) of the pass-through entity's agreement with EPA.

Federal Funding Accountability and Transparency Act

As set forth in the General Condition of the pass-through entity's agreement with EPA entitled "Reporting Subawards and Executive Compensation" the pass-through entity must ensure that subrecipients comply with Federal Funding Accountability and Transparency Act (FFATA) reporting requirements.

Suspension and Debarment

The pass-through entities responsibilities are described at 2 CFR Part 180, Subpart C and the "Debarment and Suspension" T&C of the pass-through entity's agreement with EPA. These requirements, which include checking SAM to ensure that potential contractors, subrecipients and their principals and agents are not suspended, debarred or otherwise ineligible to participate in Federal assistance programs also apply to subrecipients. It is important to note that in addition to being precluded from all first tier contracts and all contracts requiring EPA approval in accordance with 2 CFR 180.220 under 2 CFR 1532.220 suspended or debarred parties may not receive EPA funded contracts in excess of \$25,000 at any tier. Also, at 2 CFR 1532.995 EPA has identified activities that suspended or debarred parties may not perform as a "Principal" in EPA financial assistance agreements and subawards.

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New Restriction on Lobbying, 40 CFR Part 34

Subrecipients must submit certification and disclosure forms required by 40 CFR 34.110 and the "Lobbying and Litigation" T&C for subawards in excess of \$100,000.

Uniform Grant Guidance Requirements (UGG)

Subrecipients must comply with 2 CFR Part 200 requirements when they award procurement contracts, make subawards, and incur other costs borne by EPA financial assistance.

3. Environmental Authorities

These requirements typically apply when an EPA funded project involves construction, remediation of contamination in water, soil, or buildings, and similar activities which alter the physical environment. Other environmental laws may apply to a project independent of EPA funding. Financial assistance for research, training, technical assistance and related outreach, environmental education, program operations, or installation of pollution control equipment on vehicles or vessels, are generally not affected by these requirements. Note that this list of environmental authorities is for informational purposes only and is not intended to provide guidance on compliance in the context of a particular EPA assistance agreement.

Clean Air Act and Clean Water Act

Section 306 of the Clean Air Act (CAA) and section 508 of the Clean Water Act (CWA), as implemented by Executive Order 11738 (1973), prohibit performance of Federal assistance agreements at facilities disqualified due to certain violations of the CAA or CWA. Disqualified facilities are listed in the System for Award Management. Subrecipients are required to check SAM, to determine if facilities that will be used to perform contracts or subawards are listed in SAM.

National Environmental Policy Act

Where applicable, the National Environmental Policy Act (NEPA) requires federal agencies to conduct an environmental review of their proposed actions, with a view toward ensuring informed decision-making and public input. EPA's NEPA regulations are at 40 CFR Part 6, and note that certain EPA actions are exempt from NEPA. Pass-through entities and subrecipients may be required to assist EPA with NEPA compliance, where appropriate.

National Historic Preservation Act

Section 106 of the NHPA requires federal agencies to take into account the effects of their undertakings on historic properties and to provide the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment on such undertakings. Under the ACHP's regulations, consultations generally occur in the first instance with state and/or tribal historic preservation officials, with direct ACHP involvement

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in certain cases. EPA funded projects with the potential to affect historic properties – i.e., properties listed in or eligible for listing in the National Register of Historic Places – may implicate this statute. This may include, for instance, EPA-funded projects that involve alteration of structures (e.g., asbestos abatement) that are historic properties or construction/remediation on culturally sensitive lands. Pass-through entities should work with their Project Officer to ensure that subrecipients are available to work with EPA on any required consultation process with the State or Tribal Historic Preservation Office prior to commencing the project to ensure compliance with section 106 of the NHPA.

Protection of Wetlands, Executive Order 11990 (1973), as amended

EPA funded projects involving new construction in wetlands may implicate this Executive Order. The terms and conditions of the EPA assistance agreement may require pass-through entities to ensure that subrecipients assist EPA in determining whether a proposed project will be located in (or affect) a wetland, and if so, evaluating practicable alternative locations for the project or other mitigation.

Coastal Zone Management Act

This statute requires EPA to ensure that Agency funded activities in coastal areas are consistent with state coastal zone management plans that have been approved by the Department of Commerce. Pass-through entities and subrecipients should consult directly with the state Coastal Zone Management agency during the planning stages to ensure that the EPA funded project will be consistent with the state's coastal zone management plan.

Coastal Barriers Resources Act

This statute restricts federal financial assistance that would encourage development in the Coastal Barriers Resources System, a collection of undeveloped and ecologically sensitive barrier formations along the Atlantic and Gulf Coasts of the United States, and the shore areas of the Great Lakes, and adjacent wetlands, marshes, estuaries, inlets, and near-shore waters. During the planning phase of a proposed project located in the Coastal Barriers Resources System, pass-through entities and subrecipients should consult with the state Coastal Zone Management agency to determine whether a proposed project will have an effect on the system, and if so, the alternative sites or mitigating measures that must be incorporated in the project's design.

Wild and Scenic Rivers Act

This statute prohibits federal assistance for water resource projects that would have direct and adverse effects on, invade, or unreasonably diminish, the special values of a congressionally designated wild and scenic river. Pass-through entities and subrecipients should consult with appropriate state or federal (National Park Service or Bureau of Land Management) agency to determine whether the project or any alternatives under consideration may affect a designated river.

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Endangered Species Act (ESA)

This statute requires Federal agencies to ensure that their activities are not likely to jeopardize endangered species, adversely modify designated critical habitats, or incidentally take (injure or kill) endangered animals without authorization, in consultation with the appropriate federal wildlife agency (the U.S. Fish and Wildlife Service or National Marine Fisheries Service) as described in 50 CFR Part 402. The ESA consultation process is triggered when an action "may affect" ESA-protected species or critical habitat. Pass-through entities and subrecipients should coordinate with EPA to ensure consultation occurs where appropriate."

Safe Drinking Water Act

Precludes the use of EPA financial assistance for projects that would contaminate sole source aquifers. Pass-through entities and subrecipients must contact state officials to determine whether a sole source aquifer is in the vicinity of the proposed project. If a sole source aquifer is in the project planning area, then the assistance recipient, in consultation with state ground water officials, must conduct investigations to determine if the aquifer could be contaminated by the project. If the project could potentially affect ground water supplies, the assistance recipient, in consultation with ground water officials, must elect an alternative site or devise adequate mitigating measures.

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**Memorandum of Agreement Standard Terms and Conditions
Revised January 2023**

1.00 Effective Date

All Memorandum of Agreements are not effective until the Secretary of the Finance and Administration Cabinet or his authorized designee has approved the agreement and until the agreement has been submitted to the government contract review committee. However, in accordance with KRS 45A.700, memoranda of agreement in aggregate amounts of \$50,000 or less are exempt from review by the committee and need only be filed with the committee within 30 days of their effective date for informational purposes.

KRS 45A.695(7) provides that payments on personal service contracts and memoranda of agreement shall not be authorized for services rendered after government contract review committee disapproval, unless the decision of the committee is overridden by the Secretary of the Finance and Administration Cabinet or agency head, if the agency has been granted delegation authority by the Secretary.

2.00 EEO Requirements

The Equal Employment Opportunity Act of 1978 applies to All State government projects with an estimated value exceeding \$500,000. The contractor shall comply with all terms and conditions of the Act.

3.00 Cancellation Clause

Both parties shall have the right to terminate and cancel this contract at any time not to exceed thirty (30) days' written notice served on the Contractor by registered or certified mail.

4.00 Funding Out Provision

The state agency may terminate this agreement if funds are not appropriated to the contracting agency or are not otherwise available for the purpose of making payments without incurring any obligation for payment after the date of termination, regardless of the terms of the agreement. The state agency shall provide the Contractor thirty (30) calendar day's written notice of termination of the agreement due to lack of available funding.

5.00 Reduction in Contract Worker Hours

The Kentucky General Assembly may allow for a reduction in contract worker hours in conjunction with a budget balancing measure for some professional and non-professional

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service contracts. If under such authority the agency is required by Executive Order or otherwise to reduce contract hours, the agreement will be reduced by the amount specified in that document. If the contract funding is reduced, then the scope of work related to the contract may also be reduced commensurate with the reduction in funding. This reduction of the scope shall be agreeable to both parties and shall not be considered a breach of contract.

6.00 Access to Records

The state agency certifies that it is in compliance with the provisions of KRS 45A.695, "Access to contractor's books, documents, papers, records, or other evidence directly pertinent to the contract." The Contractor, as defined in KRS 45A.030, agrees that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this agreement for the purpose of financial audit or program review. The Contractor also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the agreement and shall be exempt from disclosure as provided in KRS 61.878(1)(c).

7.00 Violation of tax and employment laws

KRS 45A.485 requires the Contractor and all subcontractors performing work under the contract to reveal to the Commonwealth any final determination of a violation by the Contractor within the previous five (5) year period of the provisions of KRS chapters 136, 139, 141, 337, 338, 341, and 342. These statutes relate to corporate and utility tax, sales and use tax, income tax, wages and hours laws, occupational safety and health laws, unemployment insurance laws, and workers compensation insurance laws, respectively. Disclosure of any violations is required prior to the award of any state contract and throughout the duration the contract.

Failure to disclose violations, shall be grounds for the Commonwealth's disqualification of a contractor or subcontractor from eligibility for future state contracts for a period of two (2) years.

To comply with KRS 45A.485, the Contractor and all subcontractors performing work

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under this contract shall report any such final determination(s) of any violation(s) within the previous five (5) years to the Commonwealth by providing a list of the following information regarding any violation(s): (1) specific KRS violated, (2) date of any final determination of a violation, and (3) state agency which issued the final determination.

A list of any disclosures made prior to award of a contract shall be attached to the contract.

The Contractor affirms that it has not violated any of the provisions of the above statutes within the previous five (5) year period, aside from violations explicitly disclosed and attached to this contract. Contractor further affirms that it will (1) communicate the above KRS 45A.485 disclosure requirements to any subcontractors and (2) disclose any subcontractor violations it becomes aware of to the Commonwealth.

8.00 Discrimination

This section applies only to agreements disbursing federal funds, in whole or part, when the terms for receiving those funds mandate its inclusion. Discrimination (because of race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability) is prohibited. During the performance of this agreement, the Contractor agrees as follows:

The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity or age. The Contractor further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The Contractor agrees to provide, upon request, needed reasonable accommodations. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability. 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 compensations; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

In all solicitations or advertisements for employees placed by or on behalf of the Contractor, the Contractor will, state that all qualified applicants will receive consideration

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for employment without regard to race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability.

The Contractor will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965 as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.

The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

In the event of the Contractor's noncompliance with the nondiscrimination clauses of this agreement or with any of the said rules, regulations or orders, this agreement may be cancelled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.

The Contractor will include the provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor, issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency,

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the contractor may request the United States to enter into such litigation to protect the interests of the United States.

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Approvals

This contract is subject to the terms and conditions stated herein. By affixing signatures below, the parties verify that they are authorized to enter into this contract and that they accept and consent to be bound by the terms and conditions stated herein. In addition, the parties agree that (i) electronic approvals may serve as electronic signatures, and (ii) this contract may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all counterparts together shall constitute a single contract.

AGREED TO BY:

**LEXINGTON FAYETTE URBAN COUNTY
GOVERNMENT:**

Linda Gorton
Linda Gorton, Mayor

9/28/2023
Date

DEPT. FOR ENVIRONMENTAL PROTECTION:

Anthony R. Hatton
Anthony R. Hatton, Commissioner

10/2/2023
Date

ENERGY AND ENVIRONMENT CABINET:

Rebecca W. Goodman
Rebecca W. Goodman, Secretary

10/2/2023
Date

APPROVED AS TO FORM AND LEGALITY:

Joseph A. Newberg
Joseph A. Newberg, General Counsel
Office of Legal Services

10/2/2023
Date



Lexington-Fayette Urban County Government

Master

200 E. Main St
Lexington, KY 40507

File Number: 0224-24

File ID: 0224-24

Type: Resolution

Status: Approved

Version: 1

Contract #: 077-2024

In Control: Urban County Council

File Created: 02/23/2024

File Name: ErgoMetrics Agreement

Final Action: 03/21/2024

Title: A Resolution authorizing the Mayor, on behalf of the Urban County Government, to execute a Test Security Agreement with Ergometrics, Inc. for testing applicants applying for Community Corrections Sergeant Promotional Processes, at a cost not to exceed \$5,160. [Div. of Human Resources, George]

Notes: stamped and filed in the CCO. Returned to Alana Morton 4/9/2024. MS

Sponsors:

Enactment Date: 03/21/2024

Attachments: Bluesheet Memo 24-0038, Ergometrics Agreement, 224-24 4892-1690-3337 v.1.docx, R-116-2024, Contract #077-2024

Enactment Number: R-116-2024

Deed #:

Hearing Date:

Drafter: Alana Morton

Effective Date:

History of Legislative File

| Ver- sion: | Acting Body: | Date: | Action: | Sent To: | Due Date: | Return Date: | Result: |
|---------------|--------------------------------------|------------|------------------------------------|-------------------------|------------|-----------------|---------|
| 1 | Urban County Council Work Session | 03/05/2024 | Approved and Referred to Docket | Urban County Council | 03/07/2024 | | Pass |
| 1 | Urban County Council | 03/07/2024 | Received First Reading | Urban County Council | 03/21/2024 | | |
| 1 | Urban County Council | 03/21/2024 | Approved | | | | Pass |

Text of Legislative File 0224-24

Title

A Resolution authorizing the Mayor, on behalf of the Urban County Government, to execute a Test Security Agreement with Ergometrics, Inc. for testing applicants applying for Community Corrections Sergeant Promotional Processes, at a cost not to exceed \$5,160. [Div. of Human Resources, George]

Summary

Authorization to execute a Licensing Agreement with ErgoMetrics, Inc. for testing applicants

applying for Community Corrections Sergeant promotional processes, at a cost not to exceed \$5,160. Funds are Budgeted. (L0224-24) (George/Hamilton)

Budgetary Implications: Yes

Advance Document Review:

Law: Yes: Michael Cravens

Risk Management: NA

Fully Budgeted: Yes

Account Number: 1101-160502-1824-71299

This Fiscal Year Impact: \$5,160

Annual Impact: \$5,160

Project:

Activity:

Budget Reference:

Current Balance: Budgeted



M E M O R A N D U M

TO: Linda Gorton, Mayor
Sally Hamilton, Chief Administrative Officer
Council Members

FROM: 
Glenda Humphrey George, Director
Division of Human Resources

DATE: February 23, 2024

SUBJECT: Test Security Agreement – ErgoMetrics

Request:

The attached action authorizes a Test Security Agreement between ErgoMetrics, Inc. and the Lexington-Fayette Urban County Government for testing applicants applying for Community Corrections Sergeant promotional processes, effective upon passage of Council.

What is the cost in this budget year and future budget year?

The cost is not to exceed \$5160 and will be funded from the division’s Professional Services/Corrections account (1101-160502-1824-71299).

File Number:

Director/Commissioner:

Glenda Humphrey George/Sally Hamilton

If you have any questions or need additional information, please contact Alana Morton at (859) 258-3037.





Lexington Fayette Urban County
Licensing Agreement
Attachment A

Pricing

| | |
|--|---------|
| REACT Promote Per Applicant License: | |
| Minimum for 1-10 Applicants | \$750 |
| (98) Additional Applicants @ \$45 each | \$4410 |
| Total | \$5160* |

*this is an estimate

*cost may vary based on actual number tested

Scoring will include standard and diagnostic scoring. Licensee will be responsible for all associated freight expenses. Minimum charges will be applied to each batch of answer sheets submitted.

Term of Agreement

The service agreement will begin and end on the following dates:

| Start Date | End Date |
|------------|----------|
| 03/01/24 | 05/10/24 |

All testing materials must be returned by the due date listed above. Materials **MUST** be returned using some form of registered, secure service that has a tracking number and requires a signature for delivery. Materials not returned by the specified due date will be subject to a \$25 late fee for every 15 days overdue. Any lost test materials must have the incident documented on company letterhead and will be subject to lost fees.

Per Applicant Test Licensing Agreement

1. Scope of Agreement

Ergometrics & Applied Personnel Research, Inc. ("Licensor") grants to the Licensee the right to use the Licensor's tests, outlined in Attachment A to this Agreement, incorporated herein by reference, and all associated materials (collectively, the "Test"), for the sole purpose of pre-employment and promotional testing. The Test may not be used for training purposes under any circumstances. The Licensee may not lease, rent, loan, transfer or administer this test to or for any other agency or entity without express written permission from the Licensor. The Test meets and/or exceeds all Equal Employment Opportunity Commission guidelines and professional standards. This agreement does not include local validation for the Licensee. The Licensor will provide national validation reports upon request. In the event of challenge, the Licensor will provide expert testimony at its regular consulting rates. The Licensor assumes no liability for the use or misapplication of this product.

2. Copyright

The Test is owned by the Licensor and protected by United States copyright laws and international treaty provisions. The Licensee is not authorized to copy any videos or DVD's. Printed materials may only be copied with express permission from the Licensor and may only be used for the purposes described in this Agreement or as otherwise approved by the Licensor.

3. Implementation

The Licensor will provide the Licensee general written or telephone instructions on the administration and use of the Test. The Licensor warrants that the video, audio, and printed materials are free from defects in material and workmanship. Licensor will assist Licensee with interpretation of score results and scoring methodology. The licensee was offered a transportability analysis as part of the implementation process. If the licensee chose not to conduct such an analysis, they hereby affirm they understand it is their responsibility to ensure the job is similar enough to the departments that participated in the criterion validation of the exam and/or have sufficient evidence of content validity.

4. Test Security

Licensee will maintain strict security of the Test in accordance with accepted security practices and those incorporated herein. Licensee shall be fully responsible for the secure storage and use of the Test and will establish and maintain strict test security procedures, including precautions preventing materials from being stolen, copied, or otherwise compromised.

- a. The Test must not be left unattended at any time, and when not in use, the Test must be kept in a secured and locked location. Trash containing confidential material will be disposed of securely.
- b. All persons having access to the Test must sign the Individual Statement of Understanding, found in the Administration Packet, and all signed copies kept on file with the Licensee for one year from the date of signature.
- c. Certification of Compliance with Confidentiality and Copyright, found in the Administration Packet, must be collected from each applicant before testing sessions begin, and all signed copies kept on file with the Licensee for one year from the date of signature.
- d. The Test maintained in electronic format must be kept on a non-networked, standalone computer.
- e. Cell phones and electronic devices are not allowed in the test administrations.
- f. No one, other than the official test monitor, should take notes or any other confidential materials from a testing room. In the event of loss or theft of the Test, or cheating, Licensor must be notified immediately.
- g. Any testing materials shipped must use a form of registered

service with tracking number and signature for delivery.

h. Test content is confidential and copyrighted. Any conversations about Test content must only be conducted formally in conjunction with the Licensor.

5. Subcontracting the Test

The Test is licensed for use only by the Licensee. The Licensee must contact the Licensor to obtain permission if the Licensee wishes to subcontract test administration or other services that involve the outside handling of the Test. The Licensee will remain fully responsible for the security of materials that are handled in this manner.

6. Termination

This Agreement may be terminated in whole in the event that the Licensee or Licensor breaches any material provision of this Agreement and fails to cure such breach within thirty (30) days after the non-breaching party delivers written notice of such breach to the breaching Party. Upon termination, Licensor will be entitled to payment, determined on a pro rata basis for services performed or rendered, and all Test materials must be returned immediately to the Licensor once the Agreement has been terminated.

7. Events Upon License Expiration or Termination

Upon any termination or expiration of this Agreement for any reason, Licensee will cease use of all testing materials and return such materials within 15 days of expiration or termination of the Agreement. Late or lost Test materials will be subject to additional fees. Attachment A to this Agreement sets out additional provisions in respect of the parties' obligations upon termination.

8. Pricing

Pricing for this Agreement is specified in Attachment A, incorporated herein by reference.

9. No Waiver

The waiver or failure of either Party to exercise in any respect any right provided in this Agreement shall not be deemed a waiver of any other right or remedy to which the party may be entitled.

10. Entirety of Agreement

The terms and conditions set forth herein constitute the entire Agreement between the Parties and supersede any communications or previous agreements with respect to the subject matter of this Agreement. There are no written or oral understandings directly or indirectly related to this Agreement that are not set forth herein. No change can be made to this Agreement other than in writing and signed by both Parties. Any previous Test Licensing agreements between Licensee and Licensor are null and void, replaced by this one.

11. Headings in this Agreement

The headings in this Agreement are for convenience only, confirm no rights or obligations in either party, and do not alter any terms of this Agreement.

12. Severability

If any term of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then this Agreement, including all of the remaining terms, will remain in full force and effect as if such invalid or unenforceable term had never been included.

13. Governing Law

This Agreement is governed by the laws of the State of Kentucky.

Test Licensing Agreement

This is a legal agreement between the Licensing Agency (Licensee) and Ergometrics and Applied Personnel Research, Inc. (Licensor) By accepting the Ergometrics test materials for use, you are agreeing to the terms of this agreement and that you have authority to enter into such an agreement on behalf of the Agency.

Licensee

Principal Signer _____ Date _____

Signature _____

Title _____

Agency Name _____

Physical Address _____

City _____ State _____ Zip _____

Telephone _____ Email _____

Authorized Contacts

Please list, in addition to the Principal Signer, anyone who is authorized to receive materials, scores or discuss scores with Ergometrics. Licensee is responsible for updating Ergometrics of any changes to Authorized Contacts.

Kina Suarez
Authorized Contact
HR Generalist
Title
859 258 3126
Telephone
ksuarez@lexingtonky.gov
Email

Dan James
Authorized Contact
HR Manager
Title
859 258 3954
Telephone
djames@lexingtonky.gov
Email



Return to:
Ergometrics &
Applied Personnel Research, Inc.
2122 164th St SW Suite 300
Lynnwood, WA 98087
FAX: 425-977-0566
Or email
clientservices@ergometrics.org

*Failure to return the signed licensing agreement,
will delay the processing of your order.*

For Office use only:

Product: _____

License Type: _____

Highrise: _____

Exam HQ: _____

Notes: _____

RESOLUTION NO. _____ - 2024

A RESOLUTION AUTHORIZING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE A TEST SECURITY AGREEMENT WITH ERGOMETRICS, INC. FOR TESTING APPLICANTS APPLYING FOR COMMUNITY CORRECTIONS SERGEANT PROMOTIONAL PROCESSES, AT A COST NOT TO EXCEED \$5,160.00.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized to execute a test security agreement with ErgoMetrics, Inc., which is attached hereto and incorporated herein by reference, for testing applicants applying for Community Corrections Sergeant promotional processes, at a cost not to exceed \$5,160.00

Section 2 – That an amount, not to exceed the sum of \$5,160.00, be and hereby is approved for payment to ErgoMetrics, Inc., from account #1101-160502-71299, pursuant to the terms of the Agreement.

Section 3 – That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL

0224-24:GET:4892-1690-3337, v. 1

RESOLUTION NO. 116 - 2024

A RESOLUTION AUTHORIZING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE A TEST SECURITY AGREEMENT WITH ERGOMETRICS, INC. FOR TESTING APPLICANTS APPLYING FOR COMMUNITY CORRECTIONS SERGEANT PROMOTIONAL PROCESSES, AT A COST NOT TO EXCEED \$5,160.00.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized to execute a test security agreement with ErgoMetrics, Inc., which is attached hereto and incorporated herein by reference, for testing applicants applying for Community Corrections Sergeant promotional processes, at a cost not to exceed \$5,160.00

Section 2 – That an amount, not to exceed the sum of \$5,160.00, be and hereby is approved for payment to ErgoMetrics, Inc., from account #1101-160502-71299, pursuant to the terms of the Agreement.

Section 3 – That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: March 21, 2024

Linda Gorton

MAYOR

ATTEST:

[Signature]
CLERK OF URBAN COUNTY COUNCIL



Lexington Fayette Urban County
Licensing Agreement
Attachment A

Pricing

| | |
|--|---------|
| REACT Promote Per Applicant License: | |
| Minimum for 1-10 Applicants | \$750 |
| (98) Additional Applicants @ \$45 each | \$4410 |
| Total | \$5160* |

*this is an estimate

*cost may vary based on actual number tested

Scoring will include standard and diagnostic scoring. Licensee will be responsible for all associated freight expenses. Minimum charges will be applied to each batch of answer sheets submitted.

Term of Agreement

The service agreement will begin and end on the following dates:

| Start Date | End Date |
|------------|----------|
| 03/01/24 | 05/10/24 |

All testing materials must be returned by the due date listed above. Materials MUST be returned using some form of registered, secure service that has a tracking number and requires a signature for delivery. Materials not returned by the specified due date will be subject to a \$25 late fee for every 15 days overdue. Any lost test materials must have the incident documented on company letterhead and will be subject to lost fees.

Per Applicant Test Licensing Agreement

1. Scope of Agreement

Ergometrics & Applied Personnel Research, Inc. ("Licensor") grants to the Licensee the right to use the Licensor's tests, outlined in Attachment A to this Agreement, incorporated herein by reference, and all associated materials (collectively, the "Test"), for the sole purpose of pre-employment and promotional testing. The Test may not be used for training purposes under any circumstances. The Licensee may not lease, rent, loan, transfer or administer this test to or for any other agency or entity without express written permission from the Licensor. The Test meets and/or exceeds all Equal Employment Opportunity Commission guidelines and professional standards. This agreement does not include local validation for the Licensee. The Licensor will provide national validation reports upon request. In the event of challenge, the Licensor will provide expert testimony at its regular consulting rates. The Licensor assumes no liability for the use or misapplication of this product.

2. Copyright

The Test is owned by the Licensor and protected by United States copyright laws and international treaty provisions. The Licensee is not authorized to copy any videos or DVD's. Printed materials may only be copied with express permission from the Licensor and may only be used for the purposes described in this Agreement or as otherwise approved by the Licensor.

3. Implementation

The Licensor will provide the Licensee general written or telephone instructions on the administration and use of the Test. The Licensor warrants that the video, audio, and printed materials are free from defects in material and workmanship. Licensor will assist Licensee with interpretation of score results and scoring methodology. The licensee was offered a transportability analysis as part of the implementation process. If the licensee chose not to conduct such an analysis, they hereby affirm they understand it is their responsibility to ensure the job is similar enough to the departments that participated in the criterion validation of the exam and/or have sufficient evidence of content validity.

4. Test Security

Licensee will maintain strict security of the Test in accordance with accepted security practices and those incorporated herein. Licensee shall be fully responsible for the secure storage and use of the Test and will establish and maintain strict test security procedures, including precautions preventing materials from being stolen, copied, or otherwise compromised.

- a. The Test must not be left unattended at any time, and when not in use, the Test must be kept in a secured and locked location. Trash containing confidential material will be disposed of securely.
- b. All persons having access to the Test must sign the Individual Statement of Understanding, found in the Administration Packet, and all signed copies kept on file with the Licensee for one year from the date of signature.
- c. Certification of Compliance with Confidentiality and Copyright, found in the Administration Packet, must be collected from each applicant before testing sessions begin, and all signed copies kept on file with the Licensee for one year from the date of signature.
- d. The Test maintained in electronic format must be kept on a non-networked, standalone computer.
- e. Cell phones and electronic devices are not allowed in the test administrations.
- f. No one, other than the official test monitor, should take notes or any other confidential materials from a testing room. In the event of loss or theft of the Test, or cheating, Licensor must be notified immediately.
- g. Any testing materials shipped must use a form of registered

service with tracking number and signature for delivery.

- h. Test content is confidential and copyrighted. Any conversations about Test content must only be conducted formally in conjunction with the Licensor.

5. Subcontracting the Test

The Test is licensed for use only by the Licensee. The Licensee must contact the Licensor to obtain permission if the Licensee wishes to subcontract test administration or other services that involve the outside handling of the Test. The Licensee will remain fully responsible for the security of materials that are handled in this manner.

6. Termination

This Agreement may be terminated in whole in the event that the Licensee or Licensor breaches any material provision of this Agreement and fails to cure such breach within thirty (30) days after the non-breaching party delivers written notice of such breach to the breaching Party. Upon termination, Licensor will be entitled to payment, determined on a pro rata basis for services performed or rendered, and all Test materials must be returned immediately to the Licensor once the Agreement has been terminated.

7. Events Upon License Expiration or Termination

Upon any termination or expiration of this Agreement for any reason, Licensee will cease use of all testing materials and return such materials within 15 days of expiration or termination of the Agreement. Late or lost Test materials will be subject to additional fees. Attachment A to this Agreement sets out additional provisions in respect of the parties' obligations upon termination.

8. Pricing

Pricing for this Agreement is specified in Attachment A, incorporated herein by reference.

9. No Waiver

The waiver or failure of either Party to exercise in any respect any right provided in this Agreement shall not be deemed a waiver of any other right or remedy to which the party may be entitled.

10. Entirety of Agreement

The terms and conditions set forth herein constitute the entire Agreement between the Parties and supersede any communications or previous agreements with respect to the subject matter of this Agreement. There are no written or oral understandings directly or indirectly related to this Agreement that are not set forth herein. No change can be made to this Agreement other than in writing and signed by both Parties. Any previous Test Licensing agreements between Licensee and Licensor are null and void, replaced by this one.

11. Headings in this Agreement

The headings in this Agreement are for convenience only, confirm no rights or obligations in either party, and do not alter any terms of this Agreement.

12. Severability

If any term of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then this Agreement, including all of the remaining terms, will remain in full force and effect as if such invalid or unenforceable term had never been included.

13. Governing Law

This Agreement is governed by the laws of the State of Kentucky.

Test Licensing Agreement

This is a legal agreement between the Licensing Agency (Licensee) and Ergometrics and Applied Personnel Research, Inc. (Licensor) By accepting the Ergometrics test materials for use, you are agreeing to the terms of this agreement and that you have authority to enter into such an agreement on behalf of the Agency.

Licensee

Linda Gorton 4/9/2024
Principal Signer Date

Linda Gorton
Signature

Mayor
Title

Lexington Fayette Urban County Government
Agency Name

200 East Main Street
Physical Address

Lexington KY 40507
City State Zip

Telephone _____ Email _____

Authorized Contacts

Please list, in addition to the Principal Signer, anyone who is authorized to receive materials, scores or discuss scores with Ergometrics. Licensee is responsible for updating Ergometrics of any changes to Authorized Contacts.

Kina Suarez
Authorized Contact

HR Generalist
Title

859 258 3126
Telephone

ksuarez@lexingtonky.gov
Email

Dan James
Authorized Contact

HR Manager
Title

859 258 3954
Telephone

djames@lexingtonky.gov
Email



Return to:
Ergometrics &
Applied Personnel Research, Inc.
2122 164th St SW Suite 300
Lynnwood, WA 98087
FAX: 425-977-0566
Or email
clientservices@ergometrics.org

*Failure to return the signed licensing agreement,
will delay the processing of your order.*

For Office use only:

Product: _____

License Type: _____

Highrise: _____

Exam HQ: _____

Notes: _____



Lexington-Fayette Urban County Government

Master

200 E. Main St
Lexington, KY 40507

File Number: 0225-24

File ID: 0225-24

Type: Resolution

Status: Approved

Version: 2

Contract #:

In Control: Urban County Council

File Created: 02/26/2024

File Name: Cephass ROW Transfer

Final Action: 03/07/2024

Title: A Resolution authorizing the Mayor, on behalf of the Urban County Government, to execute a Quitclaim Deed and any other documents necessary to transfer a portion of non-utilized right-of-way located adjacent to the property at 3541 Cephass Way to the abutting property owners. [Dept. of Environmental Quality and Public Works, Albright]

Notes:

Sponsors:

Enactment Date: 03/07/2024

Attachments: Cephass - Bluesheet Memo, Cephass ROW - Memo to Law, CEPHAS WAY 3541 Exhibit, 3541 Cephass Way Legal Description, QUITCLAIM DEED, RESO 0225-24 Quitclaim Deed for Non-Utilized ROW to 3541 Cephass Way 4859-4617-2842 v.1.docx, R-092-2024

Enactment Number: R-092-2024

Deed #:

Hearing Date:

Drafter: Nathan Dickerson

Effective Date:

History of Legislative File

| Ver- sion: | Acting Body: | Date: | Action: | Sent To: | Due Date: | Return Date: | Result: |
|---------------|-----------------------------------|------------|------------------------------------|----------------------|------------|-----------------|---------|
| 2 | Urban County Council Work Session | 03/05/2024 | Approved and Referred to Docket | Urban County Council | 03/07/2024 | | Pass |
| 2 | Urban County Council | 03/07/2024 | Received First Reading | Urban County Council | 03/07/2024 | | |
| 2 | Urban County Council | 03/07/2024 | Suspended Rules for Second Reading | | | | Pass |
| 2 | Urban County Council | 03/07/2024 | Approved | | | | Pass |

Text of Legislative File 0225-24

Title

A Resolution authorizing the Mayor, on behalf of the Urban County Government, to execute a Quitclaim Deed and any other documents necessary to transfer a portion of non-utilized right-of-way located adjacent to the property at 3541 Cephass Way to the abutting property

owners. [Dept. of Environmental Quality and Public Works, Albright]

Summary

Authorization to transfer a portion of unused right-of-way to the adjacent property owners (Claire and Clovis Collins) at 3541 Cephas Way and for execution of all related documents.

No Budgetary impact. (L0225-24) (Albright)

Budgetary Implications [select]: NO

Advance Document Review:

Law: Yes, Completed by Michael Cravens, 2/23/24

Risk Management: NA

Fully Budgeted [select]: NA

Account Number: NA

This Fiscal Year Impact: NA

Annual Impact: NA

Project: NA

Activity: NA

Budget Reference: NA

Current Balance: NA



TO: Mayor Linda Gorton
Urban County Council

FROM: 
Nathan Dickerson, Administrative Officer
Environmental Quality & Public Works

DATE: February 26, 2024

SUBJECT: Request from 3541 Cephas Way for Rejection of a Portion of Public Right-of-Way

Request:

The Department of Environmental Quality & Public Works requests Urban County Council approval of the transfer of a portion of unused right-of-way to the adjacent property owners (Claire and Clovis Collins) at 3541 Cephas Way. LFUCG Division and utility company representatives have responded with comments and consented to this request. The Department requests Council authorization of the transfer as presented and execution of all related documents.

Why are you requesting:

The property owners requested this transfer and stakeholders have subsequently consented to their request after completing reviews. In 2016, the owner on the other side of this unused right-of-way received a portion of the unused right-of-way abutting its property via quitclaim deed (see Resolution No. 250-2016). Accordingly, authorization of this request would grant the requesting owners on the other side of the unused right-of-way a transfer consistent with the corresponding portion of unused public right-of-way they currently abut. No street has been constructed, or will be constructed, utilizing this right-of-way; therefore, it is appropriate to quitclaim the unused portion to the requesting, abutting owners.

What is the cost in this budget year and future budget years?

The cost for this FY is: N/A
The cost for future FY is: N/A

Are the funds budgeted?

The funds are budgeted or a budget amendment is in process:
Account number: N/A

File Number: 0225-24

Director/Commissioner: Nancy Albright
Environmental Quality & Public Works





TO: Michael Cravens
Managing Attorney, Department of Law

FROM: Nathan Dickerson
Administrative Officer, Department of EQPW

DATE: February 5, 2024

RE: Legal review of requested rejection of ROW

This memorandum is to request the legal review of a request to reject a portion of public right of way denoted in the attachments. LFUCG divisions and utility representatives have responded with comments, and those comments are summarized below for your review. Should you have any questions regarding this request, please feel free to contact me at (859) 258-3407.

LFUCG INTERNAL

Emergency Services

Division of E911 & Addressing: Addressing is good with transferring this old ROW area to parcels in question. (Robert Poage)

Division of Fire: The Division of Fire has no issue with this request going forward. (Captain Greg Lengal)

Environmental Quality & Public Works Divisions

Division of Engineering: No deal breakers for the adjacent development so no objections from that standpoint. (Doug Burton)

Division of Environmental Services: No comments from DES. (Jennifer Carey)

Division of Streets & Roads: No objections. (Robert Allen)

Division of Traffic Engineering: As long as the utility easements are protected, TE will not be impacted in any way. (Jeff Neal)

Division of Water Quality: I don't see any reason (from DWQ's perspective) to not grant the closure. (Greg Lubeck)



Other LFUCG Divisions

Division of Planning: The Transportation Planning Division has no objections to the ROW closure. (Christopher Evilia)

Planning Services has no objection to the right-of-way closure. (Traci Wade)

EXTERNAL

NISOURCE (Columbia Gas): Please retain an easement for existing gas lines and utilities. (James A. "Tony" Tipton)

Kentucky American Water: I have reviewed this request and since Kentucky American has a Private Water Line Easement in the area in question, we have NO reason to disallow this request. (Tobey J. Adams)

Kentucky Utilities: In exchange for the [owner's] binding obligation to grant Kentucky Utilities Company ("KU") an easement accommodating KU's existing facilities in the area of the proposed road closure, which easement must be in a manner and form agreeable to KU in its sole discretion, KU is willing to provide any requisite consents or approvals with respect to the proposed closure. (Jordan Kiser)

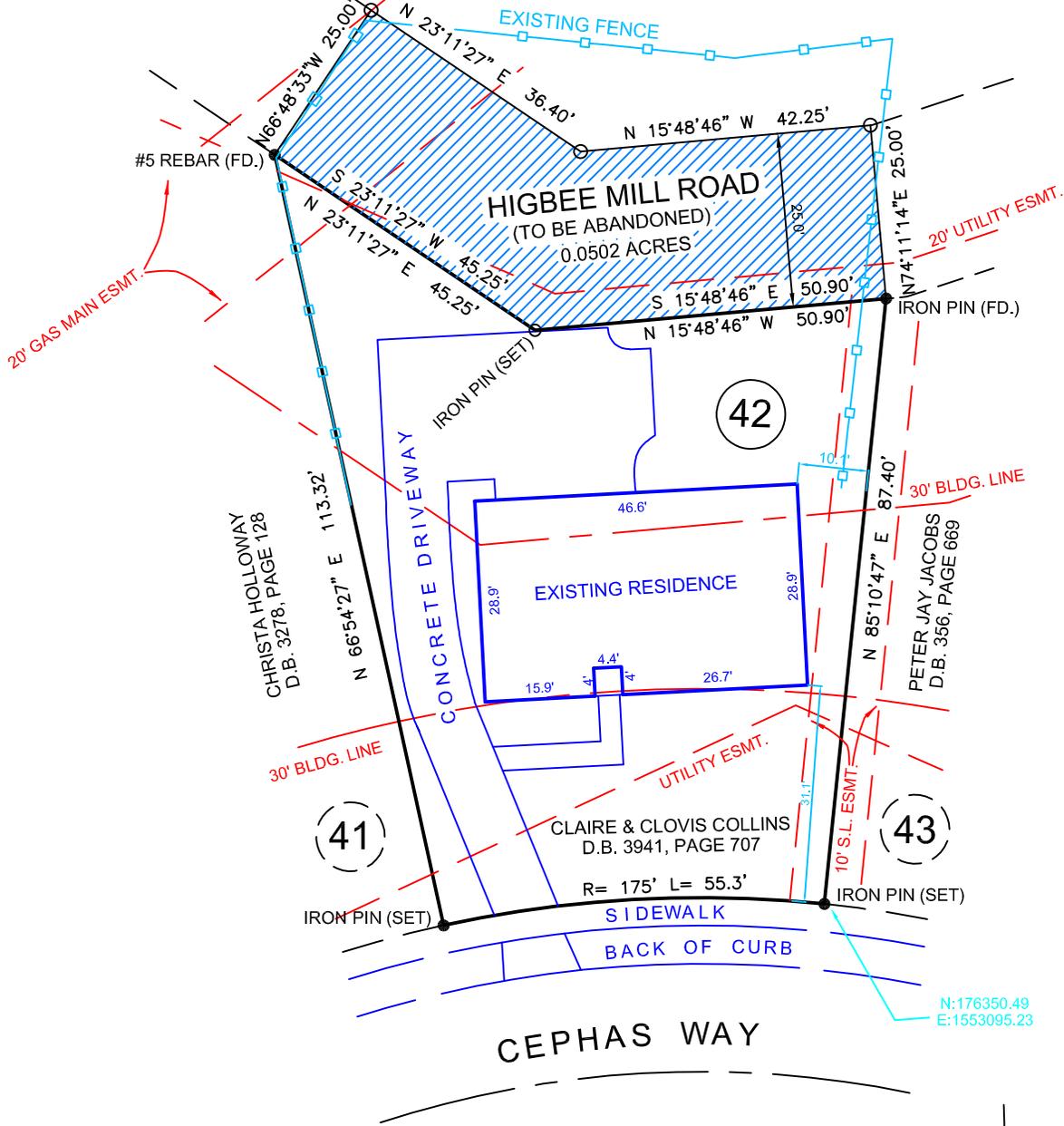
Windstream: Approval for closure is fine with us. (Jean Hadley)

MetroNet: We do not have any underground plant in the area, Metronet has no concerns. (Lori Kemper)





REALTY UNLIMITED BLUE GRASS LLC
D.B. 3369, PAGE 360



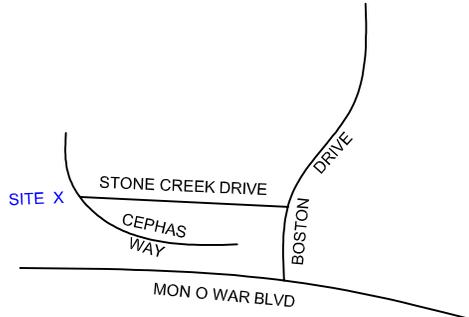
CHRISTA HOLLOWAY
D.B. 3278, PAGE 128

PETER JAY JACOBS
D.B. 356, PAGE 669

CLAIRE & CLOVIS COLLINS
D.B. 3941, PAGE 707

R= 175' L= 55.3'

N:176350.49
E:1553095.23



VICINITY MAP

- R/W PROPOSED TO BE ABANDONED
- HEAVY BLACK - PROPERTY /BOUNDARY LINE
- BLUE - BUILDING OR OTHER IMPROVEMENT
- RED - BUILDING LINE OR OTHER ESMT.
- BLUE WITH BLOCKS - EXISTING FENCE

SURVEY NOTES

- ALL IRON PIN (SET) ARE #5 X 18" REBAR W/ I.D. CAP.
- MERIDIAN OF SURVEY IS REFERRED GRID NORTH, BASED ON KY NORTH DATUM.
- COORDINATES DEPICTED HEREON ARE BASED ON KY NORTH DATUM.

THIS FIELD SURVEY COMPLIES WITH 201 KAR 18:150 AND WAS DONE USING A SPECTRA PRECISION SP80 RTK GPS HAVING A POSITIONAL ACCURACY OF 0.05' OR BETTER. THIS IS A CLASS A 'URBAN' SURVEY. ALL WORK WAS PERFORMED UNDER MY DIRECTION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF

12/13/2022
GARY ROLAND, P.L.S. #3363

CAM SURVEYING
Residential | Commercial | Farm | Lender Services
(859)621.2116 (859)621.6762
camsurveying@yahoo.com

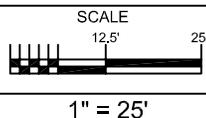
STATE OF KENTUCKY
GARY ROLAND
3363
LICENSED PROFESSIONAL LAND SURVEYOR

CLAIRE COLLINS
CMWELSH94@GMAIL.COM

SURVEY FOR

CLAIRE COLLINS
3541 CEPHAS WAY
LEXINGTON, KEN

STONE CREEK ESTATES
LOT 42, UNIT #5
PLAT CAB. 'H', SLIDE 199



DATE OF FIELD SURVEY:
DECEMBER 2, 2022

DRAFTED BY
GDR
PROJECT NO.

3541 Cephas Way

'Higbee Mill Road'

(Abandoned R/W)

A certain tract of land situated in Lexington, Fayette County, Kentucky, said tract of land lying at the rear of Lot 42, of Stone Creek Estates, Unit 5 (Plat Cabinet 'H', Slide 199), commonly known as 3541 Cephas Way; and being more particularly described as follows:

Beginning at an iron pin (fd.) at the northwest corner of said lot 42; thence with the rear of said lot 42 $S15^{\circ}48'46''E$ 50.90' to an iron pin (set); thence continuing with said lot 42 $S23^{\circ}11'27''W$ 45.25' to the southwest corner of lot 42; thence $N66^{\circ}48'33''W$ 25.00' to a point in the line of Realty Unlimited Blue Grass, LLC (Deed Book 3369, Page 360); thence with Realty Unlimited Blue Grass, LLC for two calls: $N23^{\circ}11'27''E$ 36.40' to a point and $N15^{\circ}48'46''W$ 42.25' to a point; thence $N74^{\circ}11'14''E$ 25.00' to the Point of Beginning and containing 0.0502 acres.

The foregoing legal description was prepared by Gary Roland, P.L.S. with CAM Surveying, LLC based upon information of record and actual field measurements. It is intended to be used solely for the consolidation of former right-of way with the property known as 3541 Cephas Way. 201 KAR 18:150.

QUITCLAIM DEED

THIS QUITCLAIM DEED made and entered into this _____ day of February, 2024, by and between **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, an urban county government of the Commonwealth of Kentucky pursuant to Chapter 67A of the Kentucky Revised Statutes, whose mailing address is 200 East Main Street, Lexington, Kentucky 40507 (the “Grantor”) and Claire Collins and Clovis Colins, 3541 Cephas Way, Lexington, Kentucky 40503 (the “Grantee”); the Grantee’s address is the in-care-of tax mailing address for the current tax year.

W I T N E S S E T H:

WHEREAS, by Resolution No. _____ adopted by the Council of the Lexington-Fayette Urban county Government on the _____ day of _____, 2024, authorizes the Mayor to execute a quitclaim deed for a portion of undeveloped right-of-way to the abutting property owner;

NOW, THEREFORE, for and in consideration of the sum of **ONE AND 00/100 DOLLARS (\$1.00)**, and for other good and valuable consideration, the receipt of all of which consideration is hereby acknowledged by Grantor, said Grantor does hereby **REMISE, RELEASE** and forever **QUITCLAIM** unto the Grantee, its successors and assigns forever, all of its right, title and interest in the following described real property situated in the City of Lexington, County of Fayette, Kentucky:

A certain tract of land situated in Lexington, Fayette County, Kentucky, said tract of land lying at the rear of Lot 42, of Stone Creek Estates, Unit 5 (Plat Cabinet 'H', Slide 199), commonly known as 3541 Cephas Way; and being more particularly described as follows:

Beginning at an iron pin (fd.) at the northwest corner of said lot 42; thence with the rear of said lot 42 S15°48'46"E 50.90' to an iron pin (set); thence continuing with said lot 42 S23 11'27"W 45.25' to the southwest corner of lot 42; thence N66°48'33"W 25.00' to a point in the line of Realty Unlimited Blue Grass, LLC (Deed Book 3369, Page 360); thence with Realty Unlimited Blue Grass, LLC for

two calls: N23°11'27"E 36.40' to a point and N15 48°46"W 42.25' to a point; thence N74°11'14"E 25.00' to the Point of Beginning and containing 0.0502 acres.

TO HAVE AND TO HOLD the same unto the Grantee, its successors or assigns, subject to all easements and encumbrances of record and to any and all rights of others recognized or permitted by the Grantor for the presence of utilities in or upon the property, and in respect to such utility rights, where no easement exists, including without limitation the following: an easement allowing Kentucky Utilities Company, or its successor in interest, to maintain its facilities and equipment on the Premises; an easement allowing Columbia Gas of Kentucky, Inc., or its successor in interest, to maintain its gas line(s) on the Premises; and an easement allowing Windstream Communications, LLC, or its successor in interest, to maintain facilities and equipment on the Premises or to access same from the Premises. This instrument is exempt from the requirements for a Consideration Certificate by KRS 382.152(2)(c).

IN WITNESS WHEREOF, Grantor causes this instrument to be executed by its duly authorized officer on this the day and year first above written, pursuant to the Ordinance of the Lexington-Fayette Urban County Government, hereinbefore mentioned.

LEXINGTON-FAYETTE URBAN
COUNTY GOVERNMENT

BY: _____
Linda Gorton, Mayor

RESOLUTION NO. ____ - 2024

A RESOLUTION AUTHORIZING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE A QUITCLAIM DEED AND ANY OTHER DOCUMENTS NECESSARY TO TRANSFER A PORTION OF NON-UTILIZED RIGHT-OF-WAY LOCATED ADJACENT TO THE PROPERTY AT 3541 CEPHAS WAY TO THE ABUTTING PROPERTY OWNERS.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized to execute a quitclaim deed and any other documents necessary to transfer a portion of non-utilized right-of-way located adjacent to the property at 3541 Cephas Way, depicted in Exhibit A, to the abutting property owners.

Section 2 – That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL

0225-24:MSC:4859-4617-2842, v. 1

RESOLUTION NO. 092-2024

A RESOLUTION AUTHORIZING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE A QUITCLAIM DEED AND ANY OTHER DOCUMENTS NECESSARY TO TRANSFER A PORTION OF NON-UTILIZED RIGHT-OF-WAY LOCATED ADJACENT TO THE PROPERTY AT 3541 CEPHAS WAY TO THE ABUTTING PROPERTY OWNERS.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized to execute a quitclaim deed and any other documents necessary to transfer a portion of non-utilized right-of-way located adjacent to the property at 3541 Cephas Way, depicted in Exhibit A, to the abutting property owners.

Section 2 – That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: March 7, 2024



MAYOR

ATTEST:



CLERK OF URBAN COUNTY COUNCIL
0225-24:MSC:4859-4617-2842, v. 1



Lexington-Fayette Urban County Government

Master

200 E. Main St
Lexington, KY 40507

File Number: 0227-24

File ID: 0227-24

Type: Resolution

Status: Approved

Version: 2

Contract #: 319-2024

In Control: Urban County Council

File Created: 02/26/2024

File Name: Request Council authorization to execute agreement and accept funding from the Kentucky Opioid Response Effort administered by the Commonwealth of Kentucky, Cabinet for Health and Family Services, in the amount of \$50,000 to help fund the Community Parame

Final Action: 03/07/2024

Title: A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement with the Cabinet for Health and Family Services accepting \$50,000 in Federal funds from the Ky. Opioid Response Effort, in order to support the Community Paramedicine Program, the acceptance of which does not obligate the Urban County Government to the expenditure of funds, authorizing the Mayor to execute any necessary amendments related to these funds, and also authorizing the Mayor to transfer unencumbered funds with the Grant Budget established for this Grant. [Div. of Fire and Emergency Services, Wells]

Notes: Signed and CILOO filed in the CCO. Returned to Celia Moore 11/21/2024. MS

Sponsors:

Enactment Date: 03/07/2024

Attachments: 24-Blue Sheet KORE Fire, Draft_PON2_729_2400002022_1_PO_CNTRCT_FO RM -Unsigned, 0227-24 (KORE Grant) 4888-7533-0730 v.1.doc, R-093-2024, Contract #319-2024

Enactment Number: R-093-2024

Deed #:

Hearing Date:

Drafter: Katrina James

Effective Date:

History of Legislative File

| Ver- sion: | Acting Body: | Date: | Action: | Sent To: | Due Date: | Return Date: | Result: |
|---------------|-----------------------------------|------------|------------------------------------|----------------------|------------|-----------------|---------|
| 2 | Urban County Council Work Session | 03/05/2024 | Approved and Referred to Docket | Urban County Council | 03/07/2024 | | Pass |
| 2 | Urban County Council | 03/07/2024 | Received First Reading | Urban County Council | 03/07/2024 | | |
| 2 | Urban County Council | 03/07/2024 | Suspended Rules for Second Reading | | | | Pass |

Text of Legislative File 0227-24

Title

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement with the Cabinet for Health and Family Services accepting \$50,000 in Federal funds from the Ky. Opioid Response Effort, in order to support the Community Paramedicine Program, the acceptance of which does not obligate the Urban County Government to the expenditure of funds, authorizing the Mayor to execute any necessary amendments related to these funds, and also authorizing the Mayor to transfer unencumbered funds with the Grant Budget established for this Grant. [Div. of Fire and Emergency Services, Wells]

Summary

Authorization to execute an Agreement and accept funding from the Kentucky Opioid Response Effort, administered by the Commonwealth of Kentucky, Cabinet for Health and Family Services, in the amount of \$50,000 to help fund the Community Paramedicine Program. No matching funds required. (L0227-24) (Wells/Armstrong)

Budgetary Implications: Yes

Advance Document Review:

Law: Yes, Completed by Michael Sanner, 11/29/2023

Risk Management: N/A

Fully Budgeted: FY2025 Budget amendment will be completed.

Account Number:

This Fiscal Year Impact: \$50,000

Annual Impact: \$0

Project:

Activity:

Budget Reference:

Current Balance: BA will be processed if awarded



**TO: LINDA GORTON, MAYOR
URBAN COUNTY COUNCIL**

**FROM: THERESA REYNOLDS, DIRECTOR
DIVISION OF GRANTS AND SPECIAL PROGRAMS**

DATE: FEBRUARY 26, 2024

**SUBJECT: Acceptance of FY2025 Funding from the Cabinet for Health and Family
Services for the Lexington Fire Department**

Request: Council approval to execute agreement and accept funding from the Kentucky Opioid Response Effort administered by the Commonwealth of Kentucky, Cabinet for Health and Family Services, in the amount of \$50,000 to help fund the Community Paramedicine Program. No matching funds required.

Purpose of Request: The purpose of the grant is a continuation of Quick Response Team capabilities through existing staffing within the Community Paramedicine Program. Grant funding will allow for the continuation of having the firefighter to work in the Community Paramedicine and paying the backfilled overtime costs generated by the move.

The Kentucky Opioid Response Effort (KORE) seeks to expand and sustain a comprehensive, equitable recovery-oriented system of care to end the opioid epidemic that has reached into every community in Kentucky. To achieve this aim, KORE and its partners commit to a trauma informed care and anti-racist framework to reduce overdose deaths and increase access to high quality, evidence-based prevention, treatment, and recovery support services.

What is the cost in this budget year and future budget years? \$50,000 has been awarded for FY2025. Funding for future budget years is dependent upon availability of federal funding.

Are the funds budgeted? FY2025 budget amendment will be completed.

File Number: 0227-24

Director/Commissioner: Wells/Armstrong





Commonwealth of Kentucky CONTRACT

DOC ID NUMBER:

PON2 729 2400002022

Version: 1

Record Date:

Document Description: Quick Response Team (QRT) C5106

Cited Authority: FAP111-44-00
Memorandum of Agreement

Reason for Modification:

Issuer Contact:Name: Monica Bell Spalding
Phone: 502-564-7736
E-mail: monica.bellspalding@ky.gov**Vendor Name:**LEXINGTON FAYETTE URBAN CO GOVERNMENT
200 EAST MAIN STREET
LEXINGTON KY 40507**Vendor No.**

KY0032969

Vendor ContactName: Chad Hancock
Phone: 8592583313
Email: chancock@lexingtonky.gov**Effective From:** 07/01/2024**Effective To:** 12/31/2024

| Line Item | Delivery Date | Quantity | Unit | Description | Unit Price | Contract Amount | Total Price |
|-----------|---------------|----------|------|------------------|------------|-----------------|-------------|
| 1 | | 0.00000 | | KORE SOR III QRT | \$0.000000 | \$50,000.00 | \$50,000.00 |

Extended Description:

Lexington Fayette Urban County Government shall maintain a Quick Response Team (QRT) comprised of a collaborative, interdisciplinary partnership between any of the following community partners: treatment providers, first responders, health department staff, local community-based organizations including faith-based groups and peer support professionals with lived experience.

100% Federal Funding
CFDA# 93.788**Contractor Contact**Name: Chad Hancock
Phone: 859/258-3313
Email: chancock@lexingtonky.gov**Agency Contact**Name: Jamie Redmon
Phone: 502-782-0226
Email: jamiek.redmon@ky.gov

| Shipping Information: | Billing Information: |
|------------------------------|---|
| | CHFS DBHDID - Commissioner 275 E Main Street 4WF Frankfort KY 42240 |

| | |
|-------------------------------|--------------------|
| TOTAL CONTRACT AMOUNT: | \$50,000.00 |
|-------------------------------|--------------------|

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| 2400002022 | Quick Response Team (QRT) C5106 | |

**Memorandum of Agreement Terms and Conditions
Regular (Government/Quasi-Governmental) (PON2)**

This Memorandum of Agreement (MOA) is entered into, by and between the Commonwealth of Kentucky, Cabinet for Health and Family Services Department for Behavioral Health, Developmental and Intellectual Disabilities (“the Commonwealth”) and Lexington Fayette Urban County Government (“The Contractor”) to establish an agreement to maintain a Quick Response Team. The initial MOA is effective from 07/01/2024 through 12/31/2024.

SECTION 1 – ADMINISTRATIVE OVERVIEW

1.00 Purpose and Background

The Kentucky Opioid Response Effort (KORE) seeks to expand and sustain a comprehensive, equitable recovery-oriented system of care to address opioid use disorder (OUD) and stimulant use disorder (StimUD) for all individuals throughout Kentucky. To achieve this aim, KORE and its partners commit to implementing a trauma- and resilience-informed care approach within a racial equity framework to reduce overdose deaths and increase equitable access to high quality, evidence-based prevention, treatment, and recovery support services that are culturally responsive. Informed by data on populations most in need, the KORE projects will focus on four primary populations with OUD and/or StimUD: 1) Opioid overdose survivors, 2) Pregnant and parenting, 3) Justice-involved, and 4) Black, Indigenous, and Persons of Color.

Lexington Fayette Urban County Government shall maintain a Quick Response Team (QRT). A QRT provides a way for public safety officials to work with behavioral health providers to serve individuals who have experienced or is at risk of experiencing an opioid related overdose or complication. The goal of the QRT is to reduce the incidence of overdoses and overdose fatalities by increasing the number of people who receive OUD treatment, harm reduction and recovery support services.

1.01 Issuing Office

The Commonwealth of Kentucky, Cabinet for Health and Family Services, Division of Procurement and Grant Oversight, is issuing this Contract on the behalf of the Department for Behavioral Health, Developmental and Intellectual Disabilities Division of Substance Use Disorder. The Cabinet’s designee is the only office authorized to change, modify, amend, alter, or clarify the specifications, terms and conditions of this Contract.

1.02 Communications

The Issuer identified on page 1 is the point of contact during the procurement process and for communications concerning contract issues during the life of the contract. After the Award of the Contract, all contractual communications are to be sent to the Agency Contact Person listed in the Extended Description of Commodity Line 1. Notices by the Cabinet shall be sent to the Contractor representative listed in the Extended

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Description of Commodity Line 1. Unless otherwise stated, all notices, consents, and other contractual communications shall be in writing.

1.03 Terminology

For this Contract, the following terms may be used interchangeably:

- Vendor: Contractor, Offeror, The Second Party, Proposer
- Issuer of Contract: Buyer, Purchaser, Contract Officer
- Commonwealth of Kentucky: Commonwealth, State
- Cabinet for Health and Family Services: the Cabinet, the Department, the Agency, CHFS
- Fiscal Year is the Commonwealth fiscal year: July 1 through June 30
- Biennium is the Commonwealth biennium: July 1 of each even numbered year through June 30 of the next even numbered year.

1.04 Organization

This Contract is organized in the following manner:

- Section 1-Administrative Overview
- Section 2-Scope of Services
- Section 3-Pricing/Invoicing
- Section 4-CHFS General Terms and Conditions
- Section 5-Federal Requirements
- Finance Terms and Conditions of the Contract

SECTION 2 – SCOPE OF SERVICES

2.00 Services Required

Lexington Fayette Urban County Government shall:

1. Maintain a Quick Response Team (QRT) comprised of a collaborative, interdisciplinary partnership between any of the following community partners: treatment providers, first responders, health department staff, local community-based organizations including faith-based groups and peer support professionals with lived experience. QRT shall have the capacity to provide the following:
 - a. Engage with individuals who have experienced an overdose or complications related to opioid and/or stimulant use.
 - b. Provide assertive linkages to harm reduction, evidence-based treatment interventions, and recovery services, which support multiple pathways to recovery including the use of Food and Drug Administration (FDA) approved medications for opioid use disorder (MOUD, methadone, buprenorphine, naltrexone).

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- c. Provide assertive engagement and relationship building to educate individuals, family members and the larger community about addiction, available evidence-based resources for prevention, harm-reduction, treatment and recovery, and the ways in which the QRT can assist individuals and families.
 2. Maintain and facilitate an ongoing training plan for the QRT focused on the following key competencies:
 - a. Health Insurance Portability and Accountability Act of 1996 (HIPAA) regulations and practices.
 - b. Post overdose training.
 - c. Offer naloxone to all patients who present with opioid overdose or other sequelae of OUD along with overdose education and training on naloxone administration.
 - d. Casey’s Law education.
 - e. Motivational Interviewing.
 - f. Trauma-informed care.
 3. Review the following documents at least annually and update as needed:
 - a. Written procedures for how the QRT will operate, what the responsibilities of each partner will be, and set hours of availability to best meet the needs of the population outside of weekly 9 am – 5 pm hours of operation.
 - b. A uniform resource packet, script, and plan for how each visit will be structured and communicate that clearly to all participating partners.
 - c. A written action plan for individuals wanting immediate treatment from the QRT. The action plan shall consist of what steps to take first, transportation guidelines and procedures, as well as referrals to treatment or other resources. The action plan shall also consist of procedures for the completion of intake and assessment forms.
 - d. Written standard operating policies and procedures that includes how information will be obtained; how HIPAA laws and procedures are maintained; how visits will take place and with whom; the organization’s professional behavior policy; process for data collection, safety, and risk management protocols; and how and when naloxone is distributed.
 - 4.--Maintain a steering committee, advisory board, Board of Directors, or some other project governance mechanism with at least one-third of the voting membership comprised of individuals in recovery and/or family members of individuals in recovery. Key community partners can include law enforcement, emergency responders, jails, judges, specialty court staff, political officials and city governments, health departments, community and faith-based organizations and substance use treatment and recovery systems. This group must be committed to continuous improvement and actively involved in designing, implementing, and overseeing a

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plan of timely response, outreach and education focused on individuals who have experienced an opioid and/or stimulant related overdose.

2.01 Deliverables

Lexington Fayette Urban County Government shall:

1. Diversify partnerships with organizations serving as referral agencies to the QRT:
 - a. Identifying and meet with, at minimum, three (3) potential referral partners.
 - b. Establish formal referral relationships with, at minimum, one (1) new partner.
 - c. Engage at least monthly with, a minimum, of one (1) program that serves persons at-risk of experiencing overdose, such as jails and prisons, emergency departments, syringe service programs.
2. Provide in-person, rapid response within 24 -72 hours to individuals and families experiencing an opioid or stimulant overdose or related complication:
 - a. Engage in Harm Reduction strategies as part of the QRT services including fentanyl test strips (FTS) and naloxone distribution during rapid response visits and/or follow-up visits.
3. Sustain a robust resource network to minimize gaps/barriers to service engagement and retention:
 - a. Maintain a referral resource packet, including intake processes and supportive services.
 - b. Identify, at minimum, one (1) new resource and add to referral list.
4. Engage in ongoing follow-up with persons served to monitor and support individual's access to and engagement with services and supports.
 - a. Maintain a process to track referrals that allows all members of the QRT to engage in follow-up with clients.
 - b. Conduct follow-up engagement with, at minimum, twenty percent (20%) of clients within thirty (30) days after initial contact to ensure connections were made and provide additional linkages if necessary.
5. Increase assertive engagement to underserved and minoritized populations at high risk for overdose by doing the following:
 - a. Canvas and offer QRT services in at least one (1) area identified by individuals living in a Black, Indigenous and People of Color (BIPOC) or other marginalized community.
 - b. Initiate and maintain an informal partnership with regular communication and relationship building with the Black, Indigenous and People of Color (BIPOC) community.
 - c. Consult and take direction from individuals living in underserved BIPOC communities to provide perspective and awareness of racial/ethnic, social, emotional, and cognitive needs of the population.

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- d. Increase trauma-informed and culturally responsive marketing strategies to include in-person and virtual community engagement, leveraging of social media platforms and partnership collaboration alongside traditional forms of advertising.
- 6. Ensure QRT partners are trained in overdose prevention and response, and cross sector collaboration:
 - a. Conduct one (1) training with partner agencies in overdose prevention and quick response strategies.
 - b. Ensure partners are aware of naloxone leave behind and other available harm reduction programs.
- 7. Maintain the current performance data monitoring plan that includes Government Performance and Results Act (GPRA) collections (directly or through referral agencies) and continuous quality improvement:
 - a. Maintain a data-tracking/quality improvement and communication system for the QRT that is secure, HIPAA compliant and includes a regular disaggregation of data to ensure services are being provided to communities of color, individuals who may be unhoused and others who are at an increased risk of overdose and health disparities.
 - b. Participate in KORE learning and resource sharing community through digital and in-person meetings.
- 8. Leverage diverse funding streams and resources to sustain and maximize impact of QRT:
 - a. Maintain a robust sustainability plan that includes, at minimum, two (2) specific strategies for long-term sustainability of the program.
- 9. Hold regular meetings with steering committee, advisory board, Board of Directors, or other project governance to ensure ongoing development and improvement of QRT services.
- 10. Notify KORE prior to media communications and acknowledge federal funding in all communications activities using the following tag line: "This project is supported by the Kentucky Opioid Response Effort (KORE) via Substance Abuse and Mental Health Services Administration (SAMHSA) Grant H79TI085782."

2.02 Reporting Requirements

Lexington Fayette Urban County Government shall:

- 1. Complete an intake Government Performance and Results Act (GPRA) with 100% of consenting individuals with a history or OUD and/or stimulant use disorder and a six (6) month follow-up interview with at least 80% of individuals who complete an intake. Data shall be submitted to the Web Infrastructure for Treatment Services (WITS) platform within fourteen (14) days of service delivery.
- 2. Collect and report client demographics for all persons with OUD and/or stimulant use disorder served through SOR-funded services. Data shall be submitted to the Web Infrastructure for Treatment Services (WITS) platform within fourteen

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(14) days of service delivery and submitted monthly by the 15th of each month to KOREReporting@ky.gov.

3. Track QRT service delivery and outcomes. Outcomes shall include, but not be limited, to the following:

- a. Description of persons engaged (e.g., person with substance use disorder, family member, friend, etc.)
- b. Service types initiated (e.g., residential, outpatient, harm reduction, shelter, etc.).
- c. Outcome of visit and follow-up plan (e.g., individual not home, will return within 48 hours; individual declined participating in all services but consented to continued QRT follow-up calls and visits, etc.

4. If applicable, submit monthly training reports on any trainings conducted as a part of KORE-funded activities. Reports are due no later than fifteen (15) days following the end of each month.

Reports shall include, but not be limited, to the following information:

- a. Date of training.
- b. Type of training/Content focus.
- c. Number of individuals attending training; and d. Professional type for each trainee (physician, social worker, etc.).

2.03 Subcontractors

Subcontractors may be used upon approval of DBHDID.

2.04 CHFS/Department for Behavioral Health, Developmental and Intellectual Disabilities Responsibilities

DBHDID is responsible for providing technical assistance, oversight, and coordination for the provision of services under this contract.

2.05 Monitoring Requirements

DBHDID may conduct an annual program performance and compliance site review of Lexington Fayette Urban County Government. Monitoring may consist of an offsite review of data and documentation as well as an on-site review of operations and documentation. A summary report will be provided to Lexington Fayette Urban County Government. and may require submission of a corrective action plan.

SECTION 3 – PRICING/INVOICING

Funding from this Agreement distributed through subsequent agreements with other entities shall not be issued as a “subrecipient” agreement or a subaward of federal financial assistance.

Submit a monthly invoice for expense reimbursement which shall include a detailed accounting of expenditures by activities including personnel and other operating expenses. The current approved budget is attached to this contract, with understanding

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that individual line items within the budget are subject to change, as appropriate, but not to exceed the total contract amount of \$50,000.

Services shall be provided and reimbursed in accordance with the approved budget attached. Please refer to Attachment A.

Invoices for payment shall be submitted to KOREinvoice@ky.gov by the 15th day of the month for the previous month's services, activities, etc. pursuant to the scope of work.

Payment shall be conditioned upon receipt of appropriate, accurate, and acceptable invoices submitted in a timely manner.

The Contractor shall submit monthly invoices. The invoice must include at a minimum:

1. Vendor's name and address.
2. PON2 number that invoice(s) are using for funding.
3. Clearly listed dates of service (from and to).

Example

Monthly Invoice: Dates of Service from: July 1, 20XX, to: July 31, 20XX.

4. Date of Invoice (date invoice is prepared).
5. Total amount due for the current billing cycle.
6. Cumulative total for all invoices to date.
7. Detailed description of services provided.

Invoices that do not contain the above requirements will be rejected and returned to the Contractor for re-invoicing.

SAMHSA grant funds may not be used to purchase, prescribe, or provide marijuana or treatment using marijuana. See, e.g., 45 C.F.R. 75.300(a) (requiring HHS to ensure that Federal funding is expended in full accordance with U.S. statutory and public policy requirements); 21 U.S.C. 812(c)(10) and 841 (prohibiting the possession, manufacture, sale, purchase or distribution of marijuana).

Funds may not be expended through the grant or a subaward by any agency which would deny any eligible client, patient or individual access to their program because of their use of MOUD for the treatment of substance use disorders (e.g., methadone, buprenorphine products including buprenorphine/naloxone combination formulations and buprenorphine monoprodut formulations, naltrexone products including extended-release and oral formulations or implantable buprenorphine.) Specifically, patients must be allowed to participate in methadone treatment rendered in accordance with current federal and state methadone dispensing regulations from an Opioid Treatment Program and ordered by a physician who has evaluated the client and determined that methadone is an appropriate medication treatment for the individual's opioid use disorder. Similarly, medications available by prescription or office-based implantation must be permitted if it is appropriately authorized through prescription by a licensed prescriber or provider. In all cases, MOUD must be permitted to be continued for as long as the prescriber or treatment provider determines that the medication is clinically

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beneficial. Grantees must assure that clients will not be compelled to no longer use MOUD as part of the conditions of any programming if stopping is inconsistent with a licensed prescriber’s recommendation or valid prescription.

SECTION 4 – CHFS GENERAL TERMS AND CONDITIONS

4.00 Memorandum of Agreement Standard Terms and Conditions

4.00.01 Contract Components and Order of Precedence

A valid contract between the Parties consists of the following:

1. This written Agreement, all attachments, and any subsequent written amendments to this Agreement; and
2. The Contractor’s final written budget or proposal.

In the event of any conflict between the Contract provisions, the order of precedence shall be as enumerated above.

4.00.02 Changes and Modifications to the Contract

Pursuant to 200 KAR 5:311, no modification or change of any provision in the Contract shall be made, or construed to have been made, unless such modification is mutually agreed to in writing by the Contractor and the Commonwealth, and incorporated as a written amendment by the Department prior to the effective date of such modification or change. Modification shall be subject to prior approval from the Secretary of the Finance and Administration Cabinet, or this authorized designee, and the LRC Government Contract Review Committee. Memoranda of Understanding, written clarification, and/or correspondence shall not be construed as amendments to the Contract.

If the Contractor finds at any time that existing conditions make modification of the Contract necessary, it shall promptly report such matters to the Contract Specialist identified on page 1 for consideration and decision.

4.00.03 LRC Policies

Pursuant to KRS 45A.725, LRC has established policies which govern rates payable for certain professional services. These are located on the LRC webpage and would impact any contract established under KRS 45A.690 - 45A.725, where applicable.

A link to the LRC webpage is as follows:

See: <https://apps.legislature.ky.gov/moreinfo/Contracts/homepage.html>

4.00.04 Choice of Law and Forum

This section does not apply to governmental or quasi-governmental entities.

This contract shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky. Any action brought against the Commonwealth on the contract, including but not limited to actions either for breach of contract or for

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enforcement of the contract, shall be brought in Franklin Circuit Court, Franklin County, Kentucky in accordance with KRS 45A.245.

4.00.05 Authorized to do Business in Kentucky

The Contractor affirms that it is properly authorized under the laws of the Commonwealth of Kentucky to conduct business in this state and will remain in good standing to do business in the Commonwealth of Kentucky for the duration of any contract awarded.

If a foreign entity, the Contractor shall maintain certification of authority to conduct business in the Commonwealth of Kentucky during the term of this Contract. Such registration is obtained from the Secretary of State, who will also provide the certification thereof.

4.00.06 Registration with the Secretary of State by a Foreign Entity

Pursuant to KRS 45A.480(1)(b), an agency, department, office, or political subdivision of the Commonwealth of Kentucky shall not award a state contract to a person that is a foreign entity required by KRS 14A.9-010 to obtain a certificate of authority to transact business in the Commonwealth (“certificate”) from the Secretary of State under KRS 14A.9-030. If the foreign entity is not required to obtain a certificate as provided in KRS 14A.9-010, the foreign entity should identify the applicable exception. Foreign entity is defined within KRS 14A.1-070.

4.00.07 Payment

The Contractor shall maintain supporting documents to substantiate invoices and shall furnish same if required by state government.

4.01 General Provisions

4.01.01 Headings

The section headings in this Contract are for reference and convenience only and shall not have any effect on the construction or legal effect of this Contract.

4.01.02 Assignment

This Contract shall be binding upon and inure to the benefit of the respective legal successors of the Parties. Neither this Contract nor any rights or obligations may be assigned, in whole or in part, without the prior written consent of CHFS, Division of Procurement and Grant Oversight, and the Finance and Administration Cabinet.

4.01.03 No Required Use of Contract

This Contract does not guarantee any minimum use of services. The Cabinet reserves the right to leave all, or any portion, of the contract unused. The Cabinet may establish or award other contracts for additional or related work, services, supplies, or commodities, and the Contractor shall fully cooperate with any such other contractors and Commonwealth employees. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by Commonwealth employees.

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4.01.04 Severability

If any part of this Contract is held by a court of competent jurisdiction to be illegal or in conflict with any law of the Commonwealth or the United States of America, the validity of the remaining parts shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Contract did not contain the particular part held to be invalid, if the remainder of the Contract is capable of performance.

4.01.05 Indemnification

The Contractor shall indemnify and hold harmless CHFS and its agents, representatives, officers, directors, employees, insurers, successors, and assigns from and against any and all expenses, costs (including attorneys' fees), causes of action, liability, loss and/or damages suffered or incurred by it or any of them, that results from or arises out of (a) this Contract; (b) any and all acts of the Contractor and or its Subcontractor(s); (c) the policies and procedures of the Contractor, specifically including all Contractor employment practices employed by Contractor during the term of this or any prior Contract with CHFS; (d) any dishonest, fraudulent, criminal, or negligent or unauthorized acts or errors or omissions which are committed by Contractor or any of Contractor's employees or agents or Subcontractors; (e) the publication translation, reproduction, delivery, performance, use or disposition of any data produced by CHFS in an unauthorized manner, provided that such action was not taken by Contractor or as a result of the express written request of CHFS; or (f) Contractor's failure to comply with any applicable state or federal laws or regulations.

Provided, however, in the event the Contractor is an agency of the Commonwealth of Kentucky, the state agency's liability shall be governed instead by KRS 49.010 through KRS 49.180 and limited to any award from the Board of Claims up to the jurisdictional amount.

4.01.06 Sovereign Immunity

No provision of this Contract constitutes a waiver by CHFS or the Commonwealth of Kentucky of any immunities from suit or liability that CHFS or the Commonwealth of Kentucky may have by operation of law.

4.01.07 Force Majeure

Events or conditions beyond the reasonable control of the Parties shall not be construed as non-performance, nor shall reductions be applied as a result of such events. Events or conditions beyond the Party's reasonable control include, but not are not limited to, natural or man-made disasters, weather events, transportation crashes, labor strike or shortage, war, riot or other civil unrest, or state or national declared emergency, including a pandemic, or public utility failures. However, CHFS retains the right to obtain any necessary services elsewhere in the event of such non-performance by the Contractor. In this event, the Parties shall negotiate in good faith any appropriate offset to the compensation payable under this Contract. The Contractor shall cooperate and shall require that any Subcontractor cooperate with CHFS in such event. The existence of such causes of delay or failure will extend the period of performance in the exercise of reasonable diligence until after the causes of delay or failure have been removed.

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Each Party must inform the other, orally or in writing with confirmation of receipt, as soon as possible of the existence of a force majeure event. To preserve this right as a defense, each Party must inform the other in writing, with confirmation of receipt, within twenty (20) business days of the force majeure event or otherwise waive this right as a defense to a claim by the other Party of non-performance.

4.01.08 Maintenance of Insurance

During this Contract, the Contractor shall maintain and shall require any Subcontractor to maintain their directors and officers liability insurance, Workers' Compensation insurance, employer liability insurance, and such other liability insurance as reasonably necessary in the Contractor's business judgment to provide adequate coverage against losses and liabilities attributable to the respective acts or omissions of the Contractor and the Subcontractor(s) in the performance of this Contract. The Contractor shall provide and shall require any Subcontractor to provide evidence of such coverage upon request.

If the Contractor and any Subcontractor are not self-insured, each shall name CHFS as an additional insured on any policy of coverage, except the Workers' Compensation and any reinsurance. The Contractor and any Subcontractor shall provide proof of coverage within five (5) business days of coverage upon request.

CHFS shall not be responsible for any premiums or assessments on any policy held by the Contractor or any subcontractor under this Contract. CHFS may, at its sole discretion, pay one or more premiums, if doing so would be in the Cabinet's best interest. Should CHFS exercise this option, the Contractor shall fully reimburse CHFS, either directly or by an offset against future payments.

The Certificate of Insurance for any policy other than self-insurance or any reinsurance must require that the insurer not cancel the coverage without thirty (30) days prior written notice to CHFS. The Contractor shall notify CHFS within five (5) business days of any cancellation or interruption of the Contractor or Subcontractor's insurance coverage. In any subcontract, the Contractor shall require that any Subcontractor also provide such notice to the Contractor and CHFS. Any insurance must remain in effect at all times during this Contract. If any insurance coverage expires during this Contract, the Contractor and any Subcontractor shall provide at least thirty (30) calendar days prior to the expiration date a new Certificate of Insurance evidencing coverage for not less than the remainder of the Contract.

4.01.09 Licensure, Certification, and Registration

The Contractor shall ensure that all licenses, registrations, and/or certifications necessary for performance under this Contract are in good standing and maintained at all times; readily accessible; and available for production upon request.

4.01.10 Permits, Licenses, Taxes, and Laws

The Contractor shall procure all necessary permits and licenses and abide by all applicable laws, regulations, and ordinances of all federal, state, and local governments in which work under this Contract is performed.

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To the extent required by law, the Contractor shall pay any sales, use, personal property, and income taxes related to this Contract. Any other taxes levied upon this Contract, shall be borne by the Contractor.

Contractor shall be responsible for all applicable Federal (including FICA), State and Local tax withholdings.

4.01.11 Legal Proceedings

Except as specifically disclosed in writing to CHFS prior to the date of this Contract, the Contractor certifies there are no suits, investigations, or other proceedings pending or threatened against the Contractor or any Subcontractor that would have a material effect on this Contract or, if applicable, any subcontracts. The Contractor shall notify CHFS within one (1) business day, and in writing within three (3) business days, of any suits, investigations, or other proceedings involving the Contractor related to this Contract.

4.01.12 No Grant of Employment or Agency

Nothing in this Contract shall be construed, in any way, as granting any individual providing services under the Contract any of the claims, privileges, or rights under KRS Chapter 18A or KAR Title 101. No individual providing services under this Contract shall be considered a full-time or part-time employee of CHFS, for any purpose, including but not limited to unemployment, taxes, withholding, health insurance, liability, retirement, Workers' Compensation, vacation, sick or other leave, the Family Medical Leave Act, accrued benefits, evaluations, or any other purpose. At all times, any such individual shall be an employee, volunteer, or independent contractor of the Contractor. No employee, volunteer, or independent contractor of the Contractor shall be a third-party beneficiary of this Contract or an agent of the Commonwealth.

4.01.13 CHFS Discrimination Prohibited

During this Contract, the Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment or any individual requesting or receiving services from Contractor based on race, religion, color, national origin, sex, disability, age, political beliefs, veteran's status, national origin, or any other protected class identified in federal, state or local laws. The Contractor will not retaliate for prior civil rights activity. The Contractor agrees to comply with, as applicable, the Kentucky Civil Rights Act, the Americans with Disabilities Act of 1990 as Amended (ADA), Section 1557 of the Patient Protection and Affordable Care Act, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and all other applicable federal, state and local laws prohibiting discrimination.
2. The Contractor agrees to post in conspicuous places, available to program or service applicants or recipients, notices setting forth the provisions of this non-discrimination clause.
3. In all program or service solicitations or advertisements placed by or on behalf the Contractor will state that they will not discriminate against anyone applying for or

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receiving assistance or services based on race, religion, color, national origin, sex, disability, age, political beliefs, or reprisal or retaliation for prior civil rights activity, or any other protected class identified in federal, state, or local laws.

4. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be cancelled, terminated or suspended in whole or in part, and such other sanctions that may be imposed and remedies invoked as provided in or as otherwise provided by law.

5. In compliance with the prohibition against Disability discrimination and in compliance with the implementing guidance for the Americans with Disabilities Act issued by the Department of Justice, the Contractor agrees to provide, free of charge, appropriate accommodations for applicants or recipients with disabilities, including auxiliary aids and services for persons with disabilities who require alternative means of communication.

6. In compliance with the prohibition against National Origin discrimination and, by extension discrimination based on Limited English Proficiency (LEP), the Contractor agrees to provide meaningful language assistance measures free of charge to program or service applicants or recipients with Limited English Proficiency. The language services shall:

- A. Be consistent with the general guidance document issued by the Department of Justice, which sets forth the compliance standards recipients of federal financial assistance must follow to ensure that LEP persons have meaningful access to the program's services and activities;
- B. Have a method of identifying LEP individuals; and
- C. Provide language assistance measures (e.g., oral interpretation and written translation services; training of staff; note to LEP persons of availability of language access assistance; monitoring compliance, etc.).

4.01.14 Staffing

Any individual providing services under this Contract must not be included on any formal registry or listing that is required by law and which relates to abuse, neglect, sexual offenses, or other inappropriate practices or which, in any way, prohibits their employment for or performance of the services required herein, including but not limited to the nurse aid abuse registry and the Child Abuse Prevention and Treatment Act registry. In the event of any such listing or registration, the Contractor shall immediately notify CHFS.

Any individual providing services under this Contract must not be prohibited or debarred from providing services or participating in any state or federal governmental program, including but not limited to the Medicare and Medicaid programs. In the event of any such prohibition or debarment, the Contractor shall immediately notify CHFS.

4.02 Contract Performance

4.02.01 Service Delivery Requirements

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All services provided by the Contractor shall be in accordance with all applicable federal and state statutes and regulations.

4.02.02 Total Amount of Funds and Budget Revisions

CHFS shall have the right to recoup the amount of any overpayment, regardless of the reason for the overpayment. Any reconciliation or settlement of fund balances contained in the Summary Line Item Section of this Contract shall be negotiated between CHFS and the Contractor and determined as soon as feasible before the end of the scope of work as set forth under the Contract.

The Contractor shall not request a budget revision within the last sixty (60) days of the contract period.

4.02.03 Subcontractors

Subcontractors are allowable to ensure all services can be completed. Before engaging a Subcontractor or replacing a Subcontractor, the Contractor will notify CHFS and provide information regarding the proposed Subcontractor, including but not limited to, the proposed Subcontractor’s relevant qualifications, experience, and key personnel. CHFS reserves the right to approve or disapprove any proposed Subcontractor.

4.02.03.01 Responsibility for Subcontractor Contract Requirements

All references to the Contractor shall be construed to encompass both the Contractor and any Subcontractors of the Contractor. The Contractor’s contract with any Subcontractor related to this Contract shall specify that all requirements of this Contract are applicable and binding on the Subcontractor. If requested, the Subcontractor must make available to the Contractor and CHFS, copies of personnel records and documentation of employees’ compliance with this Contract.

Prime Contractor is responsible for carrying out the Affirmative Action Steps outlined in 2 CFR Part 200.321 when selecting subcontractors.

4.02.03.02 Subcontractor Monitoring Requirements

The Contractor shall monitor Subcontractors for compliance with this Contract and the specific provisions of the Contractor’s contract with the Subcontractor.

4.02.04 Indirect Cost

Except as otherwise authorized by this Contract, no indirect costs shall be reimbursed.

4.02.05 Financial Record Retention

The Contractor agrees to maintain all Contract records for not less than three (3) years after all Contract matters (e.g., audit, settlement of audit exceptions, disputes) are resolved and in accordance with applicable federal and/or state laws, regulations, and policies (except as may otherwise be specified in this Contract).

4.02.06 Confidential Information

The Contractor shall comply with state and federal law governing access to and use of information and data provided by CHFS or collected by the Contractor . The Contractor will use such information or data only for purposes expressly authorized in

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this Contract. The Contractor will keep all confidential information and data confidential. The Contractor shall have an appropriate agreement or policy with its employees to that effect. Any dissemination of information about projects funded and the scope of work described in the terms and conditions of this Contract, must be fully documented and reviewed by the Cabinet’s project manager before any representation, electronic or otherwise, of projects, their funding sources, use of data, or data analyses may be posted to a web page or otherwise published.

Any dissemination of information about projects funded and the scope of work of this Contract must be fully documented and reviewed by the Cabinet’s project manager before any representation of projects, their funding sources, use of data, or data analyses may be posted to a web page or otherwise published.

The Cabinet, the Office of the Attorney General, the Office of the Auditor of Public Accounts, or any representative of a government funding agency authorized to review records for audit or investigation purposes shall have unrestricted access on demand to The Contractor’s policies and procedures for compliance with these confidentiality requirements, the confidentiality agreements with its personnel, and Subcontractor confidentiality assurances.

The foregoing will not apply to:

1. Information that the Commonwealth has released in writing from being maintained in confidence;
2. Information that at the time of disclosure is in the public domain by having been printed and published and available to the public in libraries or other public places where such data is usually collected; or
3. Information that, after disclosure, becomes part of the public domain as defined above, through no act of the Contractor; or
4. Information required to be disclosed by law.

The Contractor shall have an appropriate agreement with its Subcontractors extending these confidentiality requirements to all Subcontractors’ employees.

4.02.07 HIPAA Confidentiality Compliance

If applicable, the Contractor agrees to abide by the “HIPAA Privacy Rule,” 45 CFR Parts 160 and 164 established under the Health Insurance Portability and Accountability Act, Public Law 104-191 (42 USC 1320d).

4.02.08 Response/Compliance with Audit Findings

The Contractor shall comply with and shall ensure any Subcontractor complies with any finding of noncompliance with any law, regulation, audit, inspection, or generally accepted accounting principle relating to this Contract. The Contractor will provide CHFS, for CHFS’ approval, a Corrective Action Plan that addresses the deficiencies identified in any audit, review, or inspection within thirty (30) calendar days of the close of the audit, review, or inspection. The Contractor shall bear the expense of compliance with any noncompliance finding that impacts or is related to the Contractor’s work under

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this Contract. Noncompliance may also result in penalties as described in Section 4.02.10-Performance-Based Penalties.

4.02.09 Research Project Approval and Institutional Review Board Requirements

If applicable, any proposed research project under this Contract shall follow the procedures and protocols in 920 KAR 1:060, which provides for the Cabinet’s review of research projects supported or funded in whole or in part through CHFS. If the proposed research project involves human subjects, it shall comply with 45 CFR 46 and the requirements of the Cabinet’s Institutional Review Board for the Protection of Human Subjects (IRB). The CHFS project manager will provide all documentation and protocols for review and approval by the CHFS IRB. No research may begin until the IRB approves the project.

4.02.10 Performance-Based Penalties

Upon a determination of failure to perform services outlined in Section 2-Scope of Services, the Cabinet may issue penalties up to five percent (5%) of the total amount of the contract for each instance of non-performance. If the Cabinet elects not to exercise a penalty clause, this shall not be construed as a waiver of the Cabinet’s right to pursue the future assessment of any performance standard requirement and associated penalties. The Cabinet will work with the Contractor to resolve performance issues at all times.

1. Requirement of Corrective Action:

A. Letter of Concern

Should the Department determine that the Contractor or any Subcontractor is in violation of any requirement of this Contract, the Department shall notify the Contractor of the deficiency through a “Letter of Concern.” The Contractor shall contact the Department’s representative designated by the Department within two (2) business days of receipt of the Letter of Concern and shall indicate how such concern is unfounded or how it will be addressed. If the Contractor fails to timely contact the designated representative regarding a Letter of Concern, the Department shall proceed to the additional enforcement contained in this Contract.

B. Corrective Action Plan

Should the Cabinet determine that the Contractor or any Subcontractor is not in substantial compliance with any material provision of this Contract, the Cabinet shall issue a written deficiency notice and require a corrective action plan be filed by the Contractor within ten (10) business days following the date of the notice.

A corrective action plan shall delineate the time and manner in which each deficiency is to be corrected. The plan shall be subject to approval by Finance or the Department, which may accept the plan as submitted, may accept the plan with specified modifications, or may reject the plan within ten (10) business days of receipt. Cabinet may reduce the time allowed for corrective action depending on the nature of the deficiency.

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C. Failure to Respond to Letter of Concern or Corrective Action Plan Notice

Failure of the Contractor to respond to a Letter of Concern within two (2) business days of receipt of the Letter of Concern may result in up to a \$500.00 per day penalty for each day until the response is received. Failure of the Contractor to submit a Corrective Action Plan within ten (10) business days following the date of the written deficiency notice may result in up to a \$1,000.00 per day penalty for each day until the Corrective Action Plan is received.

D. Request for Extension

Upon request, CHFS may extend the time allowed for both a response to the Letter of Concern and a Corrective Action Plan depending upon the nature of the deficiency. The Contractor shall request an extension of time in writing from the representative designated in the Letter of Concern or the written deficiency notice. The written request shall contain a justification and proposed extension period. If an extension is granted, the penalty per day for both a late Letter of Concern or a late Corrective Action Plan would begin after the expiration of the extension period.

2. Failure to Correct any identified deficiency may result in an action pursuant to Finance Terms - Cancellation of this Contract.
3. Upon timely resolution of all performance-based issues outlined in the Corrective Action Plan, the Contractor shall receive reimbursement of a percentage of the amount withheld based on the following tier schedule:
 - A. Resolution within 30 days: at least 75% will be reimbursed to Contractor.
 - B. Resolution within 60 days: at least 50% will be reimbursed to Contractor.
 - C. Resolution within 90 days: at least 25% will be reimbursed to Contractor.
 - D. Resolution after 90 days: total penalty withholdings are forfeited.

4.02.11 Performance and Evaluation

CHFS may complete a Performance Evaluation (PE) twice a year to document contract performance. PE documents will be entered into the Commonwealth’s electronic financial system (eMARS). Performance documented by PE may be considered when making future awards. To obtain a copy of the PE documents for this Contract, contact the Issuer.

4.02.12 Business Continuity, Disaster Recovery, and Information Security Requirements

The Contractor shall maintain and implement a Business Continuity Plan, Disaster Recovery Plan, and Information Security Plan, which shall detail the steps the Contractor will take in the event of an outage or failure of either the Contractor’s or CHFS’ data, communication, or technical support system. Such plans shall enable the Contractor to continue to meet all contractual requirements. The Contractor shall provide a copy of its plans upon request. All costs associated with activating and sustaining the execution of all plans shall be borne by the Contractor.

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4.02.13 Protection of Personal Information Security and Breach Investigation Procedures and Practices Act

When applicable, contractors that receive Personal Information, as defined by KRS 61.931, shall secure and protect the Personal Information by complying with all applicable requirements of the Personal Information Security and Breach Requirements contained in KRS 61.931- KRS 61.934. In accordance with KRS 61.932(2)(a), the Contractor shall implement, maintain, and update security and breach investigation procedures that are appropriate to the nature of the information disclosed and that are at least as stringent as the security and breach investigation procedures and practices established by the Commonwealth Office of Technology:

See:

<http://technology.ky.gov/ociso/Pages/InformationSecurityPolicies,StandardsandProcedures.aspx>

The Contractor shall comply with all applicable notification provisions in KRS 61.932 and KRS 61.933. The Contractor agrees to undertake a prompt and reasonable investigation of any security breach, as defined in KRS 61.931, as required by KRS 61.933. Upon conclusion of an investigation of a security breach of Personal Information, the Contractor agrees to an apportionment of the costs of the notification, investigation, and mitigation of the security breach. The Contractor agrees that the Commonwealth may withhold payment(s) owed to the Contractor for any violation of the requirements contained in KRS 61.931- KRS 61.934. The Contractor agrees to cooperate with the Commonwealth in complying with any response, mitigation, correction, investigation, and notification requirements of the Act.

4.03 Breach and Contract Termination

4.03.01 Remedies for Breach

In the event of a breach of contract by the Contractor, CHFS may pursue any remedy available to it under this Contract, KRS Chapter 45A, or by law. The remedies may be invoked without regard to the existence of any other available remedy and may include the enforcement of any holdback provision or payment of any specified liquidated damages.

4.03.02 Transition/Turnover

In the event of non-renewal or termination, upon receipt of the required notice of non-renewal or termination, the Contractor shall provide any turnover assistance reasonably necessary to enable CHFS or its designee to effectively close out the Contract and move the work to another Contractor or to perform the work by itself.

The Contractor shall:

1. Provide detailed transition documents at no additional cost to CHFS.
2. Be responsible for the orderly transition of work and the accuracy of data in coordination with the new Contractor.

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3. Within ten (10) calendar days after written notification by CHFS of the initiation of transition, provide a detailed Transition Document. Upon receipt of the detailed Transition Document, within fourteen (14) calendar days, CHFS shall provide written instructions to the Contractor as to the packaging, documentation, delivery location, and delivery date of all records needed for an orderly transition. If CHFS determines that the Transition Document is missing necessary information, CHFS shall provide the Contractor written instructions as to the information that is still needed, and the Contractor shall amend the Transition Document to include the necessary information.
4. Deliver a complete accounting and report as of the date of termination about the status of services. This report shall be provided to CHFS within twenty-one (21) days of the effective date of termination.
5. Transfer all documents and records pertaining to this Contract in its possession within twenty-one (21) days of the effective date of termination. All documents shall be in a CHFS-approved format.
6. Provide reasonable and appropriate assistance to CHFS and its designee(s) regarding the contents of such documents and records, and provide reasonable and appropriate reference materials, including data models and file documentation. This assistance shall be provided to the CHFS within twenty (20) days of the effective date of termination.
7. Pay any and all additional costs incurred by CHFS that are the result of the Contractor's failure to provide the requested records, documents, data or materials within the time frames agreed to in the Transition Document.

4.04 Miscellaneous Provisions

4.04.01 Advertising Award Prohibition

The Contractor shall not refer to the Award of Contract in commercial advertising in such a manner as to state or imply that the Contractor or its services are endorsed or preferred by the Commonwealth of Kentucky.

4.04.02 Bankruptcy

In the event the Contractor becomes a debtor in a case pending under the Federal Bankruptcy Code, the Commonwealth's right to terminate this Contract may be subject to the rights of a trustee or a debtor-in-possession in bankruptcy to assume or assign this Contract. The trustee shall not have the right to assume or assign this Contract unless the trustee:

1. Promptly cures all defaults under this Contract;
2. Promptly compensates the Commonwealth for the monetary damages incurred as a result of such default; and
3. Provides adequate assurance of future performance, as determined by the Commonwealth.

4.04.03 Code of Ethics

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The Contractor and all personnel who may provide services under this Contract or any subcontract with the Contractor shall abide by any applicable code of ethics or conduct. Failure of the Contractor to abide by the applicable code of ethics may result in the immediate termination of the Contract.

4.04.04 Notices and Pamphlets

All notices, employment, advertisements, information pamphlets, research reports, and similar public notices prepared and released by the Contractor pursuant to this Contract shall include a statement identifying the appropriate source of funds for the project or service, including, but not limited to, identifying whether the funding is in whole or in part from federal, CHFS, or other state funds

4.04.05 Scientific Misconduct

If applicable, the Contractor shall set out a procedure for the inquiry, investigation, appeal, and disposition of complaints alleging misconduct in activities involving any research projects funded, in whole or in part, with federal funds included in this Contract, and as authorized under the Public Health Services research grants. Such policies and procedures shall be in accordance with 42 CFR Part 93 and shall be made available, upon request, to CHFS. The Contractor shall immediately notify CHFS of any activity reported to the Contractor under this section.

4.04.06 Intellectual Property

Any formulae, methodology, or other reports and compilations of data provided by CHFS to the Contractor to meet the terms and conditions of this Contract shall be the exclusive property of CHFS. Any other use of these materials must be reviewed and approved in advance by CHFS. Any intellectual property owned by the Contractor prior to this Contract shall remain the exclusive property of the Contractor.

Any formulae, methodology, other reports, or compilations of data prepared or produced by the Contractor pursuant to this Contract shall, upon request, be made available for use by CHFS without charge. The Cabinet reserves a royalty-free, non-exclusive, and irrevocable right to reproduce, publish, or otherwise use the formulae, methodology, or other reports and compilations of data prepared or produced under this Contract.

4.04.07 Data Use Agreement

Not Required

4.04.08 Business Associate Agreement

If applicable, the Contractor shall execute and comply with the attached Business Associate Agreement (BAA).

For the purposes of the BAA, the following entities are defined:

Covered Entity:

Cabinet for Health and Family Services
 275 East Main Street
 Frankfort, KY 40621

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Business Associate:

Lexington Fayette Urban Co Government
200 E Main Str.
Lexington, KY, 40507

SECTION 5 – FEDERAL REQUIREMENTS

If federal funds are utilized, the Contractor is responsible for complying with all applicable provisions of 2 CFR Part 200, Appendix II.

5.00 Certain Provisions Contained Within 2 CFR, Part 200, Appendix II

5.00.01 Clean Air Act and Federal Water Pollution Control Act

The Contractor and Subcontractors shall comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, 42 U.S.C. 7401 et seq., and the Federal Water Pollution Control Act, as amended 33 U.S.C. 1251 et seq. Violations shall be reported to the HHS and the appropriate Regional Office of the Environmental Protection Agency.

5.00.02 Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion, Lower Tier Covered Transactions

In accordance with Federal Acquisition Regulation 52.209-5, 2 CFR 180.300, 2 CFR 200.318, 2 CFR 200.303, and FAP 111-59-00, the Contractor certifies by signing the Contract, that to the best of its knowledge and belief, the Contractor and/or its Principals is (are) not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any state or federal agency. If debarred during the life of the contract, the vendor shall notify the Commonwealth buyer of record within seventy-two (72) hours of the federal debarment. For this certification, “Principals,” means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager, plant manager, head of a subsidiary, division, or business segment, and similar positions).

5.00.03 Certification of Lobbying Activities

The Contractor shall disclose any lobbying activities in accordance with Section 1352, Title 31, U.S. Code. The Contractor certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal,

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amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

5.00.04 Equipment

For reimbursement-type contracts, the Contractor shall not purchase equipment or property with contract funds, unless specifically authorized under the scope of work and specifications of this Contract.

Equipment and property reimbursed by CHFS to fulfill the requirements of this Contract, requires prior approval by the Cabinet and the federal agency before the federal government will allow the costs in accordance with 2 CFR Part 200.

5.00.05 Telecommunications and Video Surveillance Services or Equipment

In accordance with 2 CFR § 200.216, Contractors and subrecipients are prohibited from obligating or expending loan or grant funds to:

- (1) Procure or obtain;
- (2) Extend or renew a contract to procure or obtain; or
- (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - (i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications

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Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

5.00.06 Domestic Preferences for Procurements

In accordance with 2 CFR § 200.322(a):

(a) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

(b) For purposes of this section:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

5.00.07 Procurement of Recovered Materials

In accordance with 2 CFR § 200.323:

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

5.00.08 Certification Regarding Drug-Free Workplace

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The Contractor certifies that it will comply with the drug-free workplace requirements in 2 CFR Part 182.

Endnotes

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**Memorandum of Agreement Standard Terms and Conditions
Revised January 2023**

1.00 Effective Date

All Memorandum of Agreements are not effective until the Secretary of the Finance and Administration Cabinet or his authorized designee has approved the agreement and until the agreement has been submitted to the government contract review committee. However, in accordance with KRS 45A.700, memoranda of agreement in aggregate amounts of \$50,000 or less are exempt from review by the committee and need only be filed with the committee within 30 days of their effective date for informational purposes.

KRS 45A.695(7) provides that payments on personal service contracts and memoranda of agreement shall not be authorized for services rendered after government contract review committee disapproval, unless the decision of the committee is overridden by the Secretary of the Finance and Administration Cabinet or agency head, if the agency has been granted delegation authority by the Secretary.

2.00 EEO Requirements

The Equal Employment Opportunity Act of 1978 applies to All State government projects with an estimated value exceeding \$500,000. The contractor shall comply with all terms and conditions of the Act.

3.00 Cancellation Clause

Both parties shall have the right to terminate and cancel this contract at any time not to exceed thirty (30) days' written notice served on the Contractor by registered or certified mail.

4.00 Funding Out Provision

The state agency may terminate this agreement if funds are not appropriated to the contracting agency or are not otherwise available for the purpose of making payments without incurring any obligation for payment after the date of termination, regardless of the terms of the agreement. The state agency shall provide the Contractor thirty (30) calendar day's written notice of termination of the agreement due to lack of available funding.

5.00 Reduction in Contract Worker Hours

The Kentucky General Assembly may allow for a reduction in contract worker hours in conjunction with a budget balancing measure for some professional and non-professional

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| | Document Description | Page 28 |
| 2400002022 | Quick Response Team (QRT) C5106 | |

service contracts. If under such authority the agency is required by Executive Order or otherwise to reduce contract hours, the agreement will be reduced by the amount specified in that document. If the contract funding is reduced, then the scope of work related to the contract may also be reduced commensurate with the reduction in funding. This reduction of the scope shall be agreeable to both parties and shall not be considered a breach of contract.

6.00 Access to Records

The state agency certifies that it is in compliance with the provisions of KRS 45A.695, "Access to contractor's books, documents, papers, records, or other evidence directly pertinent to the contract." The Contractor, as defined in KRS 45A.030, agrees that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this agreement for the purpose of financial audit or program review. The Contractor also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the agreement and shall be exempt from disclosure as provided in KRS 61.878(1)(c).

7.00 Violation of tax and employment laws

KRS 45A.485 requires the Contractor and all subcontractors performing work under the contract to reveal to the Commonwealth any final determination of a violation by the Contractor within the previous five (5) year period of the provisions of KRS chapters 136, 139, 141, 337, 338, 341, and 342. These statutes relate to corporate and utility tax, sales and use tax, income tax, wages and hours laws, occupational safety and health laws, unemployment insurance laws, and workers compensation insurance laws, respectively. Disclosure of any violations is required prior to the award of any state contract and throughout the duration the contract.

Failure to disclose violations, shall be grounds for the Commonwealth's disqualification of a contractor or subcontractor from eligibility for future state contracts for a period of two (2) years.

To comply with KRS 45A.485, the Contractor and all subcontractors performing work

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| | Document Description | Page 29 |
| 2400002022 | Quick Response Team (QRT) C5106 | |

under this contract shall report any such final determination(s) of any violation(s) within the previous five (5) years to the Commonwealth by providing a list of the following information regarding any violation(s): (1) specific KRS violated, (2) date of any final determination of a violation, and (3) state agency which issued the final determination.

A list of any disclosures made prior to award of a contract shall be attached to the contract.

The Contractor affirms that it has not violated any of the provisions of the above statutes within the previous five (5) year period, aside from violations explicitly disclosed and attached to this contract. Contractor further affirms that it will (1) communicate the above KRS 45A.485 disclosure requirements to any subcontractors and (2) disclose any subcontractor violations it becomes aware of to the Commonwealth.

8.00 Discrimination

This section applies only to agreements disbursing federal funds, in whole or part, when the terms for receiving those funds mandate its inclusion. Discrimination (because of race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability) is prohibited. During the performance of this agreement, the Contractor agrees as follows:

The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity or age. The Contractor further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The Contractor agrees to provide, upon request, needed reasonable accommodations. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability. 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 compensations; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

In all solicitations or advertisements for employees placed by or on behalf of the Contractor, the Contractor will, state that all qualified applicants will receive consideration

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| | Document Description | Page 30 |
| 2400002022 | Quick Response Team (QRT) C5106 | |

for employment without regard to race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability.

The Contractor will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965 as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.

The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

In the event of the Contractor's noncompliance with the nondiscrimination clauses of this agreement or with any of the said rules, regulations or orders, this agreement may be cancelled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.

The Contractor will include the provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor, issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency,

| | Document Description | Page 31 |
|-------------------|--|----------------|
| 2400002022 | Quick Response Team (QRT) C5106 | |

the contractor may request the United States to enter into such litigation to protect the interests of the United States.

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| | Document Description | Page 32 |
| 2400002022 | Quick Response Team (QRT) C5106 | |

Approvals

This contract is subject to the terms and conditions stated herein. By affixing signatures below, the parties verify that they are authorized to enter into this contract and that they accept and consent to be bound by the terms and conditions stated herein. In addition, the parties agree that (i) electronic approvals may serve as electronic signatures, and (ii) this contract may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all counterparts together shall constitute a single contract.

CHFS Cabinet Approval:

Signature

Title

Printed Name

Date

Contractor Approval:

Signature

Title

Printed Name

Date

CHFS Department Review:

Signature

Title

Printed Name

Date

Approved as to form and legality:

Attorney

Date

RESOLUTION NO. ____-2024

A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE AN AGREEMENT WITH THE CABINET FOR HEALTH AND FAMILY SERVICES ACCEPTING \$50,000.00 IN FEDERAL FUNDS FROM THE KENTUCKY OPIOID RESPONSE EFFORT, IN ORDER TO SUPPORT THE COMMUNITY PARAMEDICINE PROGRAM, THE ACCEPTANCE OF WHICH DOES NOT OBLIGATE THE URBAN COUNTY GOVERNMENT TO THE EXPENDITURE OF FUNDS, AUTHORIZING THE MAYOR TO EXECUTE ANY NECESSARY AMENDMENTS RELATED TO THESE FUNDS, AND ALSO AUTHORIZING THE MAYOR TO TRANSFER UNENCUMBERED FUNDS WITH THE GRANT BUDGET ESTABLISHED FOR THIS GRANT.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized and directed to execute an agreement with the Cabinet for Health and Family Services, attached hereto and incorporated herein by reference, to accept \$50,000.00 in federal funds from the Kentucky Opioid Response Effort, in order to support the Community Paramedicine Program.

Section 2 - That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized and directed to execute any necessary amendments related to these funds.

Section 3 - That subject to the provisions of Section 7-48 of the Lexington-Fayette Urban County Government Code of Ordinances, the Mayor is hereby authorized, in her discretion as Chief Executive Officer of the Urban County Government, to transfer the unencumbered balance of any operating or capital account appropriation to another operating or capital account appropriation within the Grant budget previously established for this Grant.

Section 4 - That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL

0227-24:ANB:4888-7533-0730, v. 1

RESOLUTION NO. 093 -2024

A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE AN AGREEMENT WITH THE CABINET FOR HEALTH AND FAMILY SERVICES ACCEPTING \$50,000.00 IN FEDERAL FUNDS FROM THE KENTUCKY OPIOID RESPONSE EFFORT, IN ORDER TO SUPPORT THE COMMUNITY PARAMEDICINE PROGRAM, THE ACCEPTANCE OF WHICH DOES NOT OBLIGATE THE URBAN COUNTY GOVERNMENT TO THE EXPENDITURE OF FUNDS, AUTHORIZING THE MAYOR TO EXECUTE ANY NECESSARY AMENDMENTS RELATED TO THESE FUNDS, AND ALSO AUTHORIZING THE MAYOR TO TRANSFER UNENCUMBERED FUNDS WITH THE GRANT BUDGET ESTABLISHED FOR THIS GRANT.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized and directed to execute an agreement with the Cabinet for Health and Family Services, attached hereto and incorporated herein by reference, to accept \$50,000.00 in federal funds from the Kentucky Opioid Response Effort, in order to support the Community Paramedicine Program.

Section 2 - That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized and directed to execute any necessary amendments related to these funds.

Section 3 - That subject to the provisions of Section 7-48 of the Lexington-Fayette Urban County Government Code of Ordinances, the Mayor is hereby authorized, in her discretion as Chief Executive Officer of the Urban County Government, to transfer the unencumbered balance of any operating or capital account appropriation to another operating or capital account appropriation within the Grant budget previously established for this Grant.

Section 4 - That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: March 7, 2024

Linda Gorton

MAYOR

ATTEST:

[Signature]

CLERK OF URBAN COUNTY COUNCIL



**Required Affidavit for Bidders, Offerors
and Contractors**
(KRS 45A.110 & 45A.115)

Affidavit Effective for One (1) Year from Date of Execution

Instructions: Pursuant to KRS 45A.110 and 45A.115, a bidder, offeror, or contractor ("Contractor") is required to submit a Required Affidavit for Bidders, Offerors, and Contractors to be awarded a contract, or for the renewal of a contract. An authorized representative of the contracting party must complete the attestation below, have the attestation notarized, and return the completed affidavit to the Commonwealth.

Attestation

As a duly authorized representative for the Contractor, I swear and affirm under penalty of perjury, that that the Contractor has not knowingly violated campaign finance laws of the Commonwealth of Kentucky and that the award of a contract will not violate any provision of the campaign finance laws of the Commonwealth. For purposes of this attestation, "Knowingly" means that the bidder or offeror is aware or should have been aware of the existence of a violation. The bidder or offer understands that the Commonwealth retains the right to request an updated affidavit at any time.

Linda Gorton
Signature

Mayor
Title

Linda Gorton
Printed Name

Date

Bidder or Offeror Name: Lexington-Fayette Urban County Government
Address: 200 East Main Street
Lexington, KY 40507

Commonwealth of Kentucky Vendor Code (If known): KY0033801

Subscribed and sworn to before me this 19th day of November, 2024.
State of: Kentucky Notary: [Signature] KYNP 61125
County of: Fayette My Commission Expires: 10/24/2026



Lexington-Fayette Urban County Government

Master

200 E. Main St
Lexington, KY 40507

File Number: 0228-24

File ID: 0228-24

Type: Resolution

Status: Approved

Version: 2

Contract #:

In Control: Urban County Council

File Created: 02/26/2024

File Name: Request Council authorization to submit a grant application and accept award if offered to the Kentucky Justice and Public Safety Cabinet for the 2022 Project Safe Neighborhood (PSN) grant in the amount of \$99,038. There are no matching funds required.

Final Action: 03/21/2024

Title: A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute and submit a Grant Application to the Ky. Justice and Public Safety Cabinet seeking an award of \$99,038 in Federal funds from the 2022 Project Safe Neighborhood Grant, which shall be used for the purchase of computer hardware and database software, to provide any additional information requested in connection with this Grant Application, and to accept this Grant if the application is approved, the acceptance of which does not obligate the Urban County Government to the expenditure of funds, and authorizing the Mayor to transfer unencumbered funds within the Grant Budget for these Grants. [Div. of Police, Weathers]

Notes:

Sponsors:

Enactment Date: 03/21/2024

Attachments: 24-Blue Sheet Memo PSN Grant, 0228-24 (PSN Grant) 4862-1319-2362 v.1.docx, R-117-2024

Enactment Number: R-117-2024

Deed #:

Hearing Date:

Drafter: Katrina James

Effective Date:

History of Legislative File

| Ver- sion: | Acting Body: | Date: | Action: | Sent To: | Due Date: | Return Date: | Result: |
|---------------|-----------------------------------|------------|---------------------------------|----------------------|------------|-----------------|---------|
| 2 | Urban County Council Work Session | 03/05/2024 | Approved and Referred to Docket | Urban County Council | 03/07/2024 | | Pass |
| 2 | Urban County Council | 03/07/2024 | Received First Reading | Urban County Council | 03/21/2024 | | |
| 2 | Urban County Council | 03/21/2024 | Approved | | | | Pass |

Text of Legislative File 0228-24

Title

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute and submit a Grant Application to the Ky. Justice and Public Safety Cabinet seeking an award of \$99,038 in Federal funds from the 2022 Project Safe Neighborhood Grant, which shall be used for the purchase of computer hardware and database software, to provide any additional information requested in connection with this Grant Application, and to accept this Grant if the application is approved, the acceptance of which does not obligate the Urban County Government to the expenditure of funds, and authorizing the Mayor to transfer unencumbered funds within the Grant Budget for these Grants. [Div. of Police, Weathers]

Summary

Authorization to submit a Grant Application and accept award if offered to the Kentucky Justice and Public Safety Cabinet for the 2022 Project Safe Neighborhood (PSN) Grant in the amount of \$99,038. No matching funds required. (L0228-24) (Weathers/Armstrong)

Budgetary Implications: Yes

Advance Document Review:

Law: N/A

Risk Management: N/A

Fully Budgeted: Budget amendment will be completed if awarded.

Account Number:

This Fiscal Year Impact: \$99,038

Annual Impact: \$0

Project:

Activity:

Budget Reference:

Current Balance: BA will be processed if awarded



**TO: LINDA GORTON, MAYOR
URBAN COUNTY COUNCIL**

**FROM: THERESA REYNOLDS, DIRECTOR
DIVISION OF GRANTS AND SPECIAL PROGRAMS**

DATE: February 23, 2024

**SUBJECT: Grant Application for 2022 Project Safe Neighborhood (PSN) to Kentucky
Justice and Public Safety Cabinet**

Request: Council authorization to submit a grant application and accept award if offered to the Kentucky Justice and Public Safety Cabinet for the 2022 Project Safe Neighborhood (PSN) grant in the amount of \$99,038. There are no matching funds required.

Purpose of Request: The Lexington Police will be part of the Project Safe Neighborhoods Task Force, which includes US Attorney’s Office, ATF, DEA, FBI, ICE, U.S. Marshal’s Service, Federal Probation & Parole, the KY State Police, State Probation and Parole, the Commonwealth’s Attorney, County Attorney, Fayette County Sheriff’s Office and Fayette County School Police. The PSN Task Force will increase information sharing and collaboration to identify the violent offenders most likely to continue to engage in violent crime, and then develop proactive investigations and post-arrest coordination to prevent further acts of violence and maximize investigative outcomes.

Lexington Police will use the grant funds for computer hardware and database software.

What is the cost in this budget year and future budget years? \$99,038 for 2022 PSN grant funds will be available in Fiscal Year 2025. No matching funds are required. Total project cost is \$99,038.00. Future years funding is dependent upon availability of grant funding.

Are the funds budgeted? Budget amendment will be completed if awarded.

File Number: 0228-24

Director/Commissioner: Weathers/Armstrong



RESOLUTION NO. _____ - 2024

A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE AND SUBMIT A GRANT APPLICATION TO THE KENTUCKY JUSTICE AND PUBLIC SAFETY CABINET SEEKING AN AWARD OF \$99,038.00 IN FEDERAL FUNDS FROM THE 2022 PROJECT SAFE NEIGHBORHOOD GRANT, WHICH SHALL BE USED FOR THE PURCHASE OF COMPUTER HARDWARE AND DATABASE SOFTWARE, TO PROVIDE ANY ADDITIONAL INFORMATION REQUESTED IN CONNECTION WITH THIS GRANT APPLICATION, AND TO ACCEPT THIS GRANT IF THE APPLICATION IS APPROVED, THE ACCEPTANCE OF WHICH DOES NOT OBLIGATE THE URBAN COUNTY GOVERNMENT TO THE EXPENDITURE OF FUNDS, AND AUTHORIZING THE MAYOR TO TRANSFER UNENCUMBERED FUNDS WITHIN THE GRANT BUDGET FOR THESE GRANTS.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized and directed to execute and submit the Grant Application, which is attached hereto and incorporated herein by reference, to the Kentucky Justice and Public Safety Cabinet for the 2022 Project Safe Neighborhood Grant, seeking \$99,038.00 in Federal funds, which shall be used for the purchase of computer hardware and database software, and to provide any additional information requested in connection with this Grant Application, and to accept this Grant if the application is approved, the acceptance of which does not obligate the Lexington-Fayette Urban County Government to the expenditure of funds.

Section 2 - That subject to the provisions of Section 7-48 of the Lexington-Fayette Urban County Government Code of Ordinances, the Mayor is hereby authorized, in her discretion as Chief Executive Officer of the Urban County Government, to transfer the unencumbered balance of any operating or capital account appropriation to another operating or capital account appropriation within the Grant budget previously established for this Grant.

Section 3 - That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL

0228-24:ANB:4862-1319-2362, v. 1

RESOLUTION NO. 117 - 2024

A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE AND SUBMIT A GRANT APPLICATION TO THE KENTUCKY JUSTICE AND PUBLIC SAFETY CABINET SEEKING AN AWARD OF \$99,038.00 IN FEDERAL FUNDS FROM THE 2022 PROJECT SAFE NEIGHBORHOOD GRANT, WHICH SHALL BE USED FOR THE PURCHASE OF COMPUTER HARDWARE AND DATABASE SOFTWARE, TO PROVIDE ANY ADDITIONAL INFORMATION REQUESTED IN CONNECTION WITH THIS GRANT APPLICATION, AND TO ACCEPT THIS GRANT IF THE APPLICATION IS APPROVED, THE ACCEPTANCE OF WHICH DOES NOT OBLIGATE THE URBAN COUNTY GOVERNMENT TO THE EXPENDITURE OF FUNDS, AND AUTHORIZING THE MAYOR TO TRANSFER UNENCUMBERED FUNDS WITHIN THE GRANT BUDGET FOR THESE GRANTS.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized and directed to execute and submit the Grant Application, which is attached hereto and incorporated herein by reference, to the Kentucky Justice and Public Safety Cabinet for the 2022 Project Safe Neighborhood Grant, seeking \$99,038.00 in Federal funds, which shall be used for the purchase of computer hardware and database software, and to provide any additional information requested in connection with this Grant Application, and to accept this Grant if the application is approved, the acceptance of which does not obligate the Lexington-Fayette Urban County Government to the expenditure of funds.

Section 2 - That subject to the provisions of Section 7-48 of the Lexington-Fayette Urban County Government Code of Ordinances, the Mayor is hereby authorized, in her discretion as Chief Executive Officer of the Urban County Government, to transfer the unencumbered balance of any operating or capital account appropriation to another operating or capital account appropriation within the Grant budget previously established for this Grant.

Section 3 - That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: March 21, 2024



 MAYOR

ATTEST:



 CLERK OF URBAN COUNTY COUNCIL

0228-24:ANB:4862-1319-2362, v. 1



Lexington-Fayette Urban County Government

200 E. Main St
Lexington, KY 40507

Master

File Number: 0229-24

File ID: 0229-24

Type: Resolution

Status: Approved

Version: 2

Contract #: 058-2024

In Control: Urban County Council

File Created: 02/26/2024

File Name: Request Council authorization to submit an application, and accept award if offered, to the Department of Environmental Quality and Public Works - Division of Waste Management in the amount of \$110,000 for the support of a household hazardous waste collec

Final Action: 03/21/2024

Title: A Resolution authorizing the Mayor, on behalf of the Urban County Government, to execute and submit a Grant Application to the Ky. Energy and Environment Cabinet, Dept. of Environmental Protection, to provide any additional information requested in connection with this Grant Application, and to accept this Grant if awarded, which Grant funds are in the amount of \$110,000 in Commonwealth of Ky. funds, for the Dept. of Environmental Quality and Public Works - Div. of Waste Management, to support a One-Day Household Hazardous Waste Recycling Event, the acceptance of which obligates the Urban County Government to the expenditure of \$27,500 as a local match, and authorizing the Mayor to transfer encumbered funds within the Grant Budget. [Div. of Waste Management, Thurman]

Notes: In office/purple folder to go down to Mayor 3/21/2024. MS

Signed and CILOO filed in the CCO. Returned to Celia Moore 3/26/2024. MS

original signed and filed in CCO anmd copy given back to Grants. 5/16/24 AA

Sponsors:

Enactment Date: 03/21/2024

Attachments: 24-Blue Sheet Memo HHW, 2024-25 HHW Grant Application, RFP Pkg 44-2022, 0229-24 (Household Hazardous Waste Grant) 4863-3666-1930 v.1.docx, R-118-2024, Contract #058-2024, Contract #058-2024 (2), Contract #058-2024 (3)

Enactment Number: R-118-2024

Deed #:

Hearing Date:

Drafter: Katrina James

Effective Date:

History of Legislative File

| Version: | Acting Body: | Date: | Action: | Sent To: | Due Date: | Return Date: | Result: |
|----------|--------------|-------|---------|----------|-----------|--------------|---------|
|----------|--------------|-------|---------|----------|-----------|--------------|---------|

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|---|-----------------------------------|------------|---------------------------------|----------------------|------------|------|
| 2 | Urban County Council Work Session | 03/05/2024 | Approved and Referred to Docket | Urban County Council | 03/07/2024 | Pass |
| 2 | Urban County Council | 03/07/2024 | Received First Reading | Urban County Council | 03/21/2024 | |
| 2 | Urban County Council | 03/21/2024 | Approved | | | Pass |

Text of Legislative File 0229-24

Title

A Resolution authorizing the Mayor, on behalf of the Urban County Government, to execute and submit a Grant Application to the Ky. Energy and Environment Cabinet, Dept. of Environmental Protection, to provide any additional information requested in connection with this Grant Application, and to accept this Grant if awarded, which Grant funds are in the amount of \$110,000 in Commonwealth of Ky. funds, for the Dept. of Environmental Quality and Public Works - Div. of Waste Management, to support a One-Day Household Hazardous Waste Recycling Event, the acceptance of which obligates the Urban County Government to the expenditure of \$27,500 as a local match, and authorizing the Mayor to transfer encumbered funds within the Grant Budget. [Div. of Waste Management, Thurman]

Summary

Authorization to submit an application and accept award if offered, to the Household Hazardous Waste Management Grant Program in the amount of \$110,000 to support the Division of Waste Management with a household hazardous waste collection event(s) for Fayette County, the acceptance of which obligates the government to provide match in the amount of \$27,500. (L0229-24) (Thurman/Albright)

Budgetary Implications: Yes

Advance Document Review:

Law: N/A

Risk Management: N/A

Fully Budgeted: A Budget amendment will be completed if approved.

Account Number:

This Fiscal Year Impact: \$137,500.

Annual Impact: \$0

Project: KYHOHAZWA_2025

Activity: STA_GRANT

Budget Reference: 2025

Current Balance:



**TO: LINDA GORTON, MAYOR
URBAN COUNTY COUNCIL**

**FROM: THERESA REYNOLDS, DIRECTOR
DIVISION OF GRANTS AND SPECIAL PROGRAMS**

DATE: FEBRUARY 23, 2024

SUBJECT: Application for Household Hazardous Waste Management Grant Program

Request: Council authorization to submit an application, and accept award if offered, to the Department of Environmental Quality and Public Works - Division of Waste Management in the amount of \$110,000 for the support of a household hazardous waste collection event for Fayette County, the acceptance of which obligates the government to provide match in the amount of \$27,500. If the full grant award is not utilized at a one-day event, authorization is requested to apply for a supplemental, second event during FY25 to utilize any remaining grant funds.

Purpose of Request: The Department of Environmental Quality and Public Works - Division of Waste Management has prepared an application for submission to the state agency requesting a contract with an approved vendor for appropriate disposal of hazardous waste. RFP 44-2022 selected Environmental Enterprises, Inc. as the winning bidder and outlines a price contract for disposal costs. The Recycling and Household Hazardous Waste Grants Program was established in 2006 by Senate Bill 50. KRS 224.43-505 (2)(c) specifies the establishment of a Recycling and Household Hazardous Waste management grants program.

Cost in this budget year and future budget years: State funds in the amount of \$110,000 will be budgeted in Fiscal Year 2025. If grant is awarded, a match is required in FY25 in the amount of \$27,500 in the Urban Services Funds (Fund 1115). Total cost will be \$137,500. No expenses are anticipated for future budget years.

Are funds budgeted? A budget amendment will be completed if approved.

File Number: 0229-24

Director/Commissioner: Thurman/Albright



2024-2025 Kentucky Pride Fund Household Hazardous Waste Management Grant Application

PURPOSE: To leverage limited funds into an efficient and cost effective one-day management event collecting Household Hazardous Waste and promoting a Household Hazardous Waste Public education program.

**Application Deadline
Monday, April 1, 2024**

***Kentucky Energy and Environment Cabinet
Department for Environmental Protection
Division of Waste Management
Recycling and Local Assistance Branch
Recycling Assistance Section
300 Sower Boulevard, 2nd Floor
Frankfort, Kentucky 40601
(502) 564-6716 FAX (502) 564-4245***

www.waste.ky.gov



Environmental and Public Protection Cabinet



Kentucky Pride Fund HOUSEHOLD HAZARDOUS WASTE MANAGEMENT Grant Application

Grant Period July 1, 2024 – June 30, 2025

NOTICE – PLEASE READ THE FOLLOWING STATEMENT

Proposals often receive low scores because applicants fail to follow instructions, leading to uncertainty about the project goals and intended results. The clearer the details, the fewer questions a reviewer will have about the validity/feasibility of a proposal. Applicants also stand a better chance of success if they adhere to the required components of the application and information package. Please contact recycling assistance staff if there are questions about the information packet or about aspects of the proposal.

BACKGROUND

The Recycling and Household Hazardous Waste (HHW) Management Grant Program was established in 2006 by Senate Bill 50, effective July 12, 2006, and incorporated as a part of the Kentucky Pride Fund. KRS 224.43-505 (2) (c) specifies the establishment of a recycling and Household Hazardous Waste (HHW) management grants program. A 25% match is required.

The goal of the program is to leverage limited funds into efficient and cost effective projects to help Kentucky develop an integrated recycling infrastructure, manage Household Hazardous Waste and provide recycling and HHW public education programs.

Priority will be given to regional recycling projects and regional household hazardous waste management programs with state approved inter-local cooperative agreements.

Note that for the 2024-25 HHW Grant cycle, Team Kentucky Healthy at Work guidelines must be followed when conducting any Household Hazardous Waste event funded by the Kentucky PRIDE grant. The cabinet reserves the right to require more specific safety protocol be followed and will provide guidance as needed prior to HHW events.

Who Can Apply?

Any county, waste management district, city, urban-county government, or other political subdivision of the state or any combination of the above, including schools/school districts, shall be eligible to apply.

Helpful Hint - Approved Agreement Process

It is imperative we receive the signed agreement for a grant award by a specific date due to the timing of the end of the commonwealth's fiscal year. To expedite the quick turnaround of the agreement, the Division of Waste Management (DWM) strongly recommends that the governing body provide written permission, in addition to the approval for the submission of the application, for the chair (judge/executive, mayor, school board chair, etc.) to affix his/her signature to the agreement without the necessity of a formal meeting. The original signed agreement would then be sent to the division for processing of the funds prior to the end of the fiscal year.

1. Household Hazardous Waste Management Grant Information

- a. Applicants are limited to one HHW event per grant period, except as provided in (d) below. The grant period is July 1, 2024 to June 30, 2025.
- b. The HHW MANAGEMENT Grant Project Close-out Report shall be submitted within sixty (60) days of the HHW event completion.
- c. The grantee shall attach the vendor report to the HOUSEHOLD HAZARDOUS WASTE MANAGEMENT Grant Project Close-out Report identifying the following information: all items collected, the disposition of each product (e.g. recycled, used as fuel, neutralized, etc.), weights or number of items of each product collected, and the total cost of the project.

- d. If the grantee has grant funding remaining after the HHW event, the grantee may submit a supplemental application for an additional HHW event within the grant period.
 - (a) Supplemental applications shall be submitted by the grantee not later than February 14, 2025.
 - (b) Supplemental applications shall be accompanied by the completed HOUSEHOLD HAZARDOUS WASTE MANAGEMENT Grant Project Close-out Report, with attached invoices for vendors, and the vendor report identifying all items collected, their disposition (e.g. recycled, used as fuel, neutralized, etc), weights, and total cost.
 - (c) For an approved supplemental event, the grantee shall submit a HOUSEHOLD HAZARDOUS WASTE MANAGEMENT Grant Project Close-out Report, with attached invoices for vendors, and the vendor report for the HHW collection event approved in the supplemental application by July 31.
- e. Unspent funds and grant funds not expended in accordance with the grant agreement shall be returned to DWM within forty-five (45) days of cabinet notification.
- f. With the exception of allowed match expenditures, no changes or substitutions are allowed after the grant agreement is accepted by the DWM without prior written approval from the cabinet. Upon receipt of a proposed change or substitution by the grantee, the cabinet shall send a written determination to the grantee within five (5) business days.
- g. The grantee shall be responsible for complying with any applicable permits and regulatory standards.
- h. Grant funds to any eligible entity shall be withheld if the entity is out of compliance with KRS 224.43-315, KRS 224.43-340, KRS 224.43-345, KRS 224.43-505 or KRS 224.50-878.
- i. With regards to vendors that may be transporting and managing hazardous waste, the grantee SHALL ensure that a successful vendor is registered with the cabinet to conduct these activities. The grantee can contact Ms. Justina Bascombe, with the Kentucky Hazardous Waste Branch, at 502-782-7048.
- j. Team Kentucky Healthy at Work guidelines must be followed when conducting any Household Hazardous Waste event funded by the Kentucky PRIDE grant. The cabinet reserves the right to require more specific safety protocol be followed and will provide guidance as needed prior to HHW events.

2. Household Hazardous Waste Management Grant Funding and Match Requirements

- a. The grantee shall provide a minimum of a 25% match to the grant amount.
- b. The following formula shall be used to determine the twenty-five percent (25%) match to the grant amount.

$$\begin{aligned} \text{Grant} \quad & \times 0.25 = \$ 0.00 \text{ (match)} + \$ 0.00 \text{ (grant)} = \$ 0.00 \text{ (project total)} \\ \mathbf{\$ 4,000} \quad & \mathbf{\times 0.25 = \$ 1,000.00 \quad + \quad \$ 4,000.00 \quad = \quad \$ 5,000.00 \text{ (project total)}} \end{aligned}$$
- c. For allowed match in-kind and cash grant project expenditures see # 5 on page 4
- d. Other state or federal grant funds cannot be used as any part of the local match.

3. ELIGIBLE EXPENDITURES for Household Hazardous Waste Management Grant Project from Kentucky Pride Program Award

- a. Grant funds may be used to cover the cost of vendor services for the collection, and proper management of HHW.
- b. Advertising for HHW and regular reporting in local/regional media, signs, displays and banners for HHW collection events
- c. Educational materials for school programs and Personnel to teach school education.

See <http://waste.ky.gov/RLA/grants/Pages/default.aspx> for updated vendor information
 See EPA-Educational materials for school education <https://eec.ky.gov/Environmental-Protection/Waste/Pages/educational-resources.aspx>

4. INELIGIBLE EXPENDITURES for Household Hazardous Waste Management Grant Project from Kentucky Pride Program Award

- a. Office equipment, supplies, and **promotional or give away items (pens, pencils, stickers, ect.)**

Grant funds cannot be used to pay for the grantee or contractor to accept water based paint, automotive batteries or used motor oil.

5. ALLOWED Matching In-Kind and Cash Household Hazardous Waste Management Project Expenditures

- a. Hourly rate of pay of the staff for planning and implementing the event. **The matching salaries (includes benefits) for staff shall be the actual hours worked as they relate to the grant project.**
- b. Volunteers and inmates at the rate of \$7.25 per hour.
- c. Event advertising, signs and banners and HHW educational materials for school program.
- d. Public advertisement costs related to bidding procedures.
- e. Hourly rate for the use of the vehicle to transport recyclable commodities (use FEMA rates).
- f. Used Gaylord boxes with lids and reconditioned drums with lids to reduce overall vendor quotes.
- g. Personal Protective Equipment (PPE) for volunteers and staff working the day of the event; PPE can include a pair of gloves, a reflective vest/apron, and a pair of safety glasses ONLY for each volunteer/staff participating.
- h. Personnel for local security and/or traffic control costs for the day of the event.
- i. Meals for county employees and volunteers during the event.
- j. **Other in-kind match REQUESTS will be evaluated on a case-by-case basis.**

2024 – 2025 Kentucky Pride Fund Household Hazardous Waste Management Grant Application Submission Details

Send the completed application to:

Division of Waste Management
Recycling Assistance Section
300 Sower Blvd., 2nd Floor
Frankfort, KY 40601
ATTN: TY COLLINS

In order to be eligible for grant funds, the Grant Application MUST BE postmarked **OR hand-delivered to the Recycling Assistance Section of the Recycling and Local Assistance Branch, OR Emailed (preferred) to williamt.collins@ky.gov **no later than 4:00 pm on Monday, April 1, 2024.****

Most frequent errors seen on applications:

- 1) Failure to address all items.
- 2) Failure to adhere to the required components of the application and information package

DO NOT SUBMIT YOUR APPLICATION IN A 3 RING BINDER

For regional and joint projects, signature by the governing body of each participating entity shall be required for Section 3.

Kentucky Department for Environmental Protection
 Division of Waste Management
 Recycling and Local Assistance Branch
 300 Sower Boulevard, Second Floor – Frankfort KY 40601
 (502) 564-6716

FOR OFFICIAL USE ONLY.
 DO NOT WRITE IN THIS SPACE

**Kentucky Pride Fund Household Hazardous Waste Management Grant
 Application**

| | | | | | |
|--|--|---|--|---|---|
| 1. Federal ID Number | 61-0858140 | | | | |
| 2. Applicant | Name: LFUCG Division of Waste Management | | Title/Position: Lauren Monahan, Env. Init. Spclst, | | |
| | Signature: | | Date Submitted: 04/01/2024 | | |
| | Mailing Address: 675 Byrd Thurman Drive | | City: Lexington | | |
| | State: KY | Zip Code: 40510 | Email Address: lmonahan@lexingtonky.gov | | |
| | Phone Number: (859)280-8578 | | Fax Number: (859)254-0171 | | |
| 3. Official Signatory for Applicant | Name: Mayor Linda Gorton | | | | |
| | <input type="checkbox"/> Judge/Executive | <input type="checkbox"/> School Administrator | <input checked="" type="checkbox"/> Mayor | <input type="checkbox"/> 109 Board Chair | <input type="checkbox"/> Other |
| | Mailing Address: 200 E Main Street | | City: Lexington | | |
| | State: KY | | Zip Code: 40507 | | |
| | Phone Number: (859)280-3100 | | Fax Number: (859)258-3194 | | |
| | Email address: mayor@lexingtonky.gov | | | | |
| 4. Project Coordinator | Name: Lauren Monahan | | Name: Environmental Initiatives Specialist | | |
| | Mailing Address: 675 Byrd Thurman Drive | | City: Lexington | | |
| | State: KY | | Zip Code: 40510 | | |
| | Phone Number: (859)280-8578 | | Fax Number: (859)254-0171 | | |
| | Email address: lmonahan@lexingtonky.gov | | | | |
| 5. Applicant Status | <input type="checkbox"/> City | <input type="checkbox"/> County | <input type="checkbox"/> College / University | <input type="checkbox"/> Joint (partnership between two political subdivisions within one county) | |
| | <input type="checkbox"/> Regional | <input type="checkbox"/> School District | <input type="checkbox"/> Solid Waste Management Area | <input type="checkbox"/> Solid Waste Management District | <input checked="" type="checkbox"/> Urban County Government |
| | <input type="checkbox"/> Other | | | | |

6. PROJECT SUMMARY

Provide a brief explanation of the proposed activity:

Lexington-Fayette Urban County Government Division of Waste Management proposes to conduct a one-day household hazardous waste collection event for residents of Fayette County. The material collected will include traditional household chemicals and other hazardous materials to be kept out of the regular landfill-bound waste stream. The event provides an easy method for encouraging proper, safe disposal. The collected materials are recycled and/or reused by approved vendors whenever possible. The county does not have a permanent hazardous waste collection facility and therefore conducts periodic one-day events to allow for convenient residential disposal opportunities. The goal of holding a one-day event is to keep hazardous waste from entering city collection vehicles, potentially harming employees or the environment. The county would support the project by providing 25% matching funds, widely advertise to all county residents, and dedicate necessary city personnel to assist at a collection event.

7. AUTHORIZED SIGNATURE

I hereby certify that the submission of this application has been duly authorized by the governing body of the entity, and that I am legally authorized to sign the application. For regional and joint recycling projects, signature by the governing body of each participating entity shall be required.

| | | |
|-----------------------------------|--------------------------------|---------------------------|
| Printed Name <input type="text"/> | Signature <input type="text"/> | Date <input type="text"/> |
|-----------------------------------|--------------------------------|---------------------------|

8. HOUSEHOLD HAZARDOUS WASTE PROJECT DETAILS

Answer the following questions on a separate sheet of paper. Use additional pages as necessary. Number each response to correspond to the question. Applications will be evaluated based upon responses.

8(a). Project Description

- 1) Describe the proposed project - is it a new program or the expansion of an existing program?
- 2) List the service area by physical boundaries - include cities, counties, etc. that will be active participants.
- 3) List materials to be collected and the expected increase in tons for the grant period.
- 4) How will materials be collected, processed and marketed?

8(b). Project Advertising and Education

- 1) What media type (specify radio, TV, newspaper, etc.) will you use to advertise your program? Describe the proposed advertising and education plan for this proposed project. Include the target audience and media to be used.
- 2) Identify any advertising/education partners and how/what each will contribute.

9. HOUSEHOLD HAZARDOUS WASTE PROJECT EXPENDITURES
Complete the budget tables in 9(a) and 9(b).

9(a). Vendor

| | Estimate |
|-------------------------------|------------------|
| Environmental Enterprises Inc | \$110,000 |
| | \$ |
| Vendor Request Total | \$110,000 |

9(b). Program Advertising and Education

| | |
|--|-----------|
| | \$ |
| | \$ |
| | \$ |
| Program Advertising And Education Request Total | \$ |

10. HOUSEHOLD HAZARDOUS WASTE PROJECT MATCH EXPENDITURES
List all personnel titles, hourly rate, and number of hours projected for life of grant.

10(a). Cash and In Kind Personnel

| | |
|---|-----------------|
| Cash | \$27,500 |
| In Kind Personnel | \$ |
| In Kind Personnel | \$ |
| In Kind Personnel | \$ |
| Cash and Personnel In-Kind Match Total | \$27,500 |

10(b). In Kind Other
List them.

| | |
|----------------------------|-----------|
| | \$ |
| | \$ |
| | \$ |
| Other In Kind Total | \$ |

11. PROJECT TOTAL

| | | |
|--|----------------------|-----------|
| Cash + In-Kind Personnel + In-Kind Other | MATCH | \$27,500 |
| Grant Request | GRANT REQUEST | \$110,000 |
| Grant Request + Match | PROJECT TOTAL | \$137,500 |

2024-25 Section 8 – HHW Project Details

A) Project Description

1) Describe the proposed project – is it a new program or the expansion of an existing program?

The proposed project is a one-day drop off event for Household Hazardous Waste materials (HHW). The purpose of our project is to provide residents of the City of Lexington/Fayette County a safe and proper way to dispose of HHW materials. The event is hosted periodically in the county, and many residents look forward to participating this disposal opportunity. The event is a needed service because there is no permanent hazardous materials drop off facility in the county and no other year-round drop off option available for residents. Throughout the year, residents call in and are informed that they should hold on to any hazardous materials from their household until a disposal event has been planned. This would be an expansion of an existing program, because Lexington-Fayette Urban County Government's Division of Waste Management has hosted past HHW events through the state's grant program, and the events' popularity only seems to continually increase over time.

2) List the service area by physical boundaries – include cities, counties, etc. that will be active participants.

The service area of the event will be Fayette County, which also includes the City of Lexington. Only residents of Fayette County will be eligible to drop off materials at the event. HHW material from Divisions and Departments of the LFUCG (Lexington-Fayette Urban County Government) will also be accepted, but grant funds will not go towards the disposal cost of items from city offices. These items will be invoiced separately by the vendor and disposal costs will be paid for by LFUCG. LFUCG will market the collection event to residents in the county who receive waste collection through city services via a number of different avenues, and a special effort will be made to advertise the event to those in the county who do not receive city waste collection services. This will ensure that all residents in the county will receive adequate notification of the event and will have an opportunity to participate. The full media plan is detailed in Section B, below.

3) List materials to be collected and the expected increase in tons for the grant period.

Aerosol spray cans, ammonia, antifreeze, arts and crafts supplies, bleach, brake fluid, cesspool cleaners, creosote, drain cleaners, dry cleaner fluids, engine and radiator flushes, floor cleaners, herbicides, household batteries, insect sprays, mercury containing

equipment such as thermometers, thermostats, compact fluorescent lamps and fluorescent tubes, metal polish, moth balls, muriatic acid, oil based paint, old chemistry sets, oven cleaners, paint thinner, pesticides, photo chemicals, pool chemicals, radiator cleaners, rodent killers, rust preventatives, sealants, transmission fluid, wood preservatives and wood strippers.

Latex paint and motor oil will also be accepted at the event, but these items will be disposed of and charged under a separate and different processing structure. A portion of latex paint will be accepted on site by Habitat for Humanity, and any remaining latex paint material they are unable to accept will be disposed of by the vendor and invoiced separately since grant funding cannot be used to pay for the disposal of said material. Motor oil will be accepted by the company contracted to handle the HHW material the day of the event, but, as with latex paint, none of the grant funds will be used to pay for the treatment of said material. Habitat will accept as much paint as they are able to accommodate at their stores' paint recycling programs.

At the time of completing this grant application, the last HHW event that took place in Fayette County occurred in October of 2023, where a total of 1,372 vehicles attended that event. For our next planned event, LFUCG will estimate around 1,200 – 1,700 as the possible amount of vehicles that could attend the event.

At the October 2023 event, we collected a total of 184,954 pounds of hazardous material. We expect a possible increase of material from the last event if we continue to see an increase in attendees and collected tonnage at future event(s).

4) How will materials be collected, processed and marketed?

Residents who attend the event will use an entrance known as “Jimmie Campbell Drive,” a road that leads to the back entrance of the event site. This entrance will be marked in several different ways – personnel, physical signage and electronic signage. Event participants will then be directed by LFUCG staff to the event collection area. LFUCG staff will instruct residents to remain in their vehicles while staff unloads material onto rolling carts provided by the vendor. Staff assisting in unloading will wear the required PPE throughout the event – long sleeves and pants, fluorescent vests, safety glasses and leather palm gloves. Staff working the event will also receive a safety briefing that will include important reminders from the vendor prior to beginning that day. The offloaded material will then be taken to the vendor’s designated processing areas, where staff from the vendor handling the HHW material will identify, bulk and handle the material from that point on. The materials will be categorized and labeled by the HHW contractor staff and handled in different areas of the site according to material type and as determined by the vendor’s staff and main site chemist. For example, flammables will be identified, segregated to the designated area and bulked.

Unknowns or unlabeled containers will be tested and identified by the site chemist, provided by the HHW vendor and handled solely by the HHW vendor staff.

A portion of latex paint will be diverted from the collected hazardous waste through Habitat for Humanity's paint recycling efforts. Qualifying paint will be taken to a separate staging area by Habitat for Humanity employees and volunteers. The Habitat individuals will bulk the paint and prepare it for shipment to the Lexington Habitat for Humanity ReStore facility. The ReStore has a paint bulking machine that is utilized to recycle paint by mixing the old paint into new colors. The ReStore then sells the recycled latex paint at their store and the profits are put back into their programs. Anything that Habitat is not able to use will be disposed of by the vendor and paid for by LFUCG funds (not grant funding).

Oil-based paint will be packaged into roll offs and/or Gaylord boxes and transported by the HHW vendor to the appropriate facility where it will be blended and offered to secondary markets. Any PCB contaminated paint will be incinerated. Flammables, such as solvents, thinners, stains, gasoline and other fuels, putty and adhesives, aerosols, anti-freeze and oils will be bulked separately and shipped to the vendor's HHW facility and used for fuel blending.

Labpacks including poisons, household cleaners and polishes will be packaged, separated and shipped to the HHW vendor's facility. Contaminated debris will be landfilled. Batteries, items with mercury, fluorescent lamps and PCB ballasts will be sent to the vendor's facility for recycling.

Cardboard will be collected by LFUCG's Division of Waste Management and sent to the Lexington Recycling Center. Other recyclables such as bottles and aluminum cans leftover from staff meals will also be diverted and recycled at the Lexington Recycling Center. Non-hazardous waste items, such as plastic bags and household waste will also be collected by LFUCG Division of Waste Management staff and sent to the Bluegrass Regional Transfer Station to be landfilled. LFUCG will have a truck available on site to collect any electronic material brought to the event. The electronics will then be taken to the Lexington Electronics Recycling Center to be recycled. In past years, the event has produced about one large truckload (medium sized flatbed with lift gate) of electronic items that have been recycled.

Additionally, we will add an electronics drop off area to the collection event for those residents who may have electronic materials to drop off in accordance with Lexington's electronics recycling collection program.

B) Project Advertising and Education

1) What media type (specify radio, TV, Newspaper, etc.) will you use to advertise your program? Describe the proposed advertising and education plan for the proposed project. Include the target audience and media to be used.

LFUCG will utilize many different types of media to promote the event. We will publish information in our residential newsletter, which is sent to over 99,600 homes in the county. We will publish a graphic advertisement in a local neighborhood newspaper publication (Southsider/Chevy Chaser magazines). We will film a segment featuring the collection event information on LFUCG's public access channel – known as LexTV (Channel 185). We will film a radio segment promoting the event information on the local Community Radio station. We will promote the event to each of three local news stations. We will use social media such as Facebook, X, Instagram and NextDoor to spread awareness of the event and to keep residents updated throughout the event (for example, any severe weather alerts or longer wait times can be communicated via the social media sites). We will also utilize text/email alerts that residents can sign up for. These alerts are wonderful for communicating upcoming events or service changes due to holidays.

The Department of Environmental Quality and Public Works has been contracting with a media company to help us book the most ideal and cost-conscious advertisements on radio as well as television ads. This firm will assist us in placing various TV and radio spots to promote the event as efficiently as possible via these two media outlets.

We frequently “boost” Facebook postings with a small amount of funding so that as many residents as possible view the information on their Facebook newsfeed. Local organizations and City Divisions partnering with the Department can also widely share the information via their social networks. LFUCG will publish a press release and send that to local news outlets and newspapers as well as publish the release on the city's website. The Division of Waste Management will also send out information to be included in newsletters sent out from members of city council to their constituents (this form of communication will reach all residents in the county – not just residents receiving city waste collection services). The Division of Waste Management will also send out information to neighborhood associations as well as provide our city's call center with up-to-date information on the event to provide residents who call in with questions or for more information. We regularly post information to NextDoor, where we will also ensure to post pertinent event information. The information will also be sent to the contacts we have with any private hauling companies doing business in the county. They will then provide the event information to county residents utilizing their waste collection

services. Most years, the Department will also utilize radio advertisements to promote the event to residents.

Signage will be a large part of our promotion of the event. We will utilize electronic signage on the day of the event itself in two different locations to help direct residents through the event site. We will also have other signs meant to effectively direct traffic to the entrance as well as throughout the event site. The signage will assist in successfully and safely directing the flow of traffic on the day of the event. Police officers will patrol the event site throughout the day due to the large amount of vehicles and participants expected. We also assign employees to help with traffic direction as well.

2) Identify any advertising/education partners and how/what each will contribute.

LFUCG will partner with the Mayor's Office, Councilmembers and other city offices; they will assist in promoting the event through social media outlets (such as Facebook). We will partner with Smiley Pete Publishing to include an advertisement in their neighborhood newspapers, which are now sent to most homes via USPS. Bluegrass Greensource, a local non-profit that contracts with the City of Lexington on outreach, will also help promote the event through its social media outlets, volunteer listserv and electronic newsletter; this will play a large part in getting the word out to residents to attend the event as well as recruit volunteers that can help work the event. Habitat for Humanity will also be partnering with LFUCG to handle a portion of the latex paint and will help promote the event through its website and social media outlets.

Section 9 – HHW Project Grant Expenditures

Environmental Enterprises, Inc. (EEI) is the City of Lexington's contracted vendor for hosting hazardous waste collection/disposal events. Their cost estimate comes from a carefully-estimated amount of particular wastes we expect to receive based on past events and turnout.

Environmental Enterprises, Inc. estimates the disposal/collection event cost to be \$110,000.00.

Environmental Enterprises Incorporated

Treatment Facility
4650 Spring Grove Ave.
Cincinnati, Ohio 45232
(513) 853-3587
Fax (513) 853-3597
EPA ID#: OHD083377010



Office / Laboratory
10163 Cincinnati – Dayton Rd.
Cincinnati, Ohio 45241
(513) 772-2818
Fax: (513) 782-8950
(800) 722-2818

February 8, 2023

Ms. Lauren Monahan
LFUCG – Division of Waste Management
675 Byrd Thurman Drive
Lexington, Kentucky 40510

Dear Ms. Monahan:

Environmental Enterprises, Inc. (EEI) is pleased to submit this proposal for the administration of a one-day Household Hazardous Waste Collection Program to be held in 2024. Based on an estimate of 2000 vehicles participating, EEI would expect the invoice to total \$110,000.00. EEI intends to provide all the materials, technical service, labor, transportation, and disposal options to support your program.

As one of the nation's most diverse environmental services company with experience in household hazardous waste, EEI will assist you in taking the steps you need to achieve a successful collection event. We not only can collect, transport, recycle and dispose of the hazardous materials, we also offer assistance and guidance throughout the various stages of your program.

EEI is a full-service environmental company with over 48 years of experience. No one who has entrusted EEI with the management of their waste materials has ever incurred any superfund liabilities with respect to the disposition of their materials managed by EEI. Additionally, our insurance carrier has never had a claim on our environmental impairment insurance.

We look forward for the opportunity to discuss our capabilities and philosophy on household hazardous waste management. Should you have any questions or if we can be of any additional assistance, please don't hesitate to contact me at bdepeel@eeienv.com or (800) 722-2818 at your convenience.

Sincerely,
Environmental Enterprises, Inc.

A handwritten signature in blue ink, appearing to read 'Brian J. DePeel', is written over a light blue horizontal line.

Brian J. DePeel, Director
Lab Pack Services Division and
HHW Collection Programs

Common household hazardous wastes

Most contractors will accept, for transportation and disposal, the majority of hazardous waste typically produced by households. *It is stressed for the safety of everyone involved that all materials are known and properly labeled.* Wastes in their original containers may be accepted. Wastes that **are not** in their original containers may be accepted as "known" wastes provided they are labeled. Unknown wastes, if acceptable, will be field tested and packaged for incineration. Below is a list of typical household hazardous wastes accepted for collection, but vendors may accept additional wastes not listed below:

| | |
|-----------------------------|---------------------|
| Ammonia | Mercury thermostats |
| Antifreeze | Metal polish |
| Arts and crafts supplies | Moth balls |
| Bleaches | Muriatic acid |
| Brake fluid | Oil based paint |
| Cesspool cleaners | Old Chemistry sets |
| Compact fluorescent lamps | Oven cleaners |
| Creosote | Paint thinner |
| Drain cleaners | Pesticides |
| Dry cleaning fluids | Photo chemicals |
| Engine and radiator flushes | Pool chemicals |
| E-scrap* | Radiator cleaners |
| Floor cleaners | Rodent killers |
| Fluorescent tubes | Rust preventatives |
| Herbicides | Sealants |
| Household batteries | Solvents |
| Insect sprays | Transmission fluid |
| Jars of liquid Mercury | Wood preservatives |
| Mercury thermometers | Wood strippers |

* The collection and management of E-scrap may include computers, monitors, TVs, keyboards, cables, connectors, printers, fax machines, stereos, electronic games and cell phones.

Many contractors will reserve the right to refuse any waste deemed unsafe to handle or unsuitable for the collection. Such wastes typically include:

- Large quantities of unknown materials
- Radioactive waste, including smoke detectors
- Explosives, gun powder, flares, ammunition
- Unstable wastes
- Pressurized fire extinguishers
- Unknown gas cylinders
- Substances regulated by the Drug Enforcement Agency

Be sure your contractor gives you a list of what they will and will not accept and the cost estimates for each product.

Vendor List (not all inclusive)

| Household Hazardous Waste Contact Information List | R-2 Certified E-scrap Collection Contact Information List |
|--|--|
| <p>Clean Earth, Inc 1689 Shar-Cal Road Calvert City, KY 42029 Rose Burton Phone: 270-210-3937 www.cleanearthinc.com</p> | <p>C and I Electronics Recycling 1700 North Lafayette Ave. Evansville, IN 47711 812-423-9166 http://www.candielectronics.com/</p> |
| <p>Clean Harbors Environmental Services, Inc. 2815 Old Greenbrier Pike Greenbrier, TN 37073 615-643-3170 FAX 615-643-6370 www.cleanharbors.com</p> | <p>Green Wave Computer Recycling 9206 East 33rd St. Indianapolis, IN 46235 317-899-0000 http://www.gwcri.com/</p> |
| <p>Clean Harbors Environmental Services, Inc. 4879 Spring Grave Ave. Cincinnati, OH 45232 Contact: John Stevens 513-681-6242 ext. 6304 FAX 513-681-6246 www.cleanharbors.com</p> | <p>Cohen U.S.A. 1723 Woodlawn Ave. Middletown, OH 45044 513-422-3696 http://www.cohenusa.com/</p> |
| <p>Environmental Enterprises, Inc. 10163 Cincinnati-Dayton Rd. Cincinnati, OH 45241 Contact: Steve Lonneman 513-772-2818 513-266-3770 FAX 513-782-8950 http://www.eeenv.com/ho Also collects e-scrap</p> | <p>Dynamic Recycling Southeast 3520 Ambrose Avenue Nashville, TN 37207 615-457-3104 http://dynamicrecycling.com/contact/</p> |
| <p>ERG Environmental Services PO Box 167 Bowling Green, OH 43402 800-284-9107 419-354-6110 www.ergenvironmental.com</p> | <p>KY eScrap 7430 Industrial Rd. Florence, KY 41402 859-292-8696 www.KYescrap.com</p> |
| <p>Heritage Environmental Services 4925 Helen Street Louisville, KY40218 502-473-0638 http://www.heritage-enviro.com/services/onsite/index.asp</p> | |

| Household Hazardous Waste Contact Information List | |
|--|--|
| Veolia 405 MacLean Ave., Ste 1 Louisville, KY 40209 Contact: Dave Saniga 502-375-2386 FAX 502-380-0712 http://www.veoliaes.com/en/services/governmental/waste/household-hazardous-waste.html | |
| Tradebe Environmental Services, LLC 4343 Kennedy Avenue East Chicago, IN 46312 219-397-3951 https://www.tradebeusa.com// | |

The vendor listing is for information only. It is neither an endorsement nor a guarantee of current vendor purchasing policies. The Kentucky Division of Waste Management assumes no responsibility for services provided.

Contacts for Additional Information

Division of Waste Management
Recycling Assistance Section
300 Sower Boulevard, 1st Floor
Frankfort, Kentucky 40601
www.waste.ky.gov

Recycling and Local Assistance Branch

Recycling Assistance Section

| | | |
|--------------------------|----------------|--|
| Grant White (Supervisor) | (502) 782-6474 | Grant.White@ky.gov |
| Donald Atha | (502) 782-6205 | Donald.Atha@ky.gov |
| Ty Collins | (502) 871-2981 | WilliamT.Collins@ky.gov |
| Jenny Carr | (502) 782-4663 | Jenny.Carr@ky.gov |

Hazardous Waste Branch

| | | |
|------------------|----------------|--|
| Justina Bascombe | (502) 782-7048 | Justina.Bascombe@ky.gov |
|------------------|----------------|--|



Lexington-Fayette Urban County Government

Request for Proposals

The Lexington-Fayette Urban County Government hereby requests proposals for **RFP #44-2022 Hazardous Household Waste Collection Event** to be provided in accordance with terms, conditions and specifications established herein.

Sealed proposals will be received through Ion Wave until **2:00 PM**, prevailing local time, on **August 10, 2022**. All forms and information requested in RFP must be included and attached in Response Attachments tab in Ion Wave.

Proposals received after the date and time set for opening proposals will not be accepted. It is the sole responsibility of the Proposer to assure that his/her proposal is submitted in Ion Wave before the date and time set for opening proposals.

Proposals, once submitted, may not be withdrawn for a period of one hundred twenty (120) calendar days.

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 LFUCG 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, religion, sex (including pregnancy, sexual orientation or gender identity), national origin, disability, age, genetic information, political affiliation, or veteran status, and to promote equal employment through a positive, continuing program from itself and each of its sub-contracting 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.

LFUCG Non-Appropriation Clause

Contractor acknowledges that the LFUCG is a governmental entity, and the contract validity is based upon the availability of public funding under the authority of its statutory mandate.

In the event that public funds are unavailable and not appropriated for the performance of the LFUCG's obligations under this contract, then this contract shall automatically expire without

penalty to the LFUCG thirty (30) days after written notice to Contractor of the unavailability and non-appropriation of public funds. It is expressly agreed that the LFUCG shall not activate this non-appropriation provision for its convenience or to circumvent the requirements of this contract, but only as an emergency fiscal measure during a substantial fiscal crisis, which affects generally its governmental operations.

In the event of a change in the LFUCG's statutory authority, mandate and mandated functions, by state and federal legislative or regulatory action, which adversely affects the LFUCG's authority to continue its obligations under this contract, then this contract shall automatically terminate without penalty to the LFUCG upon written notice to Contractor of such limitation or change in the LFUCG's legal authority.

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.

AMERICAN RESCUE PLAN ACT

AMENDMENT 1 — CERTIFICATION OF COMPLIANCE FOR EXPENDITURES USING FEDERAL FUNDS, INCLUDING THE AMERICAN RESCUE PLAN ACT

The Lexington-Fayette Urban County Government (“LFUCG”) may use Federal funding to pay for the goods and/or services that are the subject matter of this bid. That Federal funding may include funds received by LFUCG under the American Rescue Plan Act of 2021. Expenditures using Federal funds require evidence of the contractor’s compliance with Federal law. Therefore, by the signature below of an authorized company representative, you certify that the information below is understood, agreed, and correct. 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.

The bidder (hereafter “bidder,” or “contractor”) agrees and understands that in addition to all conditions stated within the attached bid documents, the following conditions will also apply to any Agreement entered between bidder and LFUCG, if LFUCG uses Federal funds, including but not limited to funding received by LFUCG under the American Rescue Plan Act (“ARPA”), toward payment of goods and/or services referenced in this bid. The bidder also agrees and understands that if there is a conflict between the terms included elsewhere in this Request for Proposal and the terms of this Amendment 1, then the terms of Amendment 1 shall control. The bidder further certifies that it can and will comply with these conditions, if this bid is accepted and an Agreement is executed:

1. Any Agreement executed as a result of acceptance of this bid may be governed in accordance with 2 CFR Part 200 and all other applicable Federal law and regulations and guidance issued by the U.S. Department of the Treasury.

2. Pursuant to 24 CFR § 85.43, any Agreement executed as a result of acceptance of this bid can be terminated if the contractor fails to comply with any term of the award. This Agreement may be terminated for convenience in accordance with 24 CFR § 85.44 upon written notice by LFUCG. Either party may terminate this Agreement with thirty (30) days written notice to the other party, in which case the Agreement shall terminate on the thirtieth day. In the event of termination, the contractor shall be entitled to that portion of total compensation due under this Agreement as the services rendered bears to the services required. However, if LFUCG suspects a breach of the terms of the Agreement and/or that the contractor is violating the terms of any applicable law governing the use of Federal funds, LFUCG may suspend the contractor’s ability to receive payment by giving thirty (30) days’ advance written notice. Further, either party may terminate this Agreement for cause shown with thirty (30) days written notice, which shall explain the party’s cause for the termination. If the parties do not reach a settlement before the end of the 30 days, then the Agreement shall terminate on the thirtieth day. In the event of a breach, LFUCG reserves the right to pursue any and all applicable legal, equitable, and/or administrative remedies against the contractor.

3. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

- (1) 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

apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- (4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part, and the contractor may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

Provided, however, that in the event a contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

4. If fulfillment of the contract requires the contractor to employ mechanic's or laborers, the contractor further agrees that it can and will comply with the following:

- (1) *Overtime requirements: No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such a workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such a workweek.*

- (2) *Violation: liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.*
- (3) *Withholding for unpaid wages and liquidated damages. LFUCG shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.*
- (4) *Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower-tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.*

5. *The contractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.*

6. *The contractor shall report each violation to LFUCG and understands and agrees that LFUCG will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency Regional Office.*

7. *The contractor shall include these requirements in numerical paragraphs 5 and 6 in each subcontract exceeding \$100,000 financed in whole or in part with Federal funding.*

8. *The contractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.*

9. *The contractor shall report each violation to LFUCG and understands and agrees that LFUCG will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency Regional Office.*

10. *The contractor shall include these requirements in numerical paragraphs 8 and 9 in each subcontract exceeding \$100,000 financed in whole or in part with Federal funds.*

11. *The contractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.*

12. *The contractor shall report each violation to LFUCG and understands and agrees that LFUCG will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency regional office.*

13. *The contractor shall include these requirements in numerical paragraphs 11 and 12 in each subcontract exceeding \$100,000 financed in whole or in part with American Rescue Plan Act funds.*

14. The contractor shall include this language in any subcontract it executes to fulfill the terms of this bid: “the sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury’s Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with ‘Limited English Proficiency’ in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury’s Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.”

15. *Contractors who apply or bid for an award of \$100,000 or more shall file the required certification that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier, up to the recipient. The required certification is included here:*

- a. The undersigned certifies, to the best of his or her knowledge and belief, that:
 - (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.
 - (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
- b. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

16. The contractor acknowledges and certifies that it has not been debarred or suspended and further acknowledges and agrees that it must comply with regulations regarding debarred or suspended entities in accordance with 24 CFR § 570.489(1). Funds may not be provided to excluded or disqualified persons.

17. The contractor agrees and certifies that to the greatest extent practicable, it will prefer the purchase, acquisition, and use of goods, products or materials produced in the United States, in conformity with 2 C.F.R. § 200.322.

18. The contractor agrees and certifies that all activities performed pursuant to any Agreement entered as a result of the contractor's bid, and all goods and services procured under that Agreement, shall comply with 2 C.F.R. § 200.216 (Prohibition on certain telecommunications and video surveillance services and equipment) and 2 C.F.R. 200 § 200..323 (Procurement of recovered materials), to the extent either section is applicable.

19. If this bid involves construction work for a project totaling \$10 million or more, then the contractor further agrees that all laborers and mechanics, etc., employed in the construction of the public facility project assisted with funds provided under this Agreement, whether employed by contractor, or contractor's contractors, or subcontractors, shall be paid wages complying with the Davis-Bacon Act (40 U.S.C. 3141-3144). Contractor agrees that all of contractor's contractors and subcontractors will pay laborers and mechanics the prevailing wage as determined by the Secretary of Labor and that said laborers and mechanics will be paid not less than once a week. The contractor agrees to comply with the Copeland Anti- Kick Back Act (18 U.S.C. § 874) and its implementing regulations of the U.S. Department of Labor at 29 CFR part 3 and part 5. The contractor further agrees to comply with the applicable provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. Section 327-333), and the applicable provisions of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. et seq.). Contractor further agrees that it will report all suspected or reported violations of any of the laws identified in this paragraph to LFUCG.

Signature

Date

SELECTION CRITERIA:

1. Specialized experience and technical competence of the person or firm with the type of service required. 15 points
2. Capacity of the person or firm to perform the work, including any specialized services, within the time limitations; 15 points
3. Past record and performance on similar contracts with the LFUCG or other governmental agencies and private industry with respect to such factors as control of cost, quality or work and ability to meet schedules; 15 points
4. Familiarity with the details of the project; 10 points
5. The ultimate disposition of the materials collected (i.e. reuse and recycling versus disposal); 10 points
6. The compliance history of the recycling and/or disposal facilities that will be utilized and; 10 points
7. Degree of local employment to be provided by the person or firm in the performance of the contract by the person or firm; 10 points
8. Estimated Cost of Services. 15 points

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 submitted via IonWave at: <https://lexingtonky.ionwave.net>

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 _____, 20__.

My Commission expires: _____

NOTARY PUBLIC, STATE AT LARGE

EQUAL OPPORTUNITY AGREEMENT

Standard Title VI Assurance

The Lexington Fayette-Urban County Government, (hereinafter referred to as the "Recipient") hereby agrees that as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78Stat.252, 42 U.S.C. 2000d-4 (hereinafter referred to as the "Act"), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, (49 CFR, Part 21) Nondiscrimination in Federally Assisted Program of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the "Regulations") and other pertinent directives, no person in the United States shall, on the grounds of race, color, national origin, sex, age (over 40), religion, sexual orientation, gender identity, veteran status, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance from the U.S. Department of Transportation, including the Federal Highway Administration, and hereby gives assurance that will promptly take any necessary measures to effectuate this agreement. This assurance is required by subsection 21.7(a) (1) of the Regulations.

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: _____

| Categories | Total | White (Not Hispanic or Latino) | | Hispanic or Latino | | Black or African- American (Not Hispanic or Latino) | | Native Hawaiian and Other Pacific Islander (Not Hispanic or Latino) | | Asian (Not Hispanic or Latino) | | American Indian or Alaskan Native (not Hispanic or Latino) | | Two or more races (Not Hispanic or Latino) | | Total | |
|-------------------------|-------|--------------------------------------|---|-----------------------|---|--|---|---|---|---|---|--|---|--|---|-------|---|
| | | M | F | M | F | M | F | M | F | M | F | M | F | M | F | M | F |
| Administrators | | | | | | | | | | | | | | | | | |
| Professionals | | | | | | | | | | | | | | | | | |
| Superintendents | | | | | | | | | | | | | | | | | |
| Supervisors | | | | | | | | | | | | | | | | | |
| Foremen | | | | | | | | | | | | | | | | | |
| Technicians | | | | | | | | | | | | | | | | | |
| Protective | | | | | | | | | | | | | | | | | |
| Para- | | | | | | | | | | | | | | | | | |
| Office/Clerical | | | | | | | | | | | | | | | | | |
| Skilled Craft | | | | | | | | | | | | | | | | | |
| Service/Maintena | | | | | | | | | | | | | | | | | |
| Total: | | | | | | | | | | | | | | | | | |

Prepared by: _____ Date: ____/____/____

(Name and Title)

Revised 2015-Dec-15

**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

Notice of requirement for Affirmative Action to ensure Equal Employment Opportunities and Disadvantaged Business Enterprises (DBE) Contract participation. Disadvantaged Business Enterprises (DBE) consists of Minority-Owned Business Enterprises (MBE) and Woman-Owned Business Enterprises (WBE).

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 Disadvantaged Business Enterprises, which is made up of MBEs and WBEs. The Lexington Fayette Urban County Government also has set a goal that not less than three percent (3%) of the total value of this Contract be subcontracted to Veteran-owned Small Businesses. The goal for the utilization of Disadvantaged Business Enterprises as well Veteran –owned Small Businesses as subcontractors is a recommended goal. Contractor(s) who fail to meet such goal will be expected to provide written explanations to the Director of the Division of Purchasing of efforts they have made to accomplish the recommended goal, and the extent to which they are successful in accomplishing the recommended goal will be a consideration in the procurement process. Depending on the funding source, other DBE goals may apply.

For assistance in locating Disadvantaged Business Enterprises Subcontractors contact:

Sherita Miller, MPA, Division of Central Purchasing
Lexington-Fayette Urban County Government
200 East Main Street, 3rd Floor, Room 338
Lexington, Kentucky 40507
smiller@lexingtonky.gov

Firm Submitting Proposal: _____

Complete Address: _____
Street City Zip

Contact Name: _____ Title: _____

Telephone Number: _____ Fax Number: _____

Email address: _____

Lexington-Fayette Urban County Government
MWDBE PARTICIPATION GOALS

A. GENERAL

- 1) The LFUCG request all potential contractors to make a concerted effort to include Minority-Owned (MBE), Woman-Owned (WBE), Disadvantaged (DBE) Business Enterprises and Veteran-Owned Small Businesses (VOSB) as subcontractors or suppliers in their bids.
- 2) Toward that end, the LFUCG has established 10% of total procurement costs as a Goal for participation of Minority-Owned, Woman-Owned and Disadvantaged Businesses on this contract.
- 3) **It is therefore a request of each Bidder to include in its bid, the same goal (10%) for MWDBE participation and other requirements as outlined in this section.**
- 4) The LFUCG has also established a 3% of total procurement costs as a Goal for participation for of Veteran-Owned Businesses.
- 5) **It is therefore a request of each Bidder to include in its bid, the same goal (3%) for Veteran-Owned participation and other requirements as outlined in this section.**

B. PROCEDURES

- 1) The successful bidder will be required to report to the LFUCG, the dollar amounts of all payments submitted to Minority-Owned, Woman-Owned or Veteran-Owned subcontractors and suppliers for work done or materials purchased for this contract. (See Subcontractor Monthly Payment Report)
- 2) Replacement of a Minority-Owned, Woman-Owned or Veteran-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 MWDBE Firm; this is subject to approval by the LFUCG. (See LFUCG MWDBE Substitution Form)
- 3) For assistance in identifying qualified, certified businesses to solicit for potential contracting opportunities, bidders may contact:
 - a) The Lexington-Fayette Urban County Government, Division of Central Purchasing (859-258-3320)
- 4) The LFUCG will make every effort to notify interested MWDBE and Veteran-Owned subcontractors and suppliers of each Bid Package, including information on the scope of work, the pre-bid meeting time and location, the bid date, and all other pertinent information regarding the project.

C. DEFINITIONS

- 1) A Minority-Owned Business Enterprise (MBE) is defined as a business which is certified as being at least 51% owned, managed and controlled by persons of African American, Hispanic, Asian, Pacific Islander, American Indian or Alaskan Native Heritage.
- 2) A Woman-Owned Business Enterprise (WBE) is defined as a business which is certified as being at least 51% owned, managed and controlled by one or more women.

- 3) A Disadvantaged Business (DBE) is defined as a business which is certified as being at least 51% owned, managed and controlled by a person(s) that are economically and socially disadvantaged.
- 4) A Veteran-Owned Small Business (VOSB) is defined as a business which is certified as being at least 51% owned, managed and controlled by a veteran and/or a service disabled veteran.
- 5) Good Faith Efforts are efforts that, given all relevant circumstances, a bidder or proposer actively and aggressively seeking to meet the goals, can reasonably be expected to make. In evaluating good faith efforts made toward achieving the goals, whether the bidder or proposer has performed the efforts outlined in the Obligations of Bidder for Good Faith Efforts outlined in this document will be considered, along with any other relevant factors.

D. OBLIGATION OF BIDDER FOR GOOD FAITH EFFORTS

- 1) **The bidder shall make a Good Faith Effort to achieve the Participation Goal for MWDBE and Veteran-Owned 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.**
- 2) Award of Contract shall be conditioned upon satisfaction of the requirements set forth herein.
- 3) The Form of Proposal includes a section entitled “MWDBE Participation Form”. The applicable information must be completed and submitted as outlined below.
- 4) **Failure to submit this information as requested may be cause for rejection of bid or delay in contract award.**

E. DOCUMENTATION REQUIRED FOR GOOD FAITH EFFORTS

- 1) Bidders reaching the Goal are required to submit only the MWDBE Participation Form.” The form must be fully completed including names and telephone number of participating MWDBE firm(s); type of work to be performed; estimated value of the contract and value expressed as a percentage of the total Lump Sum Bid Price. The form must be signed and dated, and is to be submitted with the bid.
- 2) Bidders not reaching the Goal must submit the “MWDBE Participation Form”, the “Quote Summary Form” and a written statement documenting their Good Faith Effort to do so. If bid includes no MWDBE and/or Veteran participation, bidder shall enter “None” on the subcontractor / supplier form). In addition, the bidder must submit written proof of their Good Faith Efforts to meet the Participation Goal:
 - a. Advertised opportunities to participate in the contract in at least two (2) publications of general circulation media; trade and professional association publications; small and minority business or trade publications; and publications or trades targeting minority, women and disadvantaged businesses not less than fifteen (15) days prior to the deadline for submission of bids to allow MWDBE firms and Veteran-Owned businesses to participate.
 - b. Included documentation of advertising in the above publications with the bidders good faith efforts package

- c. Attended LFUCG Central Purchasing Economic Inclusion Outreach event
- d. Attended pre-bid meetings that were scheduled by LFUCG to inform MWDBEs and/or Veteran-Owned businesses of subcontracting opportunities
- e. Sponsored Economic Inclusion event to provide networking opportunities for prime contractors and MWDBE firms and Veteran-Owned businesses.
- f. Requested a list of MWDBE and/or Veteran subcontractors or suppliers from LFUCG and showed evidence of contacting the companies on the list(s).
- g. Contacted organizations that work with MWDBE companies for assistance in finding certified MWDBE firms and Veteran-Owned businesses to work on this project. Those contacted and their responses should be a part of the bidder's good faith efforts documentation.
- d. Sent written notices, by certified mail, email or facsimile, to qualified, certified MWDBEs and/or Veteran-Owned businesses soliciting their participation in the contract not less than seven (7) days prior to the deadline for submission of bids to allow them to participate effectively.
- e. Followed up initial solicitations by contacting MWDBEs and Veteran-Owned Businesses to determine their level of interest.
- j. Provided the interested MWDBE firm and/or Veteran-Owned business with adequate and timely information about the plans, specifications, and requirements of the contract.
- k. Selected portions of the work to be performed by MWDBE firms and/or Veteran-Owned businesses in order to increase the likelihood of meeting the contract goals. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate MWDBE and Veteran participation, even when the prime contractor may otherwise perform these work items with its own workforce
- l. Negotiated in good faith with interested MWDBE firms and Veteran-Owned businesses not rejecting them as unqualified without sound reasons based on a thorough investigation of their capabilities. Any rejection should be so noted in writing with a description as to why an agreement could not be reached.
- m. Included documentation of quotations received from interested MWDBE firms and Veteran-Owned businesses which were not used due to uncompetitive pricing or were rejected as unacceptable and/or copies of responses from firms indicating that they would not be submitting a bid.
- n. Bidder has to submit sound reasons why the quotations were considered unacceptable. The fact that the bidder has the ability and/or desire to perform the contract work with its own forces will not be considered a sound reason for rejecting a MWDBE and/or Veteran-Owned business's quote. Nothing in this provision shall be construed to require the bidder to accept unreasonable quotes in order to satisfy MWDBE and Veteran goals.

o. Made an effort to offer assistance to or refer interested MWDBE firms and Veteran-Owned businesses to obtain the necessary equipment, supplies, materials, insurance and/or bonding to satisfy the work requirements of the bid proposal

p. Made efforts to expand the search for MWBE firms and Veteran-Owned businesses beyond the usual geographic boundaries.

q. Other--any other evidence that the bidder submits which may show that the bidder has made reasonable good faith efforts to include MWDBE and Veteran participation.

Note: Failure to submit any of the documentation requested in this section may be cause for rejection of bid. Bidders may include any other documentation deemed relevant to this requirement which is subject to review by the MBE Liaison. Documentation of Good Faith Efforts must be submitted with the Bid, if the participation Goal is not met.



MINORITY BUSINESS ENTERPRISE PROGRAM

Sherita Miller, MPA
Minority Business Enterprise Liaison
Division of Central Purchasing
Lexington-Fayette Urban County Government
200 East Main Street
Lexington, KY 40507
smiller@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 484-2017 – A Certified Minority, Women and Disadvantaged Business Enterprise ten percent (10%) minimum goal and a three (3%) minimum goal for Certified Veteran-Owned Small Businesses and Certified Service Disabled Veteran – Owned Businesses for government contracts.

The resolution states the following definitions shall be used for the purposes of reaching these goals (a full copy is available in Central Purchasing):

Certified Disadvantaged Business Enterprise (DBE) – a business in which at least fifty-one percent (51%) is owned, managed and controlled by a person(s) who is socially and economically disadvantaged as defined by 49 CFR subpart 26.

Certified Minority Business Enterprise (MBE) – a business in which at least fifty-one percent (51%) is owned, managed and controlled by an ethnic minority (i.e. African American, Asian American/Pacific Islander, Hispanic Islander, Native American/Native Alaskan Indian) as defined in federal law or regulation as it may be amended from time-to-time.

Certified Women Business Enterprise (WBE) – a business in which at least fifty-one percent (51%) is owned, managed and controlled by a woman.

Certified Veteran-Owned Small Business (VOSB) – a business in which at least fifty-one percent (51%) is owned, managed and controlled by a veteran who served on active duty with the U.S. Army, Air Force, Navy, Marines or Coast Guard.

Certified Service Disabled Veteran Owned Small Business (SDVOSB) – a business in which at least fifty-one percent (51%) is owned, managed and controlled by a disabled veteran who served on active duty with the U.S. Army, Air Force, Navy, Marines or Coast Guard.

The term “Certified” shall mean the business is appropriately certified, licensed, verified, or validated by an organization or entity recognized by the Division of Purchasing as having the appropriate credentials to make a determination as to the status of the business.

We have compiled the list below to help you locate certified MBE, WBE and DBE certified businesses. Below is a listing of contacts for LFUCG Certified MWDBEs and Veteran-Owned Small Businesses in (<https://lexingtonky.ionwave.net>)

| Business | Contact | Email Address | Phone |
|---|--|--|--------------|
| LFUCG | Sherita Miller | smiller@lexingtonky.gov | 859-258-3323 |
| Commerce Lexington – Minority Business Development | Tyrone Tyra | ttyra@commercelexington.com | 859-226-1625 |
| Tri-State Minority Supplier Diversity Council | Susan Marston | smarston@tsmsdc.com | 502-365-9762 |
| Small Business Development Council | Shawn Rogers UK SBDC | shawn.rogers@uky.edu | 859-257-7666 |
| Community Ventures Corporation | Phyllis Alcorn | palcorn@cvky.org | 859-231-0054 |
| KY Transportation Cabinet (KYTC) | Melvin Bynes | Melvin.bynes2@ky.gov | 502-564-3601 |
| KYTC Pre-Qualification | Shella Eagle | Shella.Eagle@ky.gov | 502-782-4815 |
| Ohio River Valley Women’s Business Council (WBENC) | Sheila Mixon | smixon@orvwbc.org | 513-487-6537 |
| Kentucky MWBE Certification Program | Yvette Smith, Kentucky Finance Cabinet | Yvette.Smith@ky.gov | 502-564-8099 |
| National Women Business Owner’s Council (NWBOC) | Janet Harris-Lange | janet@nwvoc.org | 800-675-5066 |
| Small Business Administration | Robert Coffey | robertcoffey@sba.gov | 502-582-5971 |
| LaVoz de Kentucky | Andres Cruz | lavozydeky@yahoo.com | 859-621-2106 |
| The Key News Journal | Patrice Muhammad | production@keynewsjournal.com | 859-685-8488 |



LFUCG MWDBE PARTICIPATION FORM

Bid/RFP/Quote Reference # _____

The MWDBE and/or veteran 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. **Failure to submit a completed form may cause rejection of the bid.**

| MWDBE Company, Name, Address, Phone, Email | MBE WBE or DBE | 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 MWDBE 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

Company Representative

Date

Title



LFUCG MWDBE SUBSTITUTION FORM

Bid/RFP/Quote Reference # _____

The substituted MWDBE and/or veteran 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 MWDBE Company Name, Address, Phone, Email | MWDBE 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

Company Representative

Date

Title



MWDBE QUOTE SUMMARY FORM

Bid/RFP/Quote Reference # _____

The undersigned acknowledges that the minority and/or veteran subcontractors listed on this form did submit a quote to participate on this project. Failure to submit this form may cause rejection of the bid.

| | |
|---------------------|------------------------|
| Company Name | Contact Person |
| Address/Phone/Email | Bid Package / Bid Date |

| MWDBE 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 | Veteran |
|-----------------------|----------------|---|----------------|--------------------------|---|--|---|---------|
| | | | | | | | | |
| | | | | | | | | |
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| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

(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. The LFUCG also has a 3% goal plan adopted by cited council to increase the participation of veteran owned businesses in the procurement process. In order to measure that goal LFUCG will track spending with MWDBE and Veteran contractors 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.

Bid/RFP/Quote # _____

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

Bid/RFP/Quote # _____

By the signature below of an authorized company representative, we certify that we have utilized the following Good Faith Efforts to obtain the maximum participation by MWDBE and Veteran-Owned business enterprises on the project and can supply the appropriate documentation.

_____ Advertised opportunities to participate in the contract in at least two (2) publications of general circulation media; trade and professional association publications; small and minority business or trade publications; and publications or trades targeting minority, women and disadvantaged businesses not less than fifteen (15) days prior to the deadline for submission of bids to allow MWDBE firms and Veteran-Owned businesses to participate.

_____ Included documentation of advertising in the above publications with the bidders good faith efforts package

_____ Attended LFUCG Central Purchasing Economic Inclusion Outreach event

_____ Attended pre-bid meetings that were scheduled by LFUCG to inform MWDBEs and/or Veteran-Owned Businesses of subcontracting opportunities

_____ Sponsored Economic Inclusion event to provide networking opportunities for prime contractors and MWDBE firms and Veteran-Owned businesses

_____ Requested a list of MWDBE and/or Veteran subcontractors or suppliers from LFUCG and showed evidence of contacting the companies on the list(s).

_____ Contacted organizations that work with MWDBE companies for assistance in finding certified MWBDE firms and Veteran-Owned businesses to work on this project. Those contacted and their responses should be a part of the bidder's good faith efforts documentation.

_____ Sent written notices, by certified mail, email or facsimile, to qualified, certified MWDBEs soliciting their participation in the contract not less than seven (7) days prior to the deadline for submission of bids to allow them to participate effectively.

_____ Followed up initial solicitations by contacting MWDBEs and Veteran-Owned businesses to determine their level of interest.

_____ Provided the interested MWBDE firm and/or Veteran-Owned business with adequate and timely information about the plans, specifications, and requirements of the contract.

_____ Selected portions of the work to be performed by MWDBE firms and/or Veteran-Owned businesses in order to increase the likelihood of meeting the contract goals. This includes, where appropriate, breaking out contract work items

into economically feasible units to facilitate MWDBE and Veteran participation, even when the prime contractor may otherwise perform these work items with its own workforce

_____ Negotiated in good faith with interested MWDBE firms and Veteran-Owned businesses not rejecting them as unqualified without sound reasons based on a thorough investigation of their capabilities. Any rejection should be so noted in writing with a description as to why an agreement could not be reached.

_____ Included documentation of quotations received from interested MWDBE firms and Veteran-Owned businesses which were not used due to uncompetitive pricing or were rejected as unacceptable and/or copies of responses from firms indicating that they would not be submitting a bid.

_____ Bidder has to submit sound reasons why the quotations were considered unacceptable. The fact that the bidder has the ability and/or desire to perform the contract work with its own forces will not be considered a sound reason for rejecting a MWDBE and/or Veteran-Owned business's quote. Nothing in this provision shall be construed to require the bidder to accept unreasonable quotes in order to satisfy MWDBE and Veteran goals.

_____ Made an effort to offer assistance to or refer interested MWDBE firms and Veteran-Owned businesses to obtain the necessary equipment, supplies, materials, insurance and/or bonding to satisfy the work requirements of the bid proposal

_____ Made efforts to expand the search for MWBE firms and Veteran-Owned businesses beyond the usual geographic boundaries.

_____ Other--any other evidence that the bidder submits which may show that the bidder has made reasonable good faith efforts to include MWDBE and Veteran participation.

NOTE: Failure to submit any of the documentation requested in this section may be cause for rejection of bid. Bidders may include any other documentation deemed relevant to this requirement which is subject to approval by the MBE Liaison. Documentation of Good Faith Efforts must be submitted with the Bid, if the participation Goal is not met.

The undersigned acknowledges that all information is accurate. Any misrepresentations 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

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 and IonWave Q&A, 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.
20. Contractor [or Vendor or Vendor's Employees] will not appropriate or make use of the Lexington-Fayette Urban County Government (LFUCG) name or any of its trade or service marks or property (including but not limited to any logo or seal), in any promotion, endorsement, advertisement, testimonial or similar use without the prior written consent of the government. If such consent is granted LFUCG reserves the unilateral right, in its sole discretion, to immediately terminate and revoke such use for any reason whatsoever. Contractor agrees that it shall cease and desist from any unauthorized use immediately upon being notified by LFUCG.

Signature

Date

**RISK MANAGEMENT PROVISIONS
INSURANCE AND INDEMNIFICATION**

INDEMNIFICATION AND HOLD HARMLESS PROVISION

- (1) It is understood and agreed by the parties that Contractor hereby assumes the entire responsibility and liability for any and all damages to persons or property caused by or resulting from or arising out of any act or omission on the part of Contractor or its employees, agents, servants, owners, principals, licensees, assigns or subcontractors of any tier (hereinafter "CONTRACTOR") under or in connection with this agreement and/or the provision of goods or services and the performance or failure to perform any work required thereby.
- (2) CONTRACTOR shall indemnify, save, hold harmless and defend the Lexington-Fayette Urban County Government and its elected and appointed officials, employees, agents, volunteers, and successors in interest (hereinafter "LFUCG") from and against all liability, damages, and losses, including but not limited to, demands, claims, obligations, causes of action, judgments, penalties, fines, liens, costs, expenses, interest, 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 CONTRACTOR's performance or breach of the agreement and/or the provision of goods or services provided that: (a) it 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 the negligent acts, errors or omissions or willful misconduct of the CONTRACTOR; and (b) not caused solely by the active negligence or willful misconduct of LFUCG.
- (3) In the event LFUCG is alleged to be liable based upon the above, CONTRACTOR shall defend such allegations and shall bear all costs, fees and expenses of such defense, including but not limited to, all reasonable attorneys' fees and expenses, court costs, and expert witness fees and expenses, using attorneys approved in writing by LFUCG, which approval shall not be unreasonably withheld.
- (4) These provisions shall in no way be limited by any financial responsibility or insurance requirements, and shall survive the termination of this agreement.
- (5) LFUCG is a political subdivision of the Commonwealth of Kentucky. CONTRACTOR acknowledges and agrees that LFUCG is unable to provide indemnity or otherwise save, hold harmless, or defend the CONTRACTOR in any manner.

FINANCIAL RESPONSIBILITY

BIDDER/CONTRACTOR understands and agrees that it shall, prior to final acceptance of its bid and the commencement of any work, demonstrate the ability to assure compliance with the above Indemnity provisions and these other risk management provisions.

INSURANCE REQUIREMENTS

YOUR ATTENTION IS DIRECTED TO THE INSURANCE REQUIREMENTS BELOW, AAND YOU MAY NEED TO CONFER WITH YOUR INSURANCE AGENTS, BROKERS, OR CARRIERS TO DETERMINE IN ADVANCE OF SUBMISSION OF A RESPONSE THE AVAILABILITY OF THE INSURANCE COVERAGES AND ENDORSEMENTS REQUIRED HEREIN. IF YOU FAIL TO COMPLY WITH THE INSURANCE REQUIREMENTS BELOW, YOU MAY BE DISQUALIFIED FROM AWARD OF THE CONTRACT.

Required Insurance Coverage

BIDDER/CONTRACTOR shall procure and maintain for the duration of this contract 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 LFUCG in order to protect LFUCG 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 CONTRACTOR. The cost of such insurance shall be included in any bid:

| <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 |
| Worker's Compensation | Statutory |
| Employer's Liability | \$1,000,000.00 |

The policies above shall contain the following conditions:

- a. All Certificates of Insurance forms used by the insurance carrier shall be properly filed and approved by the Department of Insurance for the Commonwealth of Kentucky (DOI). LFUCG shall be named as an additional insured in the General Liability Policy and Commercial Automobile Liability Policy using the Kentucky DOI approved forms.
- b. The General Liability Policy shall be primary to any insurance or self-insurance retained by LFUCG.
- c. The General Liability Policy shall include a Products and Completed Operations endorsement or Premises and Operations Liability endorsement unless deemed not to apply by LFUCG.
- d. The General Liability Policy shall include an Environmental Pollution Liability endorsement of not less than \$5,000,000.00 per occurrence or like insurance coverage shall be provided.
- e. LFUCG 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.
- f. Said coverage shall be written by insurers acceptable to LFUCG and shall be in a form acceptable to LFUCG. 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.

Renewals

After insurance has been approved by LFUCG, evidence of renewal of an expiring policy must be submitted to LFUCG, 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.

Deductibles and Self-Insured Programs

IF YOU INTEND TO SUBMIT A SELF-INSURANCE PLAN IT MUST BE FORWARDED TO LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, DIVISION OF RISK MANAGEMENT, 200 EAST MAIN STREET, LEXINGTON, KENTUCKY 40507 NO LATER THAN A MINIMUM OF FIVE (5) WORKING DAYS PRIOR TO THE RESPONSE DATE.

Self-insurance programs, deductibles, and self-insured retentions in insurance policies are subject to separate approval by Lexington-Fayette Urban County Government's Division of Risk Management, upon review of evidence of BIDDER/CONTRACTOR's financial capacity to respond to claims. Any such programs or retentions must provide LFUCG with at least the same protection from liability and defense of suits as would be afforded by first-dollar insurance coverage. If BIDDER/CONTRACTOR satisfies any portion of the insurance requirements through deductibles, self-insurance programs, or self-insured retentions, BIDDER/CONTRACTOR agrees to provide Lexington-Fayette Urban County Government, Division of Risk Management, the following data prior to the final acceptance of bid and the commencement of any work:

- a. Latest audited financial statement, including auditor's notes.
- b. Any records of any self-insured trust fund plan or policy and related accounting statements.
- c. Actuarial funding reports or retained losses.
- d. Risk Management Manual or a description of the self-insurance and risk management program.
- e. A claim loss run summary for the previous five (5) years.
- f. Self-Insured Associations will be considered.

Safety and Loss Control

CONTRACTOR 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 LFUCG.

Verification of Coverage

BIDDER/CONTRACTOR agrees to furnish LFUCG with all applicable Certificates of Insurance signed by a person authorized by the insurer to bind coverage on its behalf prior to final award, and if requested, shall provide LFUCG copies of all insurance policies, including all endorsements.

Right to Review, Audit and Inspect

CONTRACTOR understands and agrees that LFUCG may review, audit and inspect any and all of its records and operations to insure compliance with these Insurance Requirements.

DEFAULT

BIDDER/CONTRACTOR understands and agrees that the failure to comply with any of these insurance, safety, or loss control provisions shall constitute default and that LFUCG may elect at

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 BIDDER/CONTRACTOR for any such insurance premiums purchased, or suspending or terminating the work.

00470806

**Request for Proposal - Issued by
Lexington-Fayette Urban County Government
Household Hazardous Waste (HHW) Collection Event**

INTRODUCTION

With grant funding provided through the Kentucky Department of Environmental Protection, Division of Waste Management, Lexington-Fayette Urban County Government (LFUCG) is planning to conduct a Household Hazardous Waste (“drop-off”) event in the Fall of 2022 and seeks proposals from qualified vendors, to manage the event and the collected materials and to provide related services. Only materials from Fayette County residents and from LFUCG divisions (conditionally exempt small quantity generators [CESQGs]) will be accepted. Materials will not be accepted from businesses/commercial establishments.

A. OVERVIEW

The Lexington-Fayette Urban County Government will provide one collection site, at LFUCG’s old landfill pad, at 1631 Old Frankfort Pike, Lexington, KY. The collection of materials will take place between the hours of 8:30 a.m. to 3:00 p.m., on Saturday October 22, 2022.

The goals of the event include the following:

- Providing a safe and environmentally sound way to dispose/manage household hazardous wastes;
- Increasing public awareness concerning the proper use and disposal of hazardous household chemicals and other products;
- Recycling these materials when possible;
- Preserving the environment;
- Protecting citizens and volunteers as well as LFUCG employees;
- Reducing LFUCG potential environmental liabilities.

B. LFUCG RESPONSIBILITIES

The LFUCG will accept proposals from qualified vendors. In general, the process will include a cost evaluation with consideration given to the following:

1. Specialized experience and technical competence of the person or firm with the type of service required. 15 points
2. Capacity of the person or firm to perform the work, including any specialized services, within the time limitations; 15 points

3. Past record and performance on similar contracts with the LFUCG or other governmental agencies and private industry with respect to such factors as control of cost, quality or work and ability to meet schedules; 15 points
4. Familiarity with the details of the project; 10 points
5. The ultimate disposition of the materials collected (i.e. reuse and recycling versus disposal); 10 points
6. The compliance history of the recycling and/or disposal facilities that will be utilized and; 10 points
7. Degree of local employment to be provided by the person or firm in the performance of the contract by the person or firm; 10 points
8. Estimated Cost of Services. 15 points

The LFUCG will provide the following:

- Management of non-hazardous waste and recyclables (such as cardboard and household landfill waste);
- Ample number of staff/labor for activities such as traffic control, off-loading, participant surveys, etc.;
- Traffic cones and signage;
- Promotion for the event;
- Restroom facilities;
- Shelters, covered area, or tent for non-waste handling areas (such as lunch/break area);
- Personal protective equipment (PPE) for volunteers and LFUCG employees;
- Fire Department personnel

The LFUCG reserves the right to provide additional items/materials at our discretion to reduce our costs.

In the event of being awarded the bid and price contract, the agreement set forth shall be eligible for up to three, one-year automatic renewals.

C. VENDOR RESPONSIBILITIES

The selected vendor must make a site visit to the collection site at least one month prior to the collection event to determine suitability and to identify any potential concerns. This site visit must be made jointly with LFUCG personnel.

The successful vendor assumes responsibility for all waste collected during the event. The vendors name and EPA ID number will appear as the generator of the waste on all manifests and other legal documents. As in previous events, the LFUCG requires that the successful vendor obtain all required permits and authorizations to include applicable federal EPA and Kentucky permits. The selected vendor will be expected to provide enough manpower and equipment so that at least four (4) lanes of vehicles can be off-loaded simultaneously, with a goal of accommodating an estimated 1,500 – 2,000

vehicles. Other responsibilities assumed by the vendor are:

- Mobilization, including travel and supply trucks, to and from the collection site;
- Set up and tear down of tents, tables and work areas: Vendor must arrive on-site the day prior to the collection event to set up (access to the site for the day and/or evening prior can be made available). *Vendors are subject to a penalty of 10% off the project cost for failure to comply with this requirement;*
- Overall responsibility and oversight for the entire event, from set-up to closure of site;
- Overall responsibility for site safety to include responsibility for preparing and implementing a site health and safety plan covering all workers and participants;
- Pre-event safety and education session for all event staff and volunteers on the day of the event;
- Provide adequate management and labor-staff on site during the entire event;
- Provide refreshments and lunch for all vendor staff;
- Provide forklift(s) and operator(s) for handling chemical containers, Loading/unloading vendor trucks, etc.
- Provision of appropriate insurance, indemnification, and safety and loss coverage and procedures to include commercial general liability, automobile liability, workers compensation with employee liability, and contractor's pollution legal liability with consultants environmental liability;
- Provision of DOT-approved totes, drums, Gaylord boxes, and other shipping containers;
- Provision of spill containment, neutralization materials and lab carts;
- Provisions of spill clean-up equipment and absorbents;
- Spill clean-up;
- Classification, segregation, and packaging of waste by hazard class in compliance with DOT, EPA, state, and local regulations;
- Testing to determine the correct hazard classification of unknown materials;
- Proper waste drum labeling, manifesting, permitting, and other paperwork required by law;
- Provide timely on-site cost-tracking to include hourly updates to the LFUCG of estimated costs incurred to that point;
- Removal of collected materials from the collection site by midnight of the collection day, unless otherwise authorized by the LFUCG: *Vendors are subject to a penalty of 10% off the project cost for failure to comply with this requirement;*
- Recycling, reuse or disposal of the collected materials at EPA approved facilities;
- Provision of a completed manifest or other form document the treatment status of the collected materials within 90 days of the event;
- Completion of a detailed final report and bill summarizing the activities of the HHW event, the key statistics and data from the collection event, including, weight and volume, type, and disposition of material/item, the costs of services provided, and any recommendations for improving future HHW events. Final report and bill should be sent within 30 days of the event and should also be broken out in accordance with granting agency requirements;

- Provide necessary scale equipment to weigh collected waste material; and
- Ensure that at the end of the event, the LFUCG site (old landfill pad) and any surrounding areas used for the HHW event are restored to the same condition that existed prior to the event.

D. ACCEPTANCE OF MATERIALS

Collection is limited to residents of Fayette County. Materials that may be dropped off include, but are not limited to:

Acceptable Items

Automotive Products

- | | | |
|----------------------|----------------------------------|----------------------------------|
| • antifreeze | • auto wax | • batteries (auto, boat, etc.)** |
| • carburetor cleaner | • diesel fuel | • engine cleaners |
| • engine degreasers | • fuel oil | • gas & diesel additives |
| • gasoline, old | • motor oil and filters** | • oil & transmission additives |
| • transmission fluid | • waste windshield cleaner fluid | |

Fertilizers & Pesticides

- | | | |
|-------------------------------------|--|----------------------------|
| • algaecides | • bug spray/sticks | • dioxin |
| • fertilizers containing nitrogen | • fungicides | • herbicides/weed killers |
| • insecticides (ant & roach powder) | • insecticides (garden dusts & sprays) | • pet flea & tick products |
| • rodenticides | | |

Paint Products & Solvents

- | | | |
|--------------------|------------------------------|-----------------------|
| • auto paint | • brush cleaner | • creosote |
| • finishes | • furniture stain remover | • furniture strippers |
| • lead paint | • linseed oil | • mineral spirits |
| • oil-based paints | • paint removers | • paint strippers |
| • paint thinners | • polyurethane coatings | • preservatives |
| • primer paint | • rust removers | • turpentine |
| • varnishes | • water based/latex paints** | |

Household Products

- acids
- alcohols
- artist supplies
- carpet cleaner
- compressed gas cylinders
- cutting oils
- disinfectants
- ether
- floor adhesive
- furniture polish
- kerosene
- metal polishes
- nail polish or remover
- plant food
- solvents
- spray cleaners
- upholstery cleaner
- adhesives
- ammonia
- ballast PCB
- caulking
- contact cement
- cylinders (propane, helium)***
- drain cleaners
- fiberglass epoxy
- floor waxes
- glass cleaners
- liquid shoe polish
- metal primer
- oven cleaner
- roofing tar
- spackling (drywall compound)
- swimming pool chemicals
- wood preservatives
- aerosol cans
- arsenic
- batteries – household*
- chlorine
- correction fluid
- degreaser
- dyes
- fire extinguishers
- fluorescent lightbulbs
- glue ink
- mercury
- moth balls/flakes
- photographic chemicals
- rubber adhesives
- spot or stain removers
- tile adhesives
- wood sealers

*(alkaline, NiCad, lithium)

**Latex and water based paint, motor oil, motor oil filters and batteries (auto and boat) will be accepted at the event, at the discretion of LFUCG, but will need to be invoiced (or credited) separate from the other material, since the cost for disposal isn't covered by the Kentucky Department of Environmental Protection grant. Please note, the vendor may not be responsible for handling all the latex and water based paint, some of it may be handled by a local non-profit recycler.

***Cylinders include the following categories: small, medium, large, propane, freons, helium, fire extinguishers.

Unacceptable Items

Dangerous items (explosives, ammunition, radioactive materials, etc.) will not be accepted per grant restrictions, with the exception of small caliber ammunition which will be managed by the LFUCG Department of Public Safety.

- appliances (microwave oven, toaster, air conditioner, hair dryer etc.)

- asbestos-containing material
- electronics (TV's, computer gear, etc).
- explosives/ammunition
- infectious waste
- medical waste
- pharmaceuticals
- radioactive materials
- smoke detectors
- tires
- white goods (dishwasher, clothes washer, dryer, etc.)

E. PROPOSAL REQUIREMENTS

The proposal submitted should include the following information:

- Completed Part I. Vendor Qualifications sheet;
- Completed Part II. Site Set-Up sheet;
- Completed Part III. Household Hazardous Waste Collection Price Sheet and addendum sheet;
- A description of vendor qualifications;
- Examples of relevant work performed in the recent past, including the name and phone number of a contact person for each example (the LFUCG reserves the right to contact these references);
- Proof of all necessary state and federal licenses, permits and authorizations required for the collection, transportation and disposal of the collected wastes;
- Copies of any notices of violations, administrative orders, or other enforcement actions taken by regulatory agencies in the past five years against the primary vendor, the parent company and the probable sites to be used for waste disposal;
- Copies of any letters of commendation, awards, or other recognition received in the last five years;
- A detailed list of key personnel working on the project;
- A detailed list of persons who will be on site during the collection day, including relevant experience, qualifications, and a detailed list of duties to be performed that day for each individual;
- The number of vendor employees that will be on site working the event and the number of hours it is anticipated by your company they will be working;
- An example of a typical site set-up including vehicle unloading, material identification and separation, material bulking, non-regulated waste disposal, and truck loading;
- A plan for handling overflow of materials or traffic at the site, including plans to obtain more drums, gaylords, or roll-off boxes, and plans to use areas of the site for traffic control;
- A description of the on-site cost tracking method;

- A detailed equipment list for the collection site including materials for fire prevention, safety, personal protective equipment, material bulking, and any other supplies or equipment necessary for this event, including process for each item;
- A complete list of the recycling, disposal, and/or transfer facilities to be used by the vendor including company name, address, contact name and phone number, federal ID number, types of waste(s) accepted, and method(s) to be used;
- A detailed description of how individual materials will be managed on site during the event as well as once the materials leave the site;
- A copy of lithium battery handling and transport policy (compliant with DOT Guidelines);
- A copy of protocols for identifying unknown materials;
- A description of spill and fire prevention plans, emergency response plans, and health and safety plans;
- A detailed description of any training (safety or otherwise) vendor will provide to volunteers and LFUCG staff on the day of the event prior to event start time;
- Documentation of insurance; and
- A list of the names of the subcontractors proposed for the any part of the event. If the contractor intends to use a subcontractor for any phases of the event such subcontractor shall be approved by the LFUCG before any work is accomplished.

In addition to this information, the proposal should include a complete estimated project cost and proposal based on the details provided on the attached pages.

F. STATISTICS & QUANTITY ESTIMATES

Please see the following tables (below) for information from previous Household Hazardous Waste Collection events held by the LFUCG. Approximately 1,200 – 1,600 vehicles were serviced at these past events. The quantities are presented below to aid vendors in pricing and preparing estimations for the Fall 2022 event. These quantities are not guaranteed for the event.

Respondents should note the LFUCG reserves the right to divert select wastes from the waste stream on the day of the event so that these can be optimally managed and to reduce costs to the LFUCG. For example, the LFUCG desires that some of the usable water-based (latex) paint be diverted out of the collection process at the event for reuse through our existing partnership with Habitat for Humanity ReStore to the extent practical.

Similarly, it may be advantageous for the LFUCG to contract directly with vendors (to include vendors that may not have responded to the RFP) that would pay for materials received during the HHW event that have an obvious marketable value (such as lead acid batteries). Respondents are encouraged to indicate how they would manage these types of materials and how much they will credit (pay) the LFUCG for these materials in Part III – Household Waste Collection Proposal Price sheet. The LFUCG reserves the right to

utilize vendors other than the successful vendor for these marketable items should we determine it is advantageous to do so.

LFUCG is restricted from paying for disposal of certain materials using Kentucky Department of Environmental Protection grant funds. The LFUCG may want to accept these materials but manage them in alternate ways if that proves acceptable to the state. Used oil is one example. The LFUCG may enter into a recycling arrangement with vendors to recycle used oil at no cost to the state.

TABLE 1
2014 HHW EVENT TOTALS

| Products | Amount |
|--|----------------------|
| Antifreeze | 2,177 lbs. |
| Flammable Solvents Liquids | 8,303 lbs |
| Lab Packs for Treatment/Incineration and Lab Pack Reactives | 1,955 lbs. |
| NON-LATEX Paint Related Material (Processable 1 & 5 gallon containers, and non-processable pints and quarts) | 66,031 lbs. |
| Mercury | 20 lbs. |
| Fertilizers & Pesticides | 20,934 lbs. |
| Waxes, Joint Compounds, Latex Adhesives | 22,608 lbs. |
| Consumer Commodity Flammables | 5,448 lbs. |
| Aerosol Cans | 5,201 lbs. |
| Non-Motor Oil Used Oils | 7,113 lbs. |
| Corrosives | 2,101 lbs. |
| Fluorescent bulbs | 15,616 feet |
| PCB Ballast | 0 invoiced lbs. |
| Propane Cylinders | 379 (# of cylinders) |

TABLE 2
2016 HHW EVENT TOTALS

| Products | Amount |
|--|---------------|
| Antifreeze | 3,484 lbs. |
| Flammable Solvents Liquids | 7,716 lbs |
| Lab Packs for Treatment/Incineration and Lab Pack Reactives | 782 lbs. |
| NON-LATEX Paint Related Material (Processable 1 & 5 gallon containers, and non-processable pints and quarts) | 84,661 lbs. |
| Mercury | 40 lbs. |
| Fertilizers & Pesticides | 9,524 lbs. |
| Waxes, Joint Compounds, Latex Adhesives | 12,912 lbs. |
| Consumer Commodity Flammables | 8,273 lbs. |
| Aerosol Cans | 4,537 lbs. |

| | |
|-------------------------|----------------------|
| Non-Motor Oil Used Oils | 7,984 lbs. |
| Corrosives | 3,190 lbs. |
| Fluorescent bulbs | 844 feet |
| PCB Ballast | 6.6 lbs. |
| Propane Cylinders | 288 (# of cylinders) |

TABLE 3
2017 HHW EVENT TOTALS

| Products | Amount |
|--|----------------------|
| Antifreeze | 3,470 lbs. |
| Flammable Solvents Liquids | 7,108 lbs |
| Lab Packs for Treatment/Incineration and Lab Pack Reactives | 1,679 lbs. |
| NON-LATEX Paint Related Material (Processable 1 & 5 gallon containers, and non-processable pints and quarts) | 136,780 lbs. |
| Mercury | 71 lbs. |
| Fertilizers & Pesticides | 16,089 lbs. |
| Waxes, Joint Compounds, Latex Adhesives | 13,903 lbs. |
| Consumer Commodity Flammables | 10,894 lbs. |
| Aerosol Cans | 6,294 lbs. |
| Non-Motor Oil Used Oils | 7,804 lbs. |
| Corrosives | 3,372 lbs. |
| Fluorescent bulbs | 3,259 feet |
| PCB Ballast | 7 lbs. |
| Propane Cylinders | 361 (# of cylinders) |

TABLE 4
Spring 2018 HHW EVENT TOTALS

| Products | Amount |
|--|--------------|
| Antifreeze | 3,208 lbs. |
| Flammable Solvents Liquids | 9,464 lbs. |
| Lab Packs for Treatment/Incineration and Lab Pack Reactives | 1,019 lbs. |
| NON-LATEX Paint Related Material (Processable 1 & 5 gallon containers, and non-processable pints and quarts) | 125,400 lbs. |
| Mercury | 43 lbs. |
| Fertilizers & Pesticides | 13,486 lbs. |
| Waxes, Joint Compounds, Latex Adhesives | 22,037 lbs. |
| Consumer Commodity Flammables | 10,296 lbs. |
| Aerosol Cans | 4,756 lbs. |
| Non-Motor Oil Used Oils | 8,770 lbs. |
| Corrosives | 4,892 lbs. |
| Fluorescent bulbs | 26,008 feet |

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| | |
|-------------------|----------------------------|
| PCB Ballast | 57 lbs. |
| Propane Cylinders | 696 x 1 lb. 61 x 20 lb. |

TABLE 5
Fall 2018 HHW EVENT TOTALS

| Products | Amount |
|--|----------------------|
| Antifreeze | 2,077 lbs. |
| Flammable Solvents Liquids | 6,301 lbs |
| Lab Packs for Treatment/Incineration and Lab Pack Reactives | 786 lbs. |
| NON-LATEX Paint Related Material (Processable 1 & 5 gallon containers, and non-processable pints and quarts) | 77,023 lbs. |
| Mercury | 10 lbs. |
| Fertilizers & Pesticides | 9,905 lbs. |
| Waxes, Joint Compounds, Latex Adhesives | 15,083 lbs. |
| Consumer Commodity Flammables | 5,926 lbs. |
| Aerosol Cans | 3,174 lbs. |
| Non-Motor Oil Used Oils | 4,216 lbs. |
| Corrosives | 2,077 lbs. |
| Fluorescent bulbs | 3,184 feet |
| PCB Ballast | - lbs. |
| Propane Cylinders | 276 (# of cylinders) |

TABLE 6
Spring 2019 HHW EVENT TOTALS

| Products | Amount |
|--|----------------------|
| Antifreeze | 2,652 lbs. |
| Flammable Solvents Liquids | 6,195 lbs |
| Lab Packs for Treatment/Incineration and Lab Pack Reactives | 813 lbs. |
| NON-LATEX Paint Related Material (Processable 1 & 5 gallon containers, and non-processable pints and quarts) | 91,367 lbs. |
| Mercury | 52 lbs. |
| Fertilizers & Pesticides | 11,340 lbs. |
| Waxes, Joint Compounds, Latex Adhesives | 15,460 lbs. |
| Consumer Commodity Flammables | 8,259 lbs. |
| Aerosol Cans | 4,432 lbs. |
| Non-Motor Oil Used Oils | 6,797 lbs. |
| Corrosives | 1,963 lbs. |
| Fluorescent bulbs | 12,044 feet |
| PCB Ballast | 16 lbs. |
| Propane Cylinders | 273 (# of cylinders) |

TABLE 7
Fall 2019 HHW EVENT TOTALS

| Products | Amount |
|--|------------------------|
| Antifreeze | 2,521 lbs. |
| Flammable Solvents Liquids | 6,073 lbs |
| Lab Packs for Treatment/Incineration and Lab Pack Reactives | 1,346 lbs. |
| NON-LATEX Paint Related Material (Processable 1 & 5 gallon containers, and non-processable pints and quarts) | 72,714 lbs. |
| Mercury | 1 lbs. |
| Fertilizers & Pesticides | 10,353 lbs. |
| Waxes, Joint Compounds, Latex Adhesives | 19,371 lbs. |
| Consumer Commodity Flammables | 8,269 lbs. |
| Aerosol Cans | 3,982 lbs. |
| Non-Motor Oil Used Oils | 6,006 lbs. |
| Corrosives | 1,819 lbs. |
| Fluorescent bulbs | 13,828 feet |
| PCB Ballast | 85 lbs. |
| Propane Cylinders | 1,201 (# of cylinders) |

No Spring 2020 collection event held, due to the COVID-19 Pandemic

TABLE 8
Fall 2020 HHW EVENT TOTALS

| Products | Amount |
|--|------------------------|
| Antifreeze | 3,563 lbs. |
| Flammable Solvents Liquids | 6,571 lbs |
| Lab Packs for Treatment/Incineration and Lab Pack Reactives | 2,272 lbs. |
| NON-LATEX Paint Related Material (Processable 1 & 5 gallon containers, and non-processable pints and quarts) | 136,904 lbs. |
| Mercury | 126 lbs. |
| Fertilizers & Pesticides | 22,155 lbs. |
| Waxes, Joint Compounds, Latex Adhesives | 20,779 lbs. |
| Consumer Commodity Flammables | 14,813 lbs. |
| Aerosol Cans | 6,597 lbs. |
| Non-Motor Oil Used Oils | 8,195 lbs. |
| Corrosives | 2,669 lbs. |
| Fluorescent bulbs | 35,632 feet |
| PCB Ballast | 178 lbs. |
| Propane Cylinders | 2,010 (# of cylinders) |

TABLE 9
Spring 2021 HHW EVENT TOTALS

| Products | Amount |
|--|------------------------|
| Antifreeze | 3,147 lbs. |
| Flammable Solvents Liquids | 4,795 lbs |
| Lab Packs for Treatment/Incineration and Lab Pack Reactives | 3,147 lbs. |
| NON-LATEX Paint Related Material (Processable 1 & 5 gallon containers, and non-processable pints and quarts) | 23,673 lbs. |
| Mercury | 27 lbs. |
| Fertilizers & Pesticides | 13,583 lbs. |
| Waxes, Joint Compounds, Latex Adhesives | 9,830 lbs. |
| Consumer Commodity Flammables | 11,410 lbs. |
| Aerosol Cans | 5,387 lbs. |
| Non-Motor Oil Used Oils | 7,539 lbs. |
| Corrosives | 2,385 lbs. |
| Fluorescent bulbs | 17,037 feet |
| PCB Ballast | 22 lbs. |
| Propane Cylinders | 4,112 (# of cylinders) |

TABLE 10
Fall 2021 HHW EVENT TOTALS

| Products | Amount |
|--|----------------------|
| Antifreeze | 2,292 lbs. |
| Flammable Solvents Liquids | 5,601 lbs |
| Lab Packs for Treatment/Incineration and Lab Pack Reactives | 1,550 lbs. |
| NON-LATEX Paint Related Material (Processable 1 & 5 gallon containers, and non-processable pints and quarts) | 83,824 lbs. |
| Mercury | 12 lbs. |
| Fertilizers & Pesticides | 3,834 lbs. |
| Waxes, Joint Compounds, Latex Adhesives | 13,909 lbs. |
| Consumer Commodity Flammables | 8,315 lbs. |
| Aerosol Cans | 3,834 lbs. |
| Non-Motor Oil Used Oils | 5,157 lbs. |
| Corrosives | 1,901 lbs. |
| Fluorescent bulbs | 10,608 feet |
| PCB Ballast | 28 lbs. |
| Propane Cylinders | 486 (# of cylinders) |

LFUCG asks that the contractor be staffed and prepared for LFUCG Divisions to drop off materials on the Friday afternoon prior to the public event. Materials to be expected during this internal collection will be consumer products that had been abandoned at

public properties, consumer materials separated out of solid waste collection and recycling processes, and expired or unused products from LFUCG operations. For this internal collection only, LFUCG will be the generator as a Conditionally Exempt Small Quantity Generator (CESQG) for all materials. Contractor will collect, package, manifest, and bill separately. Disposal will be at the same waste category rates as quoted for the public HHW event unless otherwise indicated by the vendor in the RFP response. Quantities will vary, and staff will prepare a list of anticipated items prior to the internal collection event.

Important Information

The Total Disposal Cost (Part III- Household Hazardous Waste Collection Proposal Price Sheet) should be calculated by using the quantities listed in Table 11 below. The amounts listed below are estimates for price comparison only and are not guaranteed. Note: the quantities are specified in **pounds**, the preferred pricing method, unless otherwise stated. Respondents should also specify in their pricing the amount to be remitted/credited to the LFUCG (if any) for any items that have marketable value such as lead acid batteries.

The estimated amounts on the Pricing Sheet are to be used by LFUCG to compare proposals. The actual characterization of the material collected at the event will likely be different. See Tables above for previous collection totals.

TABLE 11
Fall 2022 HHW EVENT FOR BIDDING PURPOSES

| Products | Amount |
|--|-----------------------------|
| Antifreeze | 3,200 lbs |
| Flammable Solvents Liquids | 6,000 lbs |
| Lab Packs for Treatment/Incineration | 2,500 lbs. |
| Lab Pack Reactives | 200 lbs |
| NON-LATEX Paint Related Material (Processable 1 & 5 gallon containers) | 100,000 lbs. |
| NON-LATEX Paint Related Material (Non-Processable pints & quarts) | 10,000 lbs. |
| Mercury | 50 lbs. |
| Fertilizers & Pesticides | 13,000 lbs. |
| Waxes, Joint Compounds, Latex Adhesives | 16,000 lbs. |
| Consumer Commodity Flammables | 10,000 lbs. |
| Aerosol Cans | 5,000 lbs. |
| Non-Motor Oil Used Oils | 7,500 lbs. |
| Corrosives | 2,000 lbs. |
| Fluorescent bulbs | 16,000 feet |
| PCB Ballast | 100 lbs. |
| Propane cylinders | 1,000 x 1 lb 100 x 20 lb |

Fall 2022

Household Hazardous Waste Collection Proposal

Part I: Vendor Qualifications

Please describe vendor qualifications, including examples of relevant work performed in the recent past. Include the name and phone number of a contact person for each example provided. Attach to this sheet proof of all necessary state and federal licenses and permits needed for the transportation and disposal of wastes; copies of any notices of violations, administrative orders, or other enforcement actions taken by regulatory agencies within the last five years against the primary vendor, parent company, or probable sources of waste disposal; and copies of any letters of recommendation, awards or other recognition received in the last five years.

Fall 2022

Household Hazardous Waste Collection Proposal

Part II: Site Set-up

The event will take place at the LFUCG old landfill pad, located at 1631 Old Frankfort Pike, Lexington, KY. Cars will enter the site through Jimmie Campbell Drive and exit on Old Frankfort Pike. (Aerial photo of site is attached).

Please provide examples of set-up diagrams for events conducted by your company, especially those with a high volume of traffic that include four lanes. Diagrams should include the following areas: Vehicle Unloading, Material Identification and Separation, Material Bulking, Non-Regulated Waste Disposal, and Truck Loading. Please include plans for handling overflow of traffic and materials, including plans to add more lanes for unloading and plans to bring in materials from outside to accommodate excess wastes. Please attach a description of spill and fire prevention plans, an emergency response plan, and a detailed outline of any volunteer training program provided by the vendor. The protocols for testing for unknown substances and packaging/transporting lithium batteries should also be attached.

Please note that the site of the event is a landfill cap with an asphalt pad cover. Tents cannot be staked and grounding rods cannot be used on the asphalt. Grounding rods can be driven off the pad. The pad and surrounding area will need to be maintained to be in the same condition that existed prior to the event.

Household Hazardous Waste Collection Events Proposal

Part III: Pricing

The Total Disposal Cost (Part III- Household Hazardous Waste Collection Proposal Price Sheet) should be calculated by using the quantities listed below. The amounts listed below are estimates for price comparison only and are not guaranteed. Note: the quantities are specified in **pounds**, the preferred pricing method, unless otherwise stated. Respondents should also specify in their pricing the amount to be remitted/credited to the LFUCG (if any) for any items that have marketable value such as lead acid batteries.

The estimated amounts on the Pricing Sheet are to be used by LFUCG to compare proposals. The actual characterization of the material collected at the event will likely be different. See Tables 1 – 11 for previous collection totals.

The pricing will go into effect and be used for any future events planned by the LFUCG while the agreement with the selected vendor is in place.

| Product category | Amount | Price per unit | Total Cost |
|--|-----------------------------|-----------------------|-------------------|
| Antifreeze | 3,200 lbs | | |
| Flammable Solvents Liquids | 6,000 lbs | | |
| Lab Packs for Treatment/Incineration and Lab Pack Reactives | 2,700 lbs | | |
| NON-LATEX Paint Related Material (Processable 1 & 5 gallon containers, and non-processable pints and quarts) | 110,000 lbs. | | |
| Mercury | 50 lbs. | | |
| Fertilizers & Pesticides | 13,000 lbs. | | |
| Waxes, Joint Compounds, Latex Adhesives | 16,000 lbs. | | |
| Consumer Commodity Flammables | 10,000 lbs. | | |
| Aerosol Cans | 5,000 lbs. | | |
| Non-Motor Oil Used Oils | 7,500 lbs. | | |
| Corrosives | 2,000 lbs. | | |
| Fluorescent bulbs | 16,000 feet | | |
| PCB Ballast | 100 lbs | | |
| Propane cylinders | 1,000 x 1 lb 100 x 20 lb | | |
| Total Set Up & Mobilization/Demobilization Cost | | | |
| Total Miscellaneous Charges (please detail in below chart) | | | |
| Total Labor Charges | | | |

Total Cost: _____

Please complete unit price, total cost per category, and total cost of all categories added together.

For example, 2,000 lbs antifreeze @ \$0.12/lb = \$240.00

Please list any additional miscellaneous charges in the below chart:

| Item | Estimated amount | Price per item or pound | Total estimate |
|------|------------------|-------------------------|----------------|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |



RESOLUTION NO. _____ - 2024

A RESOLUTION AUTHORIZING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE AND SUBMIT A GRANT APPLICATION TO THE KENTUCKY ENERGY AND ENVIRONMENT CABINET, DEPARTMENT OF ENVIRONMENTAL PROTECTION, TO PROVIDE ANY ADDITIONAL INFORMATION REQUESTED IN CONNECTION WITH THIS GRANT APPLICATION, AND TO ACCEPT THIS GRANT IF AWARDED, WHICH GRANT FUNDS ARE IN THE AMOUNT OF \$110,000 IN COMMONWEALTH OF KENTUCKY FUNDS, FOR THE DEPARTMENT OF ENVIRONMENTAL QUALITY AND PUBLIC WORKS – DIVISION OF WASTE MANAGEMENT, TO SUPPORT A ONE-DAY HOUSEHOLD HAZARDOUS WASTE RECYCLING EVENT, THE ACCEPTANCE OF WHICH OBLIGATES THE URBAN COUNTY GOVERNMENT TO THE EXPENDITURE OF \$27,500 AS A LOCAL MATCH, AND AUTHORIZING THE MAYOR TO TRANSFER ENCUMBERED FUNDS WITHIN THE GRANT BUDGET.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized and directed to execute and submit a Grant Application, which is attached hereto and incorporated herein by reference, to the Kentucky Energy and Environment Cabinet, Department of Environmental Protection, to provide any additional information requested in connection with this Grant Application, and to accept this Grant if awarded, which Grant funds are in the amount of \$110,000.00 in Commonwealth of Kentucky funds, for the Department of Environmental Quality and Public Works – Division of Waste Management, to support a one-day household hazardous waste recycling event, the acceptance of which obligates the Urban County Government to the expenditure of \$27,500.00 as a local match.

Section 2 – That subject to the provisions of Section 7-48 of the Lexington-Fayette Urban County Government Code of Ordinances, the Mayor is hereby authorized, in her discretion as Chief Executive Officer of the Urban County Government, to transfer the unencumbered balance of any operating or capital account appropriation to another operating or capital account appropriation within the Grant budget previously established for this Grant.

Section 3 --That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL

0229-24:ANB:4863-3666-1930, v. 1

RESOLUTION NO. 118 - 2024

A RESOLUTION AUTHORIZING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE AND SUBMIT A GRANT APPLICATION TO THE KENTUCKY ENERGY AND ENVIRONMENT CABINET, DEPARTMENT OF ENVIRONMENTAL PROTECTION, TO PROVIDE ANY ADDITIONAL INFORMATION REQUESTED IN CONNECTION WITH THIS GRANT APPLICATION, AND TO ACCEPT THIS GRANT IF AWARDED, WHICH GRANT FUNDS ARE IN THE AMOUNT OF \$110,000 IN COMMONWEALTH OF KENTUCKY FUNDS, FOR THE DEPARTMENT OF ENVIRONMENTAL QUALITY AND PUBLIC WORKS – DIVISION OF WASTE MANAGEMENT, TO SUPPORT A ONE-DAY HOUSEHOLD HAZARDOUS WASTE RECYCLING EVENT, THE ACCEPTANCE OF WHICH OBLIGATES THE URBAN COUNTY GOVERNMENT TO THE EXPENDITURE OF \$27,500 AS A LOCAL MATCH, AND AUTHORIZING THE MAYOR TO TRANSFER ENCUMBERED FUNDS WITHIN THE GRANT BUDGET.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized and directed to execute and submit a Grant Application, which is attached hereto and incorporated herein by reference, to the Kentucky Energy and Environment Cabinet, Department of Environmental Protection, to provide any additional information requested in connection with this Grant Application, and to accept this Grant if awarded, which Grant funds are in the amount of \$110,000.00 in Commonwealth of Kentucky funds, for the Department of Environmental Quality and Public Works – Division of Waste Management, to support a one-day household hazardous waste recycling event, the acceptance of which obligates the Urban County Government to the expenditure of \$27,500.00 as a local match.

Section 2 – That subject to the provisions of Section 7-48 of the Lexington-Fayette Urban County Government Code of Ordinances, the Mayor is hereby authorized, in her discretion as Chief Executive Officer of the Urban County Government, to transfer the unencumbered balance of any operating or capital account appropriation to another operating or capital account appropriation within the Grant budget previously established for this Grant.

Section 3 --That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: March 21, 2024



 MAYOR

ATTEST: 

 CLERK OF URBAN COUNTY COUNCIL

2024-2025 Kentucky Pride Fund Household Hazardous Waste Management Grant Application

PURPOSE: To leverage limited funds into an efficient and cost effective one-day management event collecting Household Hazardous Waste and promoting a Household Hazardous Waste Public education program.

Application Deadline
Monday, April 1, 2024

***Kentucky Energy and Environment Cabinet
Department for Environmental Protection
Division of Waste Management
Recycling and Local Assistance Branch
Recycling Assistance Section
300 Sower Boulevard, 2nd Floor
Frankfort, Kentucky 40601
(502) 564-6716 FAX (502) 564-4245***

www.waste.ky.gov



Environmental and Public Protection Cabinet



Kentucky Pride Fund HOUSEHOLD HAZARDOUS WASTE MANAGEMENT Grant Application

Grant Period July 1, 2024 – June 30, 2025

NOTICE – PLEASE READ THE FOLLOWING STATEMENT

Proposals often receive low scores because applicants fail to follow instructions, leading to uncertainty about the project goals and intended results. The clearer the details, the fewer questions a reviewer will have about the validity/feasibility of a proposal. Applicants also stand a better chance of success if they adhere to the required components of the application and information package. Please contact recycling assistance staff if there are questions about the information packet or about aspects of the proposal.

BACKGROUND

The Recycling and Household Hazardous Waste (HHW) Management Grant Program was established in 2006 by Senate Bill 50, effective July 12, 2006, and incorporated as a part of the Kentucky Pride Fund. KRS 224.43-505 (2) (c) specifies the establishment of a recycling and Household Hazardous Waste (HHW) management grants program. A 25% match is required.

The goal of the program is to leverage limited funds into efficient and cost effective projects to help Kentucky develop an integrated recycling infrastructure, manage Household Hazardous Waste and provide recycling and HHW public education programs.

Priority will be given to regional recycling projects and regional household hazardous waste management programs with state approved inter-local cooperative agreements.

Note that for the 2024-25 HHW Grant cycle, Team Kentucky Healthy at Work guidelines must be followed when conducting any Household Hazardous Waste event funded by the Kentucky PRIDE grant. The cabinet reserves the right to require more specific safety protocol be followed and will provide guidance as needed prior to HHW events.

Who Can Apply?

Any county, waste management district, city, urban-county government, or other political subdivision of the state or any combination of the above, including schools/school districts, shall be eligible to apply.

Helpful Hint - Approved Agreement Process

It is imperative we receive the signed agreement for a grant award by a specific date due to the timing of the end of the commonwealth's fiscal year. To expedite the quick turnaround of the agreement, the Division of Waste Management (DWM) strongly recommends that the governing body provide written permission, in addition to the approval for the submission of the application, for the chair (judge/executive, mayor, school board chair, etc.) to affix his/her signature to the agreement without the necessity of a formal meeting. The original signed agreement would then be sent to the division for processing of the funds prior to the end of the fiscal year.

1. Household Hazardous Waste Management Grant Information

- a. Applicants are limited to one HHW event per grant period, except as provided in (d) below. The grant period is July 1, 2024 to June 30, 2025.
- b. The HHW MANAGEMENT Grant Project Close-out Report shall be submitted within sixty (60) days of the HHW event completion.
- c. The grantee shall attach the vendor report to the HOUSEHOLD HAZARDOUS WASTE MANAGEMENT Grant Project Close-out Report identifying the following information: all items collected, the disposition of each product (e.g. recycled, used as fuel, neutralized, etc.), weights or number of items of each product collected, and the total cost of the project.

- d. If the grantee has grant funding remaining after the HHW event, the grantee may submit a supplemental application for an additional HHW event within the grant period.
 - (a) Supplemental applications shall be submitted by the grantee not later than February 14, 2025.
 - (b) Supplemental applications shall be accompanied by the completed HOUSEHOLD HAZARDOUS WASTE MANAGEMENT Grant Project Close-out Report, with attached invoices for vendors, and the vendor report identifying all items collected, their disposition (e.g. recycled, used as fuel, neutralized, etc), weights, and total cost.
 - (c) For an approved supplemental event, the grantee shall submit a HOUSEHOLD HAZARDOUS WASTE MANAGEMENT Grant Project Close-out Report, with attached invoices for vendors, and the vendor report for the HHW collection event approved in the supplemental application by July 31.
- e. Unspent funds and grant funds not expended in accordance with the grant agreement shall be returned to DWM within forty-five (45) days of cabinet notification.
- f. With the exception of allowed match expenditures, no changes or substitutions are allowed after the grant agreement is accepted by the DWM without prior written approval from the cabinet. Upon receipt of a proposed change or substitution by the grantee, the cabinet shall send a written determination to the grantee within five (5) business days.
- g. The grantee shall be responsible for complying with any applicable permits and regulatory standards.
- h. Grant funds to any eligible entity shall be withheld if the entity is out of compliance with KRS 224.43-315, KRS 224.43-340, KRS 224.43-345, KRS 224.43-505 or KRS 224.50-878.
- i. With regards to vendors that may be transporting and managing hazardous waste, the grantee SHALL ensure that a successful vendor is registered with the cabinet to conduct these activities. The grantee can contact Ms. Justina Bascombe, with the Kentucky Hazardous Waste Branch, at 502-782-7048.
- j. Team Kentucky Healthy at Work guidelines must be followed when conducting any Household Hazardous Waste event funded by the Kentucky PRIDE grant. The cabinet reserves the right to require more specific safety protocol be followed and will provide guidance as needed prior to HHW events.

2. Household Hazardous Waste Management Grant Funding and Match Requirements

- a. The grantee shall provide a minimum of a 25% match to the grant amount.
- b. The following formula shall be used to determine the twenty-five percent (25%) match to the grant amount.

$$\begin{aligned} \text{Grant} \times 0.25 &= \$ 0.00 \text{ (match)} + \$0.00 \text{ (grant)} = \$0.00 \text{ (project total)} \\ \mathbf{\$4,000 \times 0.25} &= \mathbf{\$1,000.00} + \mathbf{\$4,000.00} = \mathbf{\$5,000.00 \text{ (project total)}} \end{aligned}$$
- c. For allowed match in-kind and cash grant project expenditures see # 5 on page 4
- d. Other state or federal grant funds cannot be used as any part of the local match.

3. ELIGIBLE EXPENDITURES for Household Hazardous Waste Management Grant Project from Kentucky Pride Program Award

- a. Grant funds may be used to cover the cost of vendor services for the collection, and proper management of HHW.
- b. Advertising for HHW and regular reporting in local/regional media, signs, displays and banners for HHW collection events
- c. Educational materials for school programs and Personnel to teach school education.

See <http://waste.ky.gov/RLA/grants/Pages/default.aspx> for updated vendor information
 See EPA-Educational materials for school education <https://eec.ky.gov/Environmental-Protection/Waste/Pages/educational-resources.aspx>

4. INELIGIBLE EXPENDITURES for Household Hazardous Waste Management Grant Project from Kentucky Pride Program Award

- a. Office equipment, supplies, and promotional or give away items (pens, pencils, stickers, ect.)

Grant funds cannot be used to pay for the grantee or contractor to accept water based paint, automotive batteries or used motor oil.

5. ALLOWED Matching In-Kind and Cash Household Hazardous Waste Management Project Expenditures

- a. Hourly rate of pay of the staff for planning and implementing the event. **The matching salaries (includes benefits) for staff shall be the actual hours worked as they relate to the grant project.**
- b. Volunteers and inmates at the rate of \$7.25 per hour.
- c. Event advertising, signs and banners and HHW educational materials for school program.
- d. Public advertisement costs related to bidding procedures.
- e. Hourly rate for the use of the vehicle to transport recyclable commodities (use FEMA rates).
- f. Used Gaylord boxes with lids and reconditioned drums with lids to reduce overall vendor quotes.
- g. Personal Protective Equipment (PPE) for volunteers and staff working the day of the event; PPE can include a pair of gloves, a reflective vest/apron, and a pair of safety glasses ONLY for each volunteer/staff participating.
- h. Personnel for local security and/or traffic control costs for the day of the event.
- i. Meals for county employees and volunteers during the event.
- j. **Other in-kind match REQUESTS will be evaluated on a case-by-case basis.**

2024 – 2025 Kentucky Pride Fund Household Hazardous Waste Management Grant Application Submission Details

Send the completed application to:

Division of Waste Management
Recycling Assistance Section
300 Sower Blvd., 2nd Floor
Frankfort, KY 40601
ATTN: TY COLLINS

In order to be eligible for grant funds, the Grant Application MUST BE postmarked OR hand-delivered to the Recycling Assistance Section of the Recycling and Local Assistance Branch, OR Emailed (preferred) to williamt.collins@ky.gov no later than 4:00 pm on Monday, April 1, 2024.

Most frequent errors seen on applications:

- 1) Failure to address all items.
- 2) Failure to adhere to the required components of the application and information package

DO NOT SUBMIT YOUR APPLICATION IN A 3 RING BINDER

For regional and joint projects, signature by the governing body of each participating entity shall be required for Section 3.

Kentucky Department for Environmental Protection
 Division of Waste Management
 Recycling and Local Assistance Branch
 300 Sower Boulevard, Second Floor – Frankfort KY 40601
 (502) 564-6716

FOR OFFICIAL USE ONLY.
 DO NOT WRITE IN THIS SPACE

**Kentucky Pride Fund Household Hazardous Waste Management Grant
 Application**

| | | | | | |
|--|--|---|--|---|---|
| 1. Federal ID Number | 61-0858140 | | | | |
| 2. Applicant | Name: LFUCG Division of Waste Management | | Title/Position: Lauren Monahan, Env. Init. Spclst, | | |
| | Signature: | | Date Submitted: 04/01/2024 | | |
| | Mailing Address: 675 Byrd Thurman Drive | | City: Lexington | | |
| | State: KY | Zip Code: 40510 | Email Address: lmonahan@lexingtonky.gov | | |
| | Phone Number: (859)280-8578 | | Fax Number: (859)254-0171 | | |
| 3. Official Signatory for Applicant | Name: Mayor Linda Gorton | | | | |
| | <input type="checkbox"/> Judge/Executive | <input type="checkbox"/> School Administrator | <input checked="" type="checkbox"/> Mayor | <input type="checkbox"/> 109 Board Chair <input type="checkbox"/> Other | |
| | Mailing Address: 200 E Main Street | | City: Lexington | | |
| | State: KY | | Zip Code: 40507 | | |
| | Phone Number: (859)280-3100 | | Fax Number: (859)258-3194 | | |
| Email address: mayor@lexingtonky.gov | | | | | |
| 4. Project Coordinator | Name: Lauren Monahan | | Name: Environmental Initiatives Specialist | | |
| | Mailing Address: 675 Byrd Thurman Drive | | City: Lexington | | |
| | State: KY | | Zip Code: 40510 | | |
| | Phone Number: (859)280-8578 | | Fax Number: (859)254-0171 | | |
| | Email address: lmonahan@lexingtonky.gov | | | | |
| 5. Applicant Status | <input type="checkbox"/> City | <input type="checkbox"/> County | <input type="checkbox"/> College / University | <input type="checkbox"/> Joint (partnership between two political subdivisions within one county) | |
| | <input type="checkbox"/> Regional | <input type="checkbox"/> School District | <input type="checkbox"/> Solid Waste Management Area | <input type="checkbox"/> Solid Waste Management District | <input checked="" type="checkbox"/> Urban County Government |
| | <input type="checkbox"/> Other | | | | |

6. PROJECT SUMMARY

Provide a brief explanation of the proposed activity:
 Lexington-Fayette Urban County Government Division of Waste Management proposes to conduct a one-day household hazardous waste collection event for residents of Fayette County. The material collected will include traditional household chemicals and other hazardous materials to be kept out of the regular landfill-bound waste stream. The event provides an easy method for encouraging proper, safe disposal. The collected materials are recycled and/or reused by approved vendors whenever possible. The county does not have a permanent hazardous waste collection facility and therefore conducts periodic one-day events to allow for convenient residential disposal opportunities. The goal of holding a one-day event is to keep hazardous waste from entering city collection vehicles, potentially harming employees or the environment. The county would support the project by providing 25% matching funds, widely advertise to all county residents, and dedicate necessary city personnel to assist at a collection event.

7. AUTHORIZED SIGNATURE

I hereby certify that the submission of this application has been duly authorized by the governing body of the entity, and that I am legally authorized to sign the application. For regional and joint recycling projects, signature by the governing body of each participating entity shall be required.

| | | |
|---------------------------|---|--|
| Printed Name Linda Gorton | Signature  | Date  |
|---------------------------|---|--|

8. HOUSEHOLD HAZARDOUS WASTE PROJECT DETAILS

Answer the following questions on a separate sheet of paper. Use additional pages as necessary. Number each response to correspond to the question. Applications will be evaluated based upon responses.

8(a). Project Description

- 1) Describe the proposed project - is it a new program or the expansion of an existing program?
- 2) List the service area by physical boundaries - include cities, counties, etc. that will be active participants.
- 3) List materials to be collected and the expected increase in tons for the grant period.
- 4) How will materials be collected, processed and marketed?

8(b). Project Advertising and Education

- 1) What media type (specify radio, TV, newspaper, etc.) will you use to advertise your program? Describe the proposed advertising and education plan for this proposed project. Include the target audience and media to be used.
- 2) Identify any advertising/education partners and how/what each will contribute.

9. HOUSEHOLD HAZARDOUS WASTE PROJECT EXPENDITURES
Complete the budget tables in 9(a) and 9(b).

9(a). Vendor

| | Estimate |
|-------------------------------|------------------|
| Environmental Enterprises Inc | \$110,000 |
| | \$ |
| Vendor Request Total | \$110,000 |

9(b). Program Advertising and Education

| | |
|--|-----------|
| | \$ |
| | \$ |
| | \$ |
| Program Advertising And Education Request Total | \$ |

10. HOUSEHOLD HAZARDOUS WASTE PROJECT MATCH EXPENDITURES
List all personnel titles, hourly rate, and number of hours projected for life of grant.

10(a). Cash and In Kind Personnel

| | |
|---|-----------------|
| Cash | \$27,500 |
| In Kind Personnel | \$ |
| In Kind Personnel | \$ |
| In Kind Personnel | \$ |
| Cash and Personnel In-Kind Match Total | \$27,500 |

10(b). In Kind Other
List them.

| | |
|----------------------------|-----------|
| | \$ |
| | \$ |
| | \$ |
| Other In Kind Total | \$ |

11. PROJECT TOTAL

| | | |
|---|----------------------|------------------|
| Cash + In-Kind Personnel + In-Kind Other | MATCH | \$27,500 |
| Grant Request | GRANT REQUEST | \$110,000 |
| Grant Request + Match | PROJECT TOTAL | \$137,500 |

2024-25 Section 8 – HHW Project Details

A) Project Description

1) Describe the proposed project – is it a new program or the expansion of an existing program?

The proposed project is a one-day drop off event for Household Hazardous Waste materials (HHW). The purpose of our project is to provide residents of the City of Lexington/Fayette County a safe and proper way to dispose of HHW materials. The event is hosted periodically in the county, and many residents look forward to participating this disposal opportunity. The event is a needed service because there is no permanent hazardous materials drop off facility in the county and no other year-round drop off option available for residents. Throughout the year, residents call in and are informed that they should hold on to any hazardous materials from their household until a disposal event has been planned. This would be an expansion of an existing program, because Lexington-Fayette Urban County Government's Division of Waste Management has hosted past HHW events through the state's grant program, and the events' popularity only seems to continually increase over time.

2) List the service area by physical boundaries – include cities, counties, etc. that will be active participants.

The service area of the event will be Fayette County, which also includes the City of Lexington. Only residents of Fayette County will be eligible to drop off materials at the event. HHW material from Divisions and Departments of the LFUCG (Lexington-Fayette Urban County Government) will also be accepted, but grant funds will not go towards the disposal cost of items from city offices. These items will be invoiced separately by the vendor and disposal costs will be paid for by LFUCG. LFUCG will market the collection event to residents in the county who receive waste collection through city services via a number of different avenues, and a special effort will be made to advertise the event to those in the county who do not receive city waste collection services. This will ensure that all residents in the county will receive adequate notification of the event and will have an opportunity to participate. The full media plan is detailed in Section B, below.

3) List materials to be collected and the expected increase in tons for the grant period.

Aerosol spray cans, ammonia, antifreeze, arts and crafts supplies, bleach, brake fluid, cesspool cleaners, creosote, drain cleaners, dry cleaner fluids, engine and radiator flushes, floor cleaners, herbicides, household batteries, insect sprays, mercury containing

equipment such as thermometers, thermostats, compact fluorescent lamps and fluorescent tubes, metal polish, moth balls, muriatic acid, oil based paint, old chemistry sets, oven cleaners, paint thinner, pesticides, photo chemicals, pool chemicals, radiator cleaners, rodent killers, rust preventatives, sealants, transmission fluid, wood preservatives and wood strippers.

Latex paint and motor oil will also be accepted at the event, but these items will be disposed of and charged under a separate and different processing structure. A portion of latex paint will be accepted on site by Habitat for Humanity, and any remaining latex paint material they are unable to accept will be disposed of by the vendor and invoiced separately since grant funding cannot be used to pay for the disposal of said material. Motor oil will be accepted by the company contracted to handle the HHW material the day of the event, but, as with latex paint, none of the grant funds will be used to pay for the treatment of said material. Habitat will accept as much paint as they are able to accommodate at their stores' paint recycling programs.

At the time of completing this grant application, the last HHW event that took place in Fayette County occurred in October of 2023, where a total of 1,372 vehicles attended that event. For our next planned event, LFUCG will estimate around 1,200 – 1,700 as the possible amount of vehicles that could attend the event.

At the October 2023 event, we collected a total of 184,954 pounds of hazardous material. We expect a possible increase of material from the last event if we continue to see an increase in attendees and collected tonnage at future event(s).

4) How will materials be collected, processed and marketed?

Residents who attend the event will use an entrance known as “Jimmie Campbell Drive,” a road that leads to the back entrance of the event site. This entrance will be marked in several different ways – personnel, physical signage and electronic signage. Event participants will then be directed by LFUCG staff to the event collection area. LFUCG staff will instruct residents to remain in their vehicles while staff unloads material onto rolling carts provided by the vendor. Staff assisting in unloading will wear the required PPE throughout the event – long sleeves and pants, fluorescent vests, safety glasses and leather palm gloves. Staff working the event will also receive a safety briefing that will include important reminders from the vendor prior to beginning that day. The offloaded material will then be taken to the vendor’s designated processing areas, where staff from the vendor handling the HHW material will identify, bulk and handle the material from that point on. The materials will be categorized and labeled by the HHW contractor staff and handled in different areas of the site according to material type and as determined by the vendor’s staff and main site chemist. For example, flammables will be identified, segregated to the designated area and bulked.

Unknowns or unlabeled containers will be tested and identified by the site chemist, provided by the HHW vendor and handled solely by the HHW vendor staff.

A portion of latex paint will be diverted from the collected hazardous waste through Habitat for Humanity's paint recycling efforts. Qualifying paint will be taken to a separate staging area by Habitat for Humanity employees and volunteers. The Habitat individuals will bulk the paint and prepare it for shipment to the Lexington Habitat for Humanity ReStore facility. The ReStore has a paint bulking machine that is utilized to recycle paint by mixing the old paint into new colors. The ReStore then sells the recycled latex paint at their store and the profits are put back into their programs. Anything that Habitat is not able to use will be disposed of by the vendor and paid for by LFUCG funds (not grant funding).

Oil-based paint will be packaged into roll offs and/or Gaylord boxes and transported by the HHW vendor to the appropriate facility where it will be blended and offered to secondary markets. Any PCB contaminated paint will be incinerated. Flammables, such as solvents, thinners, stains, gasoline and other fuels, putty and adhesives, aerosols, anti-freeze and oils will be bulked separately and shipped to the vendor's HHW facility and used for fuel blending.

Labpacks including poisons, household cleaners and polishes will be packaged, separated and shipped to the HHW vendor's facility. Contaminated debris will be landfilled. Batteries, items with mercury, fluorescent lamps and PCB ballasts will be sent to the vendor's facility for recycling.

Cardboard will be collected by LFUCG's Division of Waste Management and sent to the Lexington Recycling Center. Other recyclables such as bottles and aluminum cans leftover from staff meals will also be diverted and recycled at the Lexington Recycling Center. Non-hazardous waste items, such as plastic bags and household waste will also be collected by LFUCG Division of Waste Management staff and sent to the Bluegrass Regional Transfer Station to be landfilled. LFUCG will have a truck available on site to collect any electronic material brought to the event. The electronics will then be taken to the Lexington Electronics Recycling Center to be recycled. In past years, the event has produced about one large truckload (medium sized flatbed with lift gate) of electronic items that have been recycled.

Additionally, we will add an electronics drop off area to the collection event for those residents who may have electronic materials to drop off in accordance with Lexington's electronics recycling collection program.

B) Project Advertising and Education

- 1) What media type (specify radio, TV, Newspaper, etc.) will you use to advertise your program? Describe the proposed advertising and education plan for the proposed project. Include the target audience and media to be used.**

LFUCG will utilize many different types of media to promote the event. We will publish information in our residential newsletter, which is sent to over 99,600 homes in the county. We will publish a graphic advertisement in a local neighborhood newspaper publication (Southsider/Chevy Chaser magazines). We will film a segment featuring the collection event information on LFUCG's public access channel – known as LexTV (Channel 185). We will film a radio segment promoting the event information on the local Community Radio station. We will promote the event to each of three local news stations. We will use social media such as Facebook, X, Instagram and NextDoor to spread awareness of the event and to keep residents updated throughout the event (for example, any severe weather alerts or longer wait times can be communicated via the social media sites). We will also utilize text/email alerts that residents can sign up for. These alerts are wonderful for communicating upcoming events or service changes due to holidays.

The Department of Environmental Quality and Public Works has been contracting with a media company to help us book the most ideal and cost-conscious advertisements on radio as well as television ads. This firm will assist us in placing various TV and radio spots to promote the event as efficiently as possible via these two media outlets.

We frequently “boost” Facebook postings with a small amount of funding so that as many residents as possible view the information on their Facebook newsfeed. Local organizations and City Divisions partnering with the Department can also widely share the information via their social networks. LFUCG will publish a press release and send that to local news outlets and newspapers as well as publish the release on the city's website. The Division of Waste Management will also send out information to be included in newsletters sent out from members of city council to their constituents (this form of communication will reach all residents in the county – not just residents receiving city waste collection services). The Division of Waste Management will also send out information to neighborhood associations as well as provide our city's call center with up-to-date information on the event to provide residents who call in with questions or for more information. We regularly post information to NextDoor, where we will also ensure to post pertinent event information. The information will also be sent to the contacts we have with any private hauling companies doing business in the county. They will then provide the event information to county residents utilizing their waste collection

services. Most years, the Department will also utilize radio advertisements to promote the event to residents.

Signage will be a large part of our promotion of the event. We will utilize electronic signage on the day of the event itself in two different locations to help direct residents through the event site. We will also have other signs meant to effectively direct traffic to the entrance as well as throughout the event site. The signage will assist in successfully and safely directing the flow of traffic on the day of the event. Police officers will patrol the event site throughout the day due to the large amount of vehicles and participants expected. We also assign employees to help with traffic direction as well.

2) Identify any advertising/education partners and how/what each will contribute.

LFUCG will partner with the Mayor's Office, Councilmembers and other city offices; they will assist in promoting the event through social media outlets (such as Facebook). We will partner with Smiley Pete Publishing to include an advertisement in their neighborhood newspapers, which are now sent to most homes via USPS. Bluegrass Greensource, a local non-profit that contracts with the City of Lexington on outreach, will also help promote the event through its social media outlets, volunteer listserve and electronic newsletter; this will play a large part in getting the word out to residents to attend the event as well as recruit volunteers that can help work the event. Habitat for Humanity will also be partnering with LFUCG to handle a portion of the latex paint and will help promote the event through its website and social media outlets.

Section 9 – HHW Project Grant Expenditures

Environmental Enterprises, Inc. (EEI) is the City of Lexington's contracted vendor for hosting hazardous waste collection/disposal events. Their cost estimate comes from a carefully-estimated amount of particular wastes we expect to receive based on past events and turnout.

Environmental Enterprises, Inc. estimates the disposal/collection event cost to be \$110,000.00.

Environmental Enterprises Incorporated

Treatment Facility
4650 Spring Grove Ave.
Cincinnati, Ohio 45232
(513) 853-3587
Fax (513) 853-3597
EPA ID#: OHD083377010



Office / Laboratory
10163 Cincinnati - Dayton Rd.
Cincinnati, Ohio 45241
(513) 772-2818
Fax: (513) 782-8950
(800) 722-2818

February 8, 2023

Ms. Lauren Monahan
LFUCG – Division of Waste Management
675 Byrd Thurman Drive
Lexington, Kentucky 40510

Dear Ms. Monahan:

Environmental Enterprises, Inc. (EEI) is pleased to submit this proposal for the administration of a one-day Household Hazardous Waste Collection Program to be held in 2024. Based on an estimate of 2000 vehicles participating, EEI would expect the invoice to total \$110,000.00. EEI intends to provide all the materials, technical service, labor, transportation, and disposal options to support your program.

As one of the nation's most diverse environmental services company with experience in household hazardous waste, EEI will assist you in taking the steps you need to achieve a successful collection event. We not only can collect, transport, recycle and dispose of the hazardous materials, we also offer assistance and guidance throughout the various stages of your program.

EEI is a full-service environmental company with over 48 years of experience. No one who has entrusted EEI with the management of their waste materials has ever incurred any superfund liabilities with respect to the disposition of their materials managed by EEI. Additionally, our insurance carrier has never had a claim on our environmental impairment insurance.

We look forward for the opportunity to discuss our capabilities and philosophy on household hazardous waste management. Should you have any questions or if we can be of any additional assistance, please don't hesitate to contact me at bdepeel@eeienv.com or (800) 722-2818 at your convenience.

Sincerely,
Environmental Enterprises, Inc.

Brian J. DePeel, Director
Lab Pack Services Division and
HHW Collection Programs

Common household hazardous wastes

Most contractors will accept, for transportation and disposal, the majority of hazardous waste typically produced by households. *It is stressed for the safety of everyone involved that all materials are known and properly labeled.* Wastes in their original containers may be accepted. Wastes that **are not** in their original containers may be accepted as "known" wastes provided they are labeled. Unknown wastes, if acceptable, will be field tested and packaged for incineration. Below is a list of typical household hazardous wastes accepted for collection, but vendors may accept additional wastes not listed below:

| | |
|-----------------------------|---------------------|
| Ammonia | Mercury thermostats |
| Antifreeze | Metal polish |
| Arts and crafts supplies | Moth balls |
| Bleaches | Muriatic acid |
| Brake fluid | Oil based paint |
| Cesspool cleaners | Old Chemistry sets |
| Compact fluorescent lamps | Oven cleaners |
| Creosote | Paint thinner |
| Drain cleaners | Pesticides |
| Dry cleaning fluids | Photo chemicals |
| Engine and radiator flushes | Pool chemicals |
| E-scrap* | Radiator cleaners |
| Floor cleaners | Rodent killers |
| Fluorescent tubes | Rust preventatives |
| Herbicides | Sealants |
| Household batteries | Solvents |
| Insect sprays | Transmission fluid |
| Jars of liquid Mercury | Wood preservatives |
| Mercury thermometers | Wood strippers |

* The collection and management of E-scrap may include computers, monitors, TVs, keyboards, cables, connectors, printers, fax machines, stereos, electronic games and cell phones.

Many contractors will reserve the right to refuse any waste deemed unsafe to handle or unsuitable for the collection. Such wastes typically include:

- Large quantities of unknown materials
- Radioactive waste, including smoke detectors
- Explosives, gun powder, flares, ammunition
- Unstable wastes
- Pressurized fire extinguishers
- Unknown gas cylinders
- Substances regulated by the Drug Enforcement Agency

Be sure your contractor gives you a list of what they will and will not accept and the cost estimates for each product.

Vendor List (not all inclusive)

| Household Hazardous Waste Contact Information List | R-2 Certified E-scrap Collection Contact Information List |
|--|--|
| <p>Clean Earth, Inc 1689 Shar-Cal Road Calvert City, KY 42029 Rose Burton Phone: 270-210-3937 www.cleanearthinc.com</p> | <p>C and I Electronics Recycling 1700 North Lafayette Ave. Evansville, IN 47711 812-423-9166 http://www.candielelectronics.com/</p> |
| <p>Clean Harbors Environmental Services, Inc. 2815 Old Greenbrier Pike Greenbrier, TN 37073 615-643-3170 FAX 615-643-6370 www.cleanharbors.com</p> | <p>Green Wave Computer Recycling 9206 East 33rd St. Indianapolis, IN 46235 317-899-0000 http://www.gwcri.com/</p> |
| <p>Clean Harbors Environmental Services, Inc. 4879 Spring Grave Ave. Cincinnati, OH 45232 Contact: John Stevens 513-681-6242 ext. 6304 FAX 513-681-6246 www.cleanharbors.com</p> | <p>Cohen U.S.A. 1723 Woodlawn Ave. Middletown, OH 45044 513-422-3696 http://www.cohenusa.com/</p> |
| <p>Environmental Enterprises, Inc. 10163 Cincinnati-Dayton Rd. Cincinnati, OH 45241 Contact: Steve Lonneman 513-772-2818 513-266-3770 FAX 513-782-8950 http://www.eeienv.com/ho Also collects e-scrap</p> | <p>Dynamic Recycling Southeast 3520 Ambrose Avenue Nashville, TN 37207 615-457-3104 http://dynamicrecycling.com/contact/</p> |
| <p>ERG Environmental Services PO Box 167 Bowling Green, OH 43402 800-284-9107 419-354-6110 www.ergenvironmental.com</p> | <p>KY eScrap 7430 Industrial Rd. Florence, KY 41402 859-292-8696 www.KYescrap.com</p> |
| <p>Heritage Environmental Services 4925 Helen Street Louisville, KY40218 502-473-0638 http://www.heritage-enviro.com/services/onsite/index.asp</p> | |

| Household Hazardous Waste Contact Information List | |
|---|--|
| <p>Veolia 405 MacLean Ave., Ste 1 Louisville, KY 40209 Contact: Dave Saniga 502-375-2386 FAX 502-380-0712 http://www.veoliaes.com/en/services/governmental/waste/household-hazardous-waste.html</p> | |
| <p>Tradebe Environmental Services, LLC 4343 Kennedy Avenue East Chicago, IN 46312 219-397-3951 https://www.tradebeusa.com/</p> | |

The vendor listing is for information only. It is neither an endorsement nor a guarantee of current vendor purchasing policies. The Kentucky Division of Waste Management assumes no responsibility for services provided.

Contacts for Additional Information

Division of Waste Management
Recycling Assistance Section
300 Sower Boulevard, 1st Floor
Frankfort, Kentucky 40601
www.waste.ky.gov

Recycling and Local Assistance Branch

Recycling Assistance Section

| | | |
|--------------------------|----------------|--|
| Grant White (Supervisor) | (502) 782-6474 | Grant.White@ky.gov |
| Donald Atha | (502) 782-6205 | Donald.Atha@ky.gov |
| Ty Collins | (502) 871-2981 | WilliamT.Collins@ky.gov |
| Jenny Carr | (502) 782-4663 | Jenny.Carr@ky.gov |

Hazardous Waste Branch

| | | |
|------------------|----------------|--|
| Justina Bascombe | (502) 782-7048 | Justina.Bascombe@ky.gov |
|------------------|----------------|--|

**2024-2025 KENTUCKY PRIDE FUND
HOUSEHOLD HAZARDOUS WASTE MANAGEMENT GRANT AGREEMENT**

Grant Period July 1, 2024 - June 30, 2025

The Grantee LFUCG hereby agrees to the following conditions for the 2024-2025 Kentucky Division of Waste Management Household Hazardous Waste Management Grant Program authorized under KRS 224.43-505(4). The grant funds shall be used for the direct costs associated with the project specified in the grant application and for any modifications in this grant agreement.

The Grantee understands and agrees as follows:

1. The Grant Application, the Project Close-out Report, and this agreement are the entire project.
2. Grantee shall assign the 2024-2025 Household Hazardous Waste Management Grant funds into a designated line item for state grants.
3. Grantee shall designate a Project Coordinator responsible for:
 1. Overseeing the implementation of the project
 2. Overseeing the preparation and submittal of the final report
 3. Tracking of in-kind personnel/volunteers/inmates throughout the life of the grant
4. Grantee shall submit a 2024-2025 Kentucky Pride Fund HOUSEHOLD HAZARDOUS WASTE MANAGEMENT Grant Project Close-Out Report within 60 days of the completion of the project. The project deadline is June 30, 2025.
5. Grantee is solely responsible for completion of the project and assumes all liabilities associated with its completion.
6. Grantee is responsible for any additional costs that exceed the original grant funds provided.
7. Unspent grant funds and grant funds not expended in accordance with the grant agreement, as determined by the division, shall be reimbursed to the division within forty-five (45) days of written notification unless an extension has been approved in writing by the division.
8. Grantee shall contract with a vendor that is registered as a Hazardous Waste Transporter with the U.S. EPA and the Kentucky Division of Waste Management's Hazardous Waste Branch.
9. Grantee shall provide an adequate, safe, accessible site for the event. Provide written safety instructions, waiver forms for volunteers, and other necessary requirements, not provided by the vendor. See <http://www.epa.gov/osw/wycd/catbook/hhw.htm> for more information.

**2024-25 HHW Grant Worksheet
LFUCG**

| Items | Amount Requested | RAS Adjustments | Approved Amount | Total Actually Spent |
|--------------|------------------|-----------------|---------------------------|----------------------|
| EEI | 110,000.00 | | 110,000.00 | |
| | | | - | |
| | | | - | |
| | | | - | |
| | | | - | |
| | | | - | |
| | | | - | |
| | | | - | |
| | | | - | |
| | | | - | |
| Total | 110,000.00 | - | 110,000.00 | - |
| | | | Required 25% Match | 27,500.00 |

MATCH WORKSHEET

| Personnel | Hours Worked | Hourly Rate | Total |
|----------------------------|--------------|-------------|---------------|
| FINAL REPORT | | | - |
| | | | - |
| | | | - |
| | | | - |
| | | | - |
| | | | - |
| | | | - |
| | | | - |
| | | | - |
| Total | | | \$0.00 |
| Other Match | | | |
| | | | - |
| | | | - |
| | | | - |
| | | | - |
| Total | | | - |
| TOTAL MATCH DOLLARS | | | - |



Sales Quotation

Quote Number: 00095037

Terms: Net 30 Days Credit Card Financing

Net 30 upon approved credit application. Please inquire to sales rep on financing options available.

All credit card transactions will be charged a 3% surcharge.

This Sales Quotation is subject to and governed by the Terms and Conditions of Sale referred to at, attached, which are hereby incorporated into this Quotation by reference. Any terms and conditions contained in any purchase order, order confirmation, or other document or communication you send or provide to Seiler which are in addition to or different from those set forth in said Terms and Conditions of Sale found at the above-link which are not separately agreed to by Seiler in writing are hereby considered material, objected to, and shall be null, void, and of no force or effect.

This Sales Quotation is subject to the Seiler Maximum Liability and Indemnification Agreement, attached, version 041421. By signing this Sales Quotation, you are also agreeing to be bound by the terms and conditions of that Agreement.

Your signature below acknowledges acceptance of terms and conditions of this quote. Please sign and return via email or fax.

Signature: Linda Gorton

Date: 3/25/2024

Name: Linda Gorton

Title: Mayer

General Terms and Conditions

Seiler Instrument and Manufacturing Company, Inc. (“Seiler”) has always had a “complete satisfaction” purchase policy and we will try to work with you to resolve any merchandise issues that you may have.

Seiler’s acceptance of an order from you is expressly made conditional and contingent upon your agreement to these General Terms and Conditions of Sale, and Seiler agrees to furnish the products to you only upon these terms and conditions. Notwithstanding delivery of goods, no term or condition in communications from you shall be binding on Seiler unless specifically accepted in writing by Seiler. Any terms and conditions which are in addition to or different from those contained herein are hereby considered material, objected to, and shall be of no force or effect.

Any amounts not paid when due shall bear interest at a rate equal to the lesser of: (a) 18% per annum, or (b) the highest rate allowed by law. If, in Seiler’s judgment, your financial situation becomes unsatisfactory, Seiler may require full or partial payment in advance of manufacturing and/or delivery, or cash payments or delivery by you of satisfactory security before the goods are shipped. In addition, Seiler reserves the right, among other remedies, to suspend further deliveries. In the event it becomes necessary for Seiler to employ legal counsel or to bring an action at law, in equity, or other proceeding to enforce any provision of this order and/or these General Terms and Conditions of Sale, Seiler shall be entitled to recover its costs and attorney’s fees from you if Seiler is the prevailing party on any or all of its claims in such action or proceeding.

Except for your obligations as to payment for the goods, neither party shall be in default by reason of any failure in performance under this order in accordance with its terms and conditions if such failure arises out of causes beyond the control and without the negligence of the party involved. Such causes include, but are not restricted in any way to, acts of God, acts of government, war, riot, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or unusually severe weather.

This order shall in all respects be subject to, governed by, and interpreted in accordance with the laws of the State of Missouri, without giving effect to any choice of law or conflicts of law rules or principles that could cause application of the law of a jurisdiction other than the State of Missouri. You expressly agree to submit and consent to the jurisdiction of any federal, state or local court located in St. Louis, Missouri, with respect to any controversy arising out of or relating to this order or any amendment, supplement or transactions in connection with this order.

This order may not be amended or modified except by a written agreement signed by Seiler and you.

Rental Terms: [See attached](#) or contact us at 888-263-8918 or [email us](#).

Blogs: When you subscribe to our Mapping/GIS and or Survey Blogs you will automatically be subscribed to our News|Press.

Seiler Shipping and Return Policy:

Shipping

Most orders received M-F before 2 p.m. CST will ship the same day if the item is in stock. If an item is on back-order, you will receive notification via email or the delay and expected time of shipment. Title and risk of loss in all goods sold to you shall pass to you upon Seiler's delivery to the carrier at your delivery point. Seiler assumes no liability for loss, damage, or consequential damages due to delays in shipment.

Tracking

Seiler will send an email at time of package shipping which will include a UPS tracking number. You can track your shipment progress online at <https://www.ups.com/track>.

Sales Tax

All prices quoted to you are exclusive of any taxes, the sole responsibility for the payment of which shall be yours. Seiler is required to collect tax in the following states: Arkansas, California, Missouri, Florida, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Missouri, Nebraska, South Carolina and Wisconsin.

Shipping charges

There is a minimum \$5.00 charge on all shipments. The freight charges will be calculated using the current UPS rates, rounded up to the next \$5.00 increment to cover any handling and packaging charges.

Seiler Return Policy:

Non-returnable items: Any consumable supply items including, but not limited to; spray paints, lathes, tape, some types of software, etc. Also, software is not returnable after 30 days from the date the customer receives access to the software.

Return Procedure

If you choose to return merchandise you must request a Return Merchandise Authorization (RMA) via email to returns@seilerinst.com before making a return.

1. Requests for return authorization must be made within seven (7) calendar days of receipt of the product and must be returned "pre-paid freight" within 7 days of return authorization. **Customers wishing to return items please call 800-489-2282, ext. 120 and ask for a return authorization number or you may email us at returns@seilerinst.com**

1. Requests for return authorization must be made within seven (7) calendar days of your receipt of the product, and the goods must be returned “pre-paid freight” within seven (7) calendar days of issuance of a RMA; otherwise, you will be deemed to have accepted all of the goods without qualification.

Note: If you request a RMA via e-mail, please reference your order number and company name in the subject line. Once you receive instructions from Seiler that include your RMA, please ship or return the goods (freight prepaid) to the office from where they were purchased, unless otherwise notified by Seiler. Please retain a copy of the RMA number and shipping receipts for your records until the return has been completely processed because this information and these documents are your proof that your return request was approved. Merchandise which is: returned without authorization, or in used condition, or not in its original packaging, will be refused and returned to you, and the carrier will charge you (and you agree to pay) freight in both directions. All returns will be subject to Seiler’s inspection prior to credit. Returns must be in new condition for credit. Returns for items that show any wear-and-tear require Seiler management approval.

2. Returned items that are received prepaid within twelve (12) working days of our shipping date and in new condition are subject to the following **Restocking Fees**:

Mis-shipments – 0%
Special order items – 25%
All other items – 10%

Please Note: The Restocking Fees will be waived if an upgraded product is ordered.

3. Returns must be shipped in their original condition in which they were received with sale tags, invoices/packing slips and packaging intact. Returns must be packaged securely for shipment and must be returned pre-paid shipment.

Damaged Merchandise/Insurance

Please note that “damaged merchandise” is not “defective merchandise.” “Defective merchandise” represents a basic flaw in the design or construction of the item and these claims are handled directly with the manufacturer under the manufacturer’s warranty.

Notification: If you receive a package that is damaged, you should (1) refuse to accept the package; (2) immediately contact the carrier so as not to void any claim, and (3) contact Seiler in writing within three (3) business days of attempted delivery so Seiler can assist with a claim against the carrier. Returning your item to Seiler could void your insurance by the carrier and Seiler will not be able to take back your merchandise and issue store credit or replacement. Seiler cannot assist with packages that you have accepted and then later claim as being damaged. If you receive an item that is defective, please contact Seiler in writing within three (3) business days of delivery with notice of the problem. Seiler will gladly correct the problem directly and/or work with the manufacturer to resolve your issue.

Insurance: Items damaged during shipping should be covered by insurance (automatic up to \$100 with UPS). Seiler encourages all customers to obtain insurance protection if they have concerns. Simply note your request for insurance on your order and Seiler will charge or bill you accordingly.

You acknowledge and agree that the goods shall be used only for the use or uses intended by the manufacturer, that it is your sole responsibility to install the goods safely and correctly, and in conformity with any and all federal, state and local laws, regulations, rules and ordinances. You, your parent, affiliates or subsidiaries (if any) jointly and severally agree to defend, indemnify and hold harmless Seiler, and its parent, affiliates, subsidiaries and suppliers, and their respective members, managers, officers, directors, employees, shareholders, partners, agents, representatives, successors and assigns, and each of them (collectively the "Indemnified Parties") from and against any and all actions, claims, costs, damages, debts, expenses, fines, interest, judgments, liabilities, penalties and suits of whatever nature or description (including, but not limited to, attorney's fees, court costs, expert witness fees and other costs of litigation) imposed upon, incurred by, or asserted against one or more of the Indemnified Parties which directly or indirectly arise out of or are related to your breach or violation of any federal, state or local law, statute, rule, regulation or ordinance regarding your installation and/or use of the goods.

You warrant and represent that you have full power and authority to deliver this order and to bind yourself to pay for said products and to perform any and all of your obligations arising out of this order.

Please note that damaged merchandise is not defective merchandise. Defective merchandise represents a basic flaw in the design or construction of the item and these claims are handled directly with the manufacturer under the manufacturer's warranty.

Maximum Liability. This agreement shall be governed by and interpreted in accordance with the laws of the state of Commonwealth of Kentucky. Seiler's maximum liability to Customer for any and all claims, losses, expenses, costs or damages, caused by, or arising directly or indirectly under or in connection in any way with its Services or the sale or delivery thereof, however caused, and on any theory of liability (including contract, strict liability, negligence or other tort, inclusive of third-party claims), shall not exceed the price paid by Customer for such Services. TO THE EXTENT PERMITTED BY APPLICABLE KENTUCKY LAW, IN NO EVENT WILL SEILER BE LIABLE FOR ANY INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY, INCIDENTAL OR CONSEQUENTIAL LOSS, DAMAGE, COST OR EXPENSE OF ANY KIND WHATSOEVER, HOWEVER CAUSED INCLUDING SEILER'S OWN NEGLIGENCE, OR ANY LOSS OF SERVICE, COST OF PROCUREMENT OF SUBSTITUTE SERVICES, LOSS OF DATA, LOSS OF CAPITAL, LOSS OF REVENUES, LOSS OF PROFIT, LOSS OF CONTRACTS, LOSS OF BUSINESS, LOSS OF GOODWILL OR ANTICIPATED SAVINGS, WASTED EXPENSES, OR WASTED MANAGEMENT TIME, EVEN IF SEILER HAS BEEN NOTIFIED OF THEIR POSSIBILITY OR THEY ARE FORESEEABLE, AND WHETHER THIS LIABILITY ARISES FROM A CLAIM BASED ON CONTRACT, WARRANTY, REPRESENTATION, TORT (INCLUDING NEGLIGENCE OR BREACH OF STATUTORY DUTY), STRICT LIABILITY, INDEMNITY, CONTRIBUTION OR OTHERWISE, AND CUSTOMER HEREBY SPECIFICALLY DISCLAIMS ALL RIGHTS

TO, AND WAIVES THE RECOVERY OF, THESE ITEMS. SEILER MAKES NO WARRANTY OR GUARANTEE OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE. CUSTOMER ACKNOWLEDGES THAT THE LIMITATIONS SET FORTH IN THIS SECTION ARE INTEGRAL TO THE PRICES CHARGED BY SEILER FOR ITS SERVICES AND THAT, WERE SEILER TO ASSUME ANY LIABILITY IN EXCESS OF THAT SET FORTH HEREIN, SUCH PRICES WOULD, OF NECESSITY, BE SUBSTANTIALLY HIGHER. THUS, THE PARTIES AGREE THAT SUCH LIMITATIONS AND EXCLUSIONS ARE NEITHER UNREASONABLE NOR UNCONSCIONABLE. SEILER IS RESPONSIBLE FOR PERSONAL INJURY AND PROPERTY DAMAGE CAUSED BY ITS EMPLOYEES WILLFUL OR NEGLIGENT CONDUCT WHILE ON THE PROPERTY OF THE CUSTOMER.

Seiler Maximum Liability and Indemnification

Seiler's maximum liability to you ("Customer") for any and all claims, losses, liabilities, expenses, costs or damages, directly or indirectly caused by, arising out of or under, related to, or in connection in any way with any products or services provided by Seiler to Customer, or the sale or delivery thereof, however caused, based, in whole or in part, on any theory of liability (including contract, strict liability, negligence (including gross negligence) or other tort, inclusive of third-party claims), shall not exceed the price paid by Customer to Seiler for such products and/or services. Seiler is responsible for personal injury and property damage caused by its employees willful or negligent conduct while on the property of Customer.

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL SEILER BE LIABLE FOR: ANY INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY, INCIDENTAL, OR CONSEQUENTIAL LOSS, DAMAGE, COST OR EXPENSE OF ANY KIND WHATSOEVER, HOWEVER CAUSED (INCLUDING SEILER'S OWN NEGLIGENCE); OR COST OF PROCUREMENT OF SUBSTITUTE SERVICES; OR ANY LOSS OF: SERVICE, DATA, CAPITAL, REVENUES, PROFIT, CONTRACTS, BUSINESS, GOODWILL OR ANTICIPATED SAVINGS; WASTED EXPENSES, OR WASTED MANAGEMENT TIME, EVEN IF SEILER HAS BEEN NOTIFIED OF THEIR POSSIBILITY OR THEY ARE FORESEEABLE, AND WHETHER THIS LIABILITY ARISES FROM A CLAIM BASED ON CONTRACT, WARRANTY, REPRESENTATION, TORT (INCLUDING NEGLIGENCE OR BREACH OF STATUTORY DUTY), STRICT LIABILITY, INDEMNITY, CONTRIBUTION OR OTHERWISE, AND CUSTOMER HEREBY SPECIFICALLY DISCLAIMS ALL RIGHTS TO, AND WAIVES THE RECOVERY OF, THESE ITEMS.

SEILER MAKES NO WARRANTY OR GUARANTEE OF ANY KIND, EXPRESS OF IMPLIED, INCLUDING MERCHANTABILITY AND FITNESS FOR PARTICULAR USE OR PURPOSE.

CUSTOMER ACKNOWLEDGES THAT THE LIMITATIONS SET FORTH IN THIS SECTION ARE INTEGRAL TO THE PRICES CHARGED BY SEILER FOR ITS PRODUCTS AND SERVICES AND THAT, WERE SEILER TO ASSUME ANY LIABILITY IN EXCESS OF THAT SET FORTH HEREIN, SUCH PRICES WOULD, OF NECESSITY, BE SUBSTANTIALLY HIGHER. THUS, CUSTOMER ACKNOWLEDGES, UNDERSTANDS, AND AGREES THAT SUCH LIMITATIONS AND EXCLUSIONS ARE NEITHER UNREASONABLE NOR UNCONSCIONABLE. SEILER IS RESPONSIBLE FOR PERSONAL INJURY AND PROPERTY DAMAGE CAUSED BY ITS EMPLOYEES WILLFUL OR NEGLIGENT CONDUCT WHILE ON THE PROPERTY OF CUSTOMER.

To the extent allowable by law, Customer shall defend and indemnify Seiler and its affiliates, successors, and assigns (the "Seiler Parties") against, and save and hold the Seiler Parties forever harmless from, any and all actions, causes of action, claims, counterclaims, controversies, costs, damages, demands, expenses, judgments, liabilities, liens, penalties, sums of money, and suits whatsoever, including reasonable attorneys' and expert witness fees and expenses of litigation, directly or indirectly imposed upon, incurred or sustained by, or asserted against the Seiler Parties, or any of them, as

Seiler Maximum Liability and Indemnification - Version 041421

a direct or indirect result of or directly or indirectly arising out of, related to, or by virtue of: (a) any claims of product liability regarding any product, and (b) Customer's (or its customers') use or utilization of any product provided by Seiler to Customer, or the sale or delivery thereof. Customer covenants and agrees to comply with all applicable federal, state, local, and municipal laws in connection with its use, utilization, or resale of all products provided by Seiler to Customer, or the sale or delivery thereof. This shall not be deemed a waiver of sovereign immunity or any other third-party defense available to Customer.

These agreements shall be governed by and interpreted in accordance with the laws of the state of Missouri, without giving effect to any choice of law or conflicts of law rules or principles that could cause application of the law of a jurisdiction other than the State of Commonwealth of Kentucky.



Lexington-Fayette Urban County Government

Master

200 E. Main St
Lexington, KY 40507

File Number: 0230-24

File ID: 0230-24

Type: Resolution

Status: Approved

Version: 1

Contract #:

In Control: Urban County Council

File Created: 02/26/2024

File Name: PSA-Legal Aid of the Bluegrass Rent Assistance
02.26.24

Final Action: 03/07/2024

Title: A Resolution authorizing the Mayor to execute an Agreement, the final form of which shall be subject to approval of the Dept. of Law, with Northern Ky. Legal Aid Society, Inc., d/b/a Legal Aid of the Bluegrass, at a cost not to exceed \$200,000 (\$100,000 in FY 24), for the provision of housing stabilization services and payment of rental assistance on behalf of eligible families participating in eviction diversion mediation, and further authorizing the Mayor to execute any other needed Amendments or Agreements related to the use of these funds. [Dept. of Housing Advocacy and Community Development, Lanter]

Notes:

Sponsors:

Enactment Date: 03/07/2024

Attachments: Bluesheet_LABG_Rent_Assistance 2.26.24, PSA (Legal Aid) 4881-6204-3299 v.2, 230-24 Agreement with Legal Aid 4878-4832-9897 v.1.docx, R-094-2024

Enactment Number: R-094-2024

Deed #:

Hearing Date:

Drafter: Dina Melvin

Effective Date:

History of Legislative File

| Ver- sion: | Acting Body: | Date: | Action: | Sent To: | Due Date: | Return Date: | Result: |
|---------------|-----------------------------------|------------|------------------------------------|----------------------|------------|-----------------|---------|
| 1 | Urban County Council Work Session | 03/05/2024 | Approved and Referred to Docket | Urban County Council | 03/07/2024 | | Pass |
| 1 | Urban County Council | 03/07/2024 | Received First Reading | Urban County Council | 03/07/2024 | | |
| 1 | Urban County Council | 03/07/2024 | Suspended Rules for Second Reading | | | | Pass |
| 1 | Urban County Council | 03/07/2024 | Approved | | | | Pass |

Text of Legislative File 0230-24

Title

A Resolution authorizing the Mayor to execute an Agreement, the final form of which shall be subject to approval of the Dept. of Law, with Northern Ky. Legal Aid Society, Inc., d/b/a Legal Aid of the Bluegrass, at a cost not to exceed \$200,000 (\$100,000 in FY 24), for the provision of housing stabilization services and payment of rental assistance on behalf of eligible families participating in eviction diversion mediation, and further authorizing the Mayor to execute any other needed Amendments or Agreements related to the use of these funds. [Dept. of Housing Advocacy and Community Development, Lanter]

Summary

Authorization to execute a Purchase of Service Agreement with Northern Kentucky Legal Aid Society, Inc. DBA Legal Aid of the Bluegrass (Legal Aid) and allocate funds not to exceed \$200,000.00 for the provision of housing stability services and payment of rent assistance on behalf of eligible families participating in eviction diversion mediation sessions with the Lexington Housing Authority for the period of March 1, 2024, through June 30, 2025. Budget Amendment in process for \$100,000 for FY 2024. Additional funds to be Budgeted in FY 2025. (L0230-24) (Lanter)

Budgetary Implications: Yes

Advance Document Review:

Law: Yes, Completed by [Brittany Smith, 02-23-2024]

Risk Management: NA

Fully Budgeted: BA in process

Account Number: 1145-900383-0001-71101

This Fiscal Year Impact: \$200,000.00 (BA for \$100,000 in process)

Annual Impact:

Project:

Activity:

Budget Reference:

Current Balance: BA in process



TO: LINDA GORTON, MAYOR
URBAN COUNTY COUNCIL

FROM: CHARLIE LANTER, COMMISSIONER
HOUSING ADVOCACY & COMMUNITY DEVELOPMENT

DATE: February 26, 2024

SUBJECT: Authorization to execute a Purchase of Service Agreement with Northern Kentucky Legal Aid Society, Inc. DBA Legal Aid of the Bluegrass to provide housing stability services and pay rent assistance on behalf of eligible families participating in eviction diversion mediation sessions with the Lexington Housing Authority

Request: Council Authorization to execute a Purchase of Service Agreement with Northern Kentucky Legal Aid Society, Inc. DBA Legal Aid of the Bluegrass (Legal Aid) and allocate funds not to exceed \$200,000.00 for the provision of housing stability services and payment of rent assistance on behalf of eligible families participating in eviction diversion mediation sessions with the Lexington Housing Authority.

Purpose of Request: The Department of Housing Advocacy and Community Development seeks to invest in sustainable housing stability services to help the most vulnerable residents of Lexington, who are homeless or at risk of homelessness, find long-term housing stability. At Council's request, the Department has identified additional funding to continue the eviction diversion mediation program operated by Legal Aid. All of this additional funding will be utilized for the payment of rent assistance on behalf of residents of the Lexington Housing Authority who are at risk of being evicted. Subject to Council's approval, Legal Aid's continued payment of rent assistance through this program will be funded by interest earned from the Housing Stabilization Program's federal Emergency Rental Assistance grant.

The agreement with Legal Aid will be for a fixed term, beginning on March 1, 2024, and ending on June 30, 2025.

What is the cost in this budget year and future budget years? The allocation not to exceed \$200,000.00 in the proposed agreement with Legal Aid anticipates utilizing interest earned from the Housing Stabilization Program's federal Emergency Rental assistance grant. Upon Council's approval, an initial allocation of \$100,000.00 will be made to Legal Aid for FY24, with a further allocation anticipated in FY25, subject to Council's approval at that time.

Are the funds budgeted? A budget amendment is in progress.

File Number: 0230-24

Director/Commissioner: Wright/Lanter

PURCHASE OF SERVICE AGREEMENT

THIS PURCHASE OF SERVICE AGREEMENT ("Agreement"), made and entered into on the _____ day of _____ 2024, by and between the **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, an urban county government of the COMMONWEALTH OF KENTUCKY created pursuant to KRS Chapter 67A ("LFUCG"), 200 East Main Street, Lexington, Kentucky 40507, and **NORTHERN KENTUCKY LEGAL AID SOCIETY, INC. DBA LEGAL AID OF THE BLUEGRASS**, a Kentucky non-profit corporation pursuant to KRS Chapter 273 and located at 300 East Main Street, Suite 110, Lexington, Kentucky ("Organization").

WITNESSETH

WHEREAS, LFUCG seeks to invest in sustainable Housing Stability Services to help the most vulnerable residents of Lexington, who are homeless or at risk of homelessness, find long-term housing stability;

WHEREAS, the parties previously entered a Subrecipient Agreement on April 27, 2023, in which LFUCG awarded Organization an amount of federal funds, not to exceed \$919,473.00, awarded to LFUCG pursuant to the American Rescue Plan Act (ARPA), in exchange for the Organization providing Housing Stability Services specified in its response to RFP # 12-2023;

WHEREAS, LFUCG desires to provide additional non-federal funds to the Organization for the provision of certain mediation services, previously specified in the Organization's response to RFP #12-2023 and further detailed herein.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the receipt and sufficiency of which are acknowledged, the parties hereby agree as follows:

- 1. EFFECTIVE DATE; TERM.** This Agreement shall commence on March 1, 2024, and shall last until June 30, 2025, unless terminated by LFUCG at an earlier time.
- 2. RELATED DOCUMENTS.** This Agreement shall consist of the terms herein as well as the following additional documents, which are attached hereto as exhibits and incorporated herein by reference as if fully stated:

a. Exhibit "A" – RFP No. 12-2023

To the extent that there is any conflict between or among any of these documents, the terms and provisions of this Agreement shall prevail, followed by terms and provisions of Exhibit "A", in that order.

3. SCOPE OF SERVICES. Organization will make payments to the Lexington-Fayette Urban County Housing Authority ("Landlord"), as needed, to satisfy settlement agreements reached with the Landlord during mediation with tenants who are in arrears in their rent ("Services").

4. PAYMENT. LFUCG shall pay Organization a total amount not to exceed Two Hundred Thousand dollars (\$200,000.00) ("Total Funds") during the term of the Agreement for the performance of the Services. Further, an amount not to exceed Fifty Thousand dollars (\$50,000.00) ("FY 24 Award"), which shall be deducted from the Total Funds, shall be available as payment for the Services starting March 1, 2024. No amounts, for which the total cost incurred exceed the FY 24 Award (i.e., \$50,000.00), shall be paid to the Organization prior to July 1, 2024. Further, the parties agree that payment of any amounts that exceed the FY 24 Award is contingent upon appropriation by the Lexington-Fayette Urban County Council in Fiscal Year 2025. In the event that the Fiscal Year 2025 funding is reduced or eliminated in LFUCG's final adopted budget, LFUCG shall notify Organization as soon as feasible and will take steps to modify or terminate the remainder of this Agreement.

- a. If Organization fails to expend at least fifty (50) percent of the FY 24 Award before June 30, 2024, Organization understands and agrees that LFUCG may: (1) require a performance improvement plan before payment of the balance of the Total Funds; and/or (2) reduce the amount of the Total Funds under this Agreement, in proportion to the amount of the FY 24 Award that Organization failed to expend.
- b. Payments shall be made quarterly for expenditures the Organization actually incurred, only after receipt of quarterly invoices. Uses of the Total Funds are limited to the services provided herein and may not be spent by the Organization for any other purpose without the prior written consent of LFUCG. Absent any additional written agreement stating otherwise, any travel or other expenses are included in the above payment.
- c. LFUCG shall make payment under this Agreement upon timely submission of approved invoice(s) from Organization specifying the documentation and information required by this Agreement, accompanied by data satisfactory to LFUCG to document entitlement to payment for the Services performed to date. LFUCG shall have thirty (30) days from the date of receipt of an approved invoice to pay the invoice amount. LFUCG reserves the right to refuse payment if it is determined by LFUCG that the Services performed or materials provided for the Services are inadequate or defective.
- d. LFUCG also reserves the right to reject any invoice submitted for services rendered in previous quarters. Termination of the Agreement and reallocation of unspent funds may occur for failure to submit an invoice, at the discretion of the LFUCG.

5. UNABLE TO COMPLETE; RETURN OF FUNDS. If it becomes apparent to Organization that it will be unable to complete the Services either in the manner or for

the amount described in this Agreement, then the Organization shall immediately provide written notice to LFUCG with a complete and detailed written explanation of its inability to comply with the terms of the Agreement, any proposed changes, and the reasons for those changes. If the Organization fails to use any amount of funds provided under this Agreement within the term provided above, then the Organization agrees to return the balance of the funds to the LFUCG within thirty (30) days of the termination of this Agreement. The Organization also understands and agrees that this provision shall survive termination of this Agreement.

6. TERMINATION. LFUCG, through the Mayor or the Mayor's designee, may terminate this Agreement for any reason whatsoever by providing Organization with at least thirty (30) days advance written notice. Organization shall be entitled for payment of all work performed up to that period of time, calculated on a reasonable basis.

- a. In the event of a termination based upon a material condition of non-performance or default by Organization, LFUCG shall provide Organization advance written notice and a reasonable period of time to cure the breach.
- b. Organization may only terminate this Agreement based upon LFUCG's failure to timely pay for properly invoiced and accepted work. Organization shall provide LFUCG with at least thirty (30) days advance written notice and an opportunity to cure prior to termination.
- c. Organization acknowledges that LFUCG is a governmental entity, and that the validity of this Agreement is based upon the availability of appropriated funding. In the event that such funding is not appropriated in a future fiscal year, LFUCG's obligations under this Agreement shall automatically expire without penalty to the LFUCG thirty (30) days after written notice to Organization. LFUCG shall exercise any application of this provision in good faith.

7. REPORTING. By the Tenth of each month, Organization shall provide LFUCG with an activity report summarizing all Services performed during the previous month. Specifically, monthly reports shall provide information on the number of individuals served by the Organization and other such information as required by LFUCG. Reports and updates related to the provisions of the Services shall be in the form and manner reasonably specified by LFUCG.

8. PRIVACY. The Organization agrees to establish data privacy and security requirements, to the extent applicable. The Organization must develop and implement written procedures to ensure:

- a. All records containing personally identifying information (as defined in the U.S. Department of Housing and Urban Development's standards for participation, data

collection, and reporting) of any individual or family who applies for and/or receives rental assistance will be kept secure and confidential;

- b. The address or location of any domestic violence, dating violence, sexual assault, or stalking shelter project assisted under this Agreement will not be made public, except with written authorization of the person responsible for the operation of the shelter; and
- c. The address or location of any housing of a program participant will not be made public, except as provided under a preexisting privacy policy of LFUCG and/or the Organization, and consistent with state and local laws regarding privacy and obligations of confidentiality.

The confidentiality procedures of Organization must be in writing and must be maintained in accordance with this section. The Organization understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of LFUCG's responsibilities with respect to services provided under this Agreement, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

9. REGISTRATION; COMPLIANCE; AUTHORITY TO SIGN. Organization shall be lawfully registered or authorized to do business in the Commonwealth of Kentucky and Lexington-Fayette County and shall at all times comply with any and all applicable federal, state, and local laws, ordinances, and regulations. LFUCG may request proof that Organization has timely filed federal, state, or local tax forms which shall be provided by Organization on a timely basis. The person signing this Agreement on behalf of Organization is fully authorized to do so.

10. INSURANCE; INDEMNITY. Organization shall comply with the Risk Management Provisions of RFP # 12-2023, which are incorporated herein by reference.

11. RECORDS. Organization shall keep and make available to LFUCG any records related to this Agreement as are necessary to support its performance of the services for a period of at least five (5) years following the expiration or termination of this Agreement, or as otherwise required depending upon the source of funds. Books of accounts shall be kept by Organization and entries shall be made therein of all money, goods, effects, debts, sales, purchases, receipts, payments and any other transactions of Organization related to this Agreement and shall be made available to LFUCG upon request.

- a. LFUCG shall be the owner of all final documents, data, studies, plans, reports, and information prepared by Organization under this Agreement.
- b. Organization understands and agrees that this Agreement and any related documents may be subject to disclosure under the Kentucky Open Records Act

and will comply with any reasonable request by LFUCG to provide assistance with such a request.

12. ACCESS. Organization shall allow LFUCG any necessary reasonable access to monitor its performance under this Agreement.

13. CONTRACTUAL RELATIONSHIP ONLY. In no event shall the parties be construed, held or become in any way for any purpose the employee of the other party, or partners, associates or joint ventures in the conduct of their respective endeavors or otherwise.

14. EQUAL OPPORTUNITY; FAIRNESS ORDINANCE. Organization shall provide equal opportunity in employment for all qualified persons, and shall (a) prohibit discrimination in employment because of race, color, creed, national origin, sex, age, sexual orientation, gender identity, or handicap, (b) promote equal employment through a positive, continuing program of equal employment, and (c) cause any subcontractor or agency receiving funds provided pursuant to this Agreement to do so. This program of equal employment opportunity shall apply to every aspect of its employment policies and practices. Organization agrees to comply with LFUCG's Fairness Ordinance (Ordinance No. 201-99) and all sources of applicable law, including those specified in any Exhibit attached to this Agreement and incorporated herein by reference.

15. SEXUAL HARASSMENT. Organization must adopt or have adopted a written sexual harassment policy, which shall, at a minimum, contain a statement of current law; a list of prohibited behaviors; a complaint process; and a procedure which provides for a confidential investigation of all complaints. The policy shall be given to all employees and clients and shall be posted at all locations where Organization conducts business. The policy shall be made available to LFUCG upon request.

16. ANNUAL AUDIT. Organization agrees that all revenue and expenditures related to this Agreement shall be audited at least annually by independent certified public accountants who shall express an opinion as to whether or not revenue and expenditures during the year audited have conformed to state and local law and regulation. A copy of this audit, or clean audit opinion letter from an independent certified public accountant, shall be submitted to LFUCG each year of the Agreement.

17. INVESTMENT. Any investment of the funds received pursuant to this Agreement must fully comply with any restrictions imposed by law.

18. NO ASSIGNMENT. Organization may not assign any of its rights and duties under this Agreement without the prior written consent of LFUCG.

19. 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 Organization or LFUCG.

20. KENTUCKY LAW AND VENUE. This Agreement shall be governed in all respects by the laws of the Commonwealth of Kentucky and venue for all actions shall lie in the Circuit Court of Fayette County, Kentucky.

21. AMENDMENTS. By mutual agreement, the parties to this Agreement may, from time to time, make written changes to any provision hereof. Organization acknowledges that LFUCG may make such changes only upon approval of its legislative authority, the Lexington-Fayette Urban County Council, and the signature of its Mayor.

22. NOTICE. Any written notice required by the Agreement shall be delivered by certified mail, return receipt requested, to the following:

For Organization:

Robert Johns
Executive Director
Legal Aid of the Bluegrass
300 E Main Street, Suite 110
Lexington, KY 40507

For Government:

Jonathan Wright
Lexington-Fayette Urban County Government
200 East Main Street
Lexington, Kentucky 40507

23. WAIVER. The waiver by either party of any breach of any provision of this Agreement shall not constitute a continuing waiver or waiver of any subsequent breach by either party of either the same or another provision.

24. ENTIRE AGREEMENT. This Agreement shall constitute the entire agreement between the parties and no representations, inducements, promises or agreements, oral or otherwise, which are not embodied herein shall be effective for any purpose. This Agreement shall replace any previous agreement between the parties on the same subject matter. Notwithstanding the above, this Agreement shall not replace those parts of previous agreements pertaining to the same subject matter which cover previous terms.

IN WITNESS WHEREOF, the parties have executed this Agreement at Lexington, Kentucky, the day and year first above written.

EXHIBIT "A"

4881-6204-3299, v. 2

DRAFT

RESOLUTION NO. _____-2024

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT, THE FINAL FORM OF WHICH SHALL BE SUBJECT TO APPROVAL OF THE DEPARTMENT OF LAW, WITH NORTHERN KENTUCKY LEGAL AID SOCIETY, INC., D/B/A LEGAL AID OF THE BLUEGRASS, AT A COST NOT TO EXCEED \$200,000.00 (\$100,000.00 IN FY 24), FOR THE PROVISION OF HOUSING STABILIZATION SERVICES AND PAYMENT OF RENTAL ASSISTANCE ON BEHALF OF ELIGIBLE FAMILIES PARTICIPATING IN EVICTION DIVERSION MEDIATION, AND FURTHER AUTHORIZING THE MAYOR TO EXECUTE ANY OTHER NEEDED AMENDMENTS OR AGREEMENTS RELATED TO THE USE OF THESE FUNDS.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized and directed to execute an Agreement, the final form of which is subject to approval by the Department of Law, with Northern Kentucky Legal Aid Society, Inc., d/b/a Legal Aid of the Bluegrass ("Legal Aid"), at a cost not to exceed \$200,000.00 (\$100,000.00 in FY 24), for the provision of housing stabilization services and payment of rental assistance on behalf of eligible families participating in the eviction diversion mediation.

Section 2 -- That the Mayor, on behalf of the Lexington-Fayette Urban County Government, is further authorized to execute any necessary agreements or amendments with Legal Aid related to these funds.

Section 3 - That an amount, not to exceed the sum of \$200,000.00, be and hereby is authorized for payment to Northern Kentucky Legal Aid Society Inc., d/b/a Legal Aid of the Bluegrass, from account # 1145-900383-71101, pursuant to the terms of the Agreement, and subject to the approval of any necessary budget amendments.

Section 4 - That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL

RESOLUTION NO. 094-2024

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT, THE FINAL FORM OF WHICH SHALL BE SUBJECT TO APPROVAL OF THE DEPARTMENT OF LAW, WITH NORTHERN KENTUCKY LEGAL AID SOCIETY, INC., D/B/A LEGAL AID OF THE BLUEGRASS, AT A COST NOT TO EXCEED \$200,000.00 (\$100,000.00 IN FY 24), FOR THE PROVISION OF HOUSING STABILIZATION SERVICES AND PAYMENT OF RENTAL ASSISTANCE ON BEHALF OF ELIGIBLE FAMILIES PARTICIPATING IN EVICTION DIVERSION MEDIATION, AND FURTHER AUTHORIZING THE MAYOR TO EXECUTE ANY OTHER NEEDED AMENDMENTS OR AGREEMENTS RELATED TO THE USE OF THESE FUNDS.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized and directed to execute an Agreement, the final form of which is subject to approval by the Department of Law, with Northern Kentucky Legal Aid Society, Inc., d/b/a Legal Aid of the Bluegrass ("Legal Aid"), at a cost not to exceed \$200,000.00 (\$100,000.00 in FY 24), for the provision of housing stabilization services and payment of rental assistance on behalf of eligible families participating in the eviction diversion mediation.

Section 2 -- That the Mayor, on behalf of the Lexington-Fayette Urban County Government, is further authorized to execute any necessary agreements or amendments with Legal Aid related to these funds.

Section 3 - That an amount, not to exceed the sum of \$200,000.00, be and hereby is authorized for payment to Northern Kentucky Legal Aid Society Inc., d/b/a Legal Aid of the Bluegrass, from account # 1145-900383-71101, pursuant to the terms of the Agreement, and subject to the approval of any necessary budget amendments.

Section 4 - That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: March 7, 2024

Linda Gorton

MAYOR

ATTEST:

[Signature]
CLERK OF URBAN COUNTY COUNCIL



Lexington-Fayette Urban County Government

Master

200 E. Main St
Lexington, KY 40507

File Number: 0231-24

File ID: 0231-24

Type: Resolution

Status: Approved

Version: 2

Contract #: 048-2024

In Control: Urban County Council

File Created: 02/26/2024

File Name: Request Council authorization to execute an Engineering Service Agreement, awarded pursuant to RFP No. 1-2024, with Tetra Tech, Inc., for the development of the Comprehensive Climate Action Plan for the Lexington-Fayette County MSA and accompanying associ

Final Action: 03/21/2024

Title: A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute the Engineering Services Agreement (awarded pursuant to RFP No. 1-2024) with Tetra Tech, Inc. For the development of the Comprehensive Climate Action Plan for the Lexington-Fayette County metropolitan statistical area, for the Div. of Environmental Services, at a cost not to exceed \$505,000. [Div. of Environmental Services, Carey]

Notes: In office 3/21/2024. MS

Stamped and filed in the CCO. REturned to Celia Moore 3/22/2024. MS

Sponsors:

Enactment Date: 03/21/2024

Attachments: 24- Blue Sheet Memo ESA Tetra Tech, Engineering Agreement with Tt for CCAP w exhibits signed, COI Tetra Tech Inc - LexingtonFayette Urban County - 24021929593377 - 570103968232, 0231-24- ESA with Tetra Tech for MSA 4860-4688-8618 v.1.docx, R-119-2024, Contract #048-2024

Enactment Number: R-119-2024

Deed #:

Hearing Date:

Drafter: Katrina James

Effective Date:

History of Legislative File

| Ver- sion: | Acting Body: | Date: | Action: | Sent To: | Due Date: | Return Date: | Result: |
|---------------|-----------------------------------|------------|---------------------------------|----------------------|------------|-----------------|---------|
| 2 | Urban County Council Work Session | 03/05/2024 | Approved and Referred to Docket | Urban County Council | 03/07/2024 | | Pass |
| 2 | Urban County Council | 03/07/2024 | Received First Reading | Urban County Council | 03/21/2024 | | |
| 2 | Urban County Council | 03/21/2024 | Approved | | | | Pass |

Text of Legislative File 0231-24

Title

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute the Engineering Services Agreement (awarded pursuant to RFP No. 1-2024) with Tetra Tech, Inc. For the development of the Comprehensive Climate Action Plan for the Lexington-Fayette County metropolitan statistical area, for the Div. of Environmental Services, at a cost not to exceed \$505,000. [Div. of Environmental Services, Carey]

Summary

Authorization to execute an Engineering Service Agreement, awarded pursuant to RFP No. 1-2024, with Tetra Tech, Inc., for the development of the Comprehensive Climate Action Plan for the Lexington-Fayette County MSA and acCo.ing associated services, as required by the EPA Climate Pollution Reduction Planning Grant, at a cost of \$505,000. Funds are Budgeted. (L0231-24) (Carey/Albright)

Budgetary Implications: Yes

Advance Document Review:

Law: Yes, Completed by Evan Thompson, 2/26/2024

Risk Management: N/A

Fully Budgeted: Yes

Account Number: 3170-313201-3094-71299

This Fiscal Year Impact: \$505,000

Annual Impact: \$0

Project: LEXFAY_MSA_2024

Activity: FED_GRANT

Budget Reference: 2024

Current Balance: \$837,501.00



**TO: LINDA GORTON, MAYOR
URBAN COUNTY COUNCIL**

**FROM: THERESA REYNOLDS, DIRECTOR
DIVISION OF GRANTS AND SPECIAL PROGRAMS**

DATE: FEBRUARY 26, 2024

SUBJECT: Authorization to execute Engineering Service Agreement with Tetra Tech, Inc. for the EPA Climate Pollution Reduction Planning (CPRP) Grant Comprehensive Climate Action Plan (CCAP) for the Lexington-Fayette County, KY Metropolitan Statistical Area (MSA)

Request: Council authorization for the Mayor to execute an Engineering Service Agreement, awarded pursuant to RFP No. 1-2024, with Tetra Tech, Inc., for the development of the Comprehensive Climate Action Plan for the Lexington-Fayette County MSA and accompanying associated services, as required by the EPA Climate Pollution Reduction Planning Grant at a cost of \$505,000.

Purpose of Request: As the largest municipality in the MSA, LFUCG is the lead organization and program manager of the Lexington-Fayette Co. MSA Climate Pollution Reduction Planning Grant, which covers the six-county region of Fayette, Clark, Bourbon, Scott, Woodford, and Jessamine counties. This agreement will satisfy the remaining requirements of EPA’s CPRP grant.

Cost in this Budget year and future budget years: Cost in FY 2024 is \$505,000. There are no anticipated costs in future budget years.

Are the funds budgeted? Yes, 3170-313201-3094-71299 LEXFAY_MSA_2024 FED_GRANT

File Number: 0231-24

Director/Commissioner: Carey / Albright



ENGINEERING SERVICES AGREEMENT

THIS IS AN AGREEMENT made as of 27 - Feb, 2024, between the LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT (**OWNER**) and Tetra Tech, Inc., 424 Lewis Hargett Circle, Suite 110, Lexington, Kentucky 40503 (**CONSULTANT**). **OWNER** intends to proceed with the Climate Pollution Reduction Planning (Comprehensive Climate Action Plan) Consulting Services as described in the attached Exhibit A, "**RFP #1-2024.**"

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, environmental, structural, mechanical, electrical, and sanitary engineering services incidental thereto.

1.2. Project Phase

After written authorization to proceed, **CONSULTANT** shall:

- 1.2.1.** Notify the **OWNER** in writing of its authorized representative who shall act as Project Engineer and liaison representative between the **CONSULTANT** and the **OWNER**.
- 1.2.2.** The **CONSULTANT** must perform all duties necessary to fully complete the deliverables described in attached Exhibit A "**Consultant for Climate Pollution Reduction Planning RFP #1-2024**", and attached Exhibit C the "**Proposal of Engineering Services and Related Matters**" (the **CONSULTANT's** response to **RFP #1-2024**).

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 B**, then **EXHIBIT A**, and then **EXHIBIT C**.

- 1.2.3** The **CONSULTANT** shall provide written documentation of all meetings and be responsible for incorporating all comments and changes resulting therefrom in final work product.
- 1.2.4.** The **CONSULTANT** shall post all initial draft work products on the project document management portal. If the project document management portal is not functional on the draft posting date, the **CONSULTANT** shall submit five (5) copies

(hardcover) of all initial draft final work products for this **PROJECT**. 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**.

- 1.2.5. 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 post all draft final work products on the project document management portal. If the project document management portal is not functional on the draft posting date, the **CONSULTANT** shall five (5) copies (hardcover). 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.
- 1.2.6 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 render in writing decisions pertaining thereto 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 with respect to the services to be rendered under this Agreement. 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 Contractor(s).
- 3.6. Furnish or direct **CONSULTANT** to provide, necessary 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. See attached **EXHIBIT C** "Proposal of Engineering Services and Related Matters" for the 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 ninety (90) 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 and any related fees.
 - 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** 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 reasonably attempt to resolve the delay. If the parties cannot mutually agree to an extension of time or an adjustment, Section 6.5 under "DISPUTES" of this Agreement shall apply. If the above type of delay would prevent complete performance of the **PROJECT**/Final Task Order within ninety (90) 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 and any related fees.

SECTION 5 - PAYMENTS TO CONSULTANT

5.1. Methods of Payment for Services of CONSULTANT.

5.1.1. For Basic Services

OWNER shall issue a purchase order for in the amount of \$505,000 for work performed under this Agreement by **CONSULTANT** or its sub-consultant/s per **EXHIBIT C**.

5.2. Times of Payment

5.2.1. CONSULTANT shall submit 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 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 himself with and shall at all times comply with 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.
- 6.3.4. The **CONSULTANT** understands that this Agreement is being paid in whole or in part by a federal grant (02D55923) awarded to the **OWNER** by the Environmental Protection Agency. The Grant Agreement is attached hereto and incorporated herein by reference as **EXHIBIT B**.

6.4. Successors and Assigns

- 6.4.1. **CONSULTANT** binds itself and his partners, successors, executors, administrators, assigns and legal representatives to this Agreement in respect to all covenants, agreements, and obligations of this Agreement. **CONSULTANT** shall not assign any interest, obligation or benefit in this Agreement. **CONSULTANT** shall not assign any interest, obligation or benefit in this Agreement nor transfer any interest in the same, whether by assignment or novation, without prior written consent of **OWNER**.
- 6.4.2. The **CONSULTANT** shall not subcontract more than fifty percent (50%) of the work, based upon dollar value of the work. The **CONSULTANT** shall obtain written approval prior to subletting or assigning any services contained in this Agreement, and consent to sublet or assign any part of this Agreement shall not be construed to relieve the **CONSULTANT** of any responsibility for compliance with the provisions of this Agreement.
- 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 & Public Works, 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

The **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.

The **CONSULTANT** shall be responsible for the accuracy of all work, even though raw data, reports, Drawings and Specifications have been accepted by the **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 the **OWNER**, the **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 the **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 except the **OWNER** without prior approval of the **OWNER** unless required by law

6.8. Access to Records

The **CONSULTANT** and his 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 five (5) 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 five(5) years after the date of final payment may be grounds for the **OWNER** to disqualify the **CONSULTANT** from consideration for future consultant engineering Agreements, and **CONSULTANT** agrees to indemnify **OWNER**, as provided in Section 6.9.2. due to **CONSULTANT**'s failure to maintain records as required by this Section.

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

- a. It is understood and agreed by the parties that **CONSULTANT** hereby assumes the entire responsibility and liability for any and all damages to persons or property caused by or resulting from or arising out of any act or omission on the part of **CONSULTANT** or its employees, agents, servants, owners, principals, licensees, assigns or subcontractors of any tier (hereinafter "**CONSULTANT**") under or in connection with this agreement and/or the provision of goods or services and the performance or failure to perform any work required thereby.
- b. **CONSULTANT** shall indemnify, save, hold harmless and defend the Lexington-Fayette Urban County Government and its elected and appointed officials, employees, agents, volunteers, and successors in interest (hereinafter "**OWNER**") from and against all liability, damages, and losses, including but not limited to, demands, claims, obligations, causes of action, judgments, penalties, fines, liens, costs, expenses, interest, 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 performance or breach of the agreement and/or the provision of goods or services provided that: (a) it 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 the negligent acts, errors or omissions or willful misconduct of the **CONSULTANT**; and (b) not caused solely by the active negligence or willful misconduct of **OWNER**.
- c. Notwithstanding, the foregoing, with respect to any professional services performed by **CONSULTANT** hereunder (and to the fullest extent permitted by law), **CONSULTANT** shall indemnify, save, hold harmless and defend **OWNER** from and against any and all liability, damages and losses, including but not limited to, demands, claims, obligations, causes of action, judgments, penalties, fines, liens, costs, expenses, interest, defense costs and reasonable attorney's fees, for any damage due to death or injury to any person or injury to any property (including the loss of use resulting therefrom) to the extent arising out of, pertaining to or relating to the negligence, recklessness or willful misconduct of **CONSULTANT** in the performance of this agreement.
- d. 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 reasonable 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.

- e. These provisions shall in no way be limited by any financial responsibility or insurance requirements, and shall survive the termination of this agreement.
- f. **OWNER** is a political subdivision of the Commonwealth of Kentucky. **CONSULTANT** acknowledges and agrees that **OWNER** is unable to provide indemnity or otherwise save, hold harmless, or defend the **CONSULTANT** in any manner.

6.9.3. 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.

6.9.4. INSURANCE REQUIREMENTS

6.9.4.1. 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 Contractor shall carry Builders Risk coverage at a level sufficient to cover the replacement cost of any equipment or machinery used at the work site, if applicable.
- 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), which shall include Business interruption coverage and this policy or endorsement shall include Environmental Casualty coverage for any services performed pursuant to the contract, and/or a separate Professional Liability Policy shall be obtained unless it is deemed not to apply by **OWNER**. (**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.

6.9.4.2. 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.

6.9.4.3. 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.

6.9.4.4. Verification of Coverage

CONSULTANT agrees to furnish **OWNER** with all applicable Certificates of Insurance signed by a person authorized by the insurer to bind coverage on its behalf prior to final award, and if requested, shall provide **OWNER** copies of all insurance policies, including endorsements.

6.9.5. 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**.

6.9.6. DEFINITION OF DEFAULT

CONSULTANT understands and agrees that the failure to comply with any of these 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.

7.2.1. 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 Jennifer Carey, P.E., Director of the Division of Environmental Services (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 ~~AT OR~~ oral understandings. This Agreement and **EXHIBITS A, B, and C** 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**

BY: _____

LINDA GORTON, MAYOR

CONSULTANT:

Tetra Tech Inc

BY: _____

Andrew Webster

ATTEST:

URBAN COUNTY COUNCIL CLERK
COMMONWEALTH OF KENTUCKY)
)
COUNTY OF FAYETTE)

The foregoing Agreement was subscribed, sworn to and acknowledged before me by
Andy Webster, as the duly authorized representative for and on
behalf of tetratech Inc, on this the 27th day of February, 2024.

My commission expires: 5-16-2024.

Michael C. Nolta
NOTARY PUBLIC

MICHAEL C. NOLTA
Notary Public, State of Michigan
County of Wayne
My Commission Expires 5-16-2024
Acting County of Washington

EXHIBIT A

REQUEST FOR PROPOSALS FOR

CONSULTANT FOR CLIMATE POLLUTION REDUCTION PLANNING

RFP #1-2024



Lexington-Fayette Urban County Government

Request for Proposals

The Lexington-Fayette Urban County Government hereby requests proposals for **RFP #1-2024 Consultant for Climate Pollution Reduction Planning** to be provided in accordance with terms, conditions and specifications established herein.

Sealed proposals will be received through Ion Wave until **2:00 PM**, prevailing local time, on **January 23, 2024**. All forms and information requested in RFP must be included and attached in Response Attachments tab in Ion Wave.

Proposals received after the date and time set for opening proposals will not be accepted. It is the sole responsibility of the Proposer to assure that his/her proposal is submitted in Ion Wave before the date and time set for opening proposals.

Proposals, once submitted, may not be withdrawn for a period of ninety (90) calendar days.

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 LFUCG 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, religion, sex (including pregnancy, sexual orientation or gender identity), national origin, disability, age, genetic information, political affiliation, or veteran status, and to promote equal employment through a positive, continuing program from itself and each of its sub-contracting 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.

LFUCG Non-Appropriation Clause

Contractor acknowledges that the LFUCG is a governmental entity, and the contract validity is based upon the availability of public funding under the authority of its statutory mandate.

In the event that public funds are unavailable and not appropriated for the performance of the LFUCG's obligations under this contract, then this contract shall automatically expire without penalty to the LFUCG thirty (30) days after written notice to Contractor of the unavailability and non-appropriation of public funds. It is expressly agreed that the LFUCG shall not activate this non-appropriation provision for its convenience or to circumvent the requirements of this contract, but only as an emergency fiscal measure during a substantial fiscal crisis, which affects generally its governmental operations.

In the event of a change in the LFUCG's statutory authority, mandate and mandated functions, by state and federal legislative or regulatory action, which adversely affects the LFUCG's authority to continue its obligations under this contract, then this contract shall automatically terminate without penalty to the LFUCG upon written notice to Contractor of such limitation or change in the LFUCG's legal authority.

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 Procurement 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 Procurement or (2) submitting a written request for a meeting with the Director of Procurement 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 Procurement 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 Procurement 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 Procurement or (2) submitting a written request for a meeting with the Director of Procurement 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 Procurement shall in writing, affirm or withdraw the recommendation.

AMERICAN RESCUE PLAN ACT

AMENDMENT 1 — CERTIFICATION OF COMPLIANCE FOR EXPENDITURES USING FEDERAL FUNDS, INCLUDING THE AMERICAN RESCUE PLAN ACT

The Lexington-Fayette Urban County Government (“LFUCG”) may use Federal funding to pay for the goods and/or services that are the subject matter of this bid. That Federal funding may include funds received by LFUCG under the American Rescue Plan Act of 2021. Expenditures using Federal funds require evidence of the contractor’s compliance with Federal law. Therefore, by the signature below of an authorized company representative, you certify that the information below is understood, agreed, and correct. 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.

The bidder (hereafter “bidder,” or “contractor”) agrees and understands that in addition to all conditions stated within the attached bid documents, the following conditions will also apply to any Agreement entered between bidder and LFUCG, if LFUCG uses Federal funds, including but not limited to funding received by LFUCG under the American Rescue Plan Act (“ARPA”), toward payment of goods and/or services referenced in this bid. The bidder also agrees and understands that if there is a conflict between the terms included elsewhere in this Request for Proposal and the terms of this Amendment 1, then the terms of Amendment 1 shall control. The bidder further certifies that it can and will comply with these conditions, if this bid is accepted and an Agreement is executed:

1. Any Agreement executed as a result of acceptance of this bid may be governed in accordance with 2 CFR Part 200 and all other applicable Federal law and regulations and guidance issued by the U.S. Department of the Treasury.
2. Pursuant to 24 CFR § 85.43, any Agreement executed as a result of acceptance of this bid can be terminated if the contractor fails to comply with any term of the award. This Agreement may be terminated for convenience in accordance with 24 CFR § 85.44 upon written notice by LFUCG. Either party may terminate this Agreement with thirty (30) days written notice to the other party, in which case the Agreement shall terminate on the thirtieth day. In the event of termination, the contractor shall be entitled to that portion of total compensation due under this Agreement as the services rendered bears to the services required. However, if LFUCG suspects a breach of the terms of the Agreement and/or that the contractor is violating the terms of any applicable law governing the use of Federal funds, LFUCG may suspend the contractor’s ability to receive payment by giving thirty (30) days’ advance written notice. Further, either party may terminate this Agreement for cause shown with thirty (30) days written notice, which shall explain the party’s cause for the termination. If the parties do not reach a settlement before the end of the 30 days, then the Agreement shall terminate on the thirtieth day. In the event of a breach, LFUCG reserves the right to pursue any and all applicable legal, equitable, and/or administrative remedies against the contractor.
3. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:
 - (1) 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 apprenticeship. The contractor agrees to post in conspicuous places, available to employees and

applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- (4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part, and the contractor may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

Provided, however, that in the event a contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

4. If fulfillment of the contract requires the contractor to employ mechanic's or laborers, the contractor further agrees that it can and will comply with the following:

- (1) *Overtime requirements: No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such a workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such a workweek.*

- (2) *Violation: liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.*
- (3) *Withholding for unpaid wages and liquidated damages. LFUCG shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.*
- (4) *Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower-tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.*

5. *The contractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.*

6. *The contractor shall report each violation to LFUCG and understands and agrees that LFUCG will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency Regional Office.*

7. *The contractor shall include these requirements in numerical paragraphs 5 and 6 in each subcontract exceeding \$100,000 financed in whole or in part with Federal funding.*

8. *The contractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.*

9. *The contractor shall report each violation to LFUCG and understands and agrees that LFUCG will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency Regional Office.*

10. *The contractor shall include these requirements in numerical paragraphs 8 and 9 in each subcontract exceeding \$100,000 financed in whole or in part with Federal funds.*

11. *The contractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.*

12. *The contractor shall report each violation to LFUCG and understands and agrees that LFUCG will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency regional office.*

13. *The contractor shall include these requirements in numerical paragraphs 11 and 12 in each subcontract exceeding \$100,000 financed in whole or in part with American Rescue Plan Act funds.*

14. The contractor shall include this language in any subcontract it executes to fulfill the terms of this bid: “the sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury’s Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with ‘Limited English Proficiency’ in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury’s Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.”

15. *Contractors who apply or bid for an award of \$100,000 or more shall file the required certification that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier, up to the recipient. The required certification is included here:*

- a. The undersigned certifies, to the best of his or her knowledge and belief, that:
 - (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.
 - (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
- b. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

16. The contractor acknowledges and certifies that it has not been debarred or suspended and further acknowledges and agrees that it must comply with regulations regarding debarred or suspended entities in accordance with 24 CFR § 570.489(1). Funds may not be provided to excluded or disqualified persons.

17. The contractor agrees and certifies that to the greatest extent practicable, it will prefer the purchase, acquisition, and use of all applicable goods, products or materials produced in the United States, in

conformity with 2 CFR 200.322 and/or section 70914 of Public Law No. 117-58, §§ 70901-52, also known as the Infrastructure Investment and Jobs Act, whichever is applicable.

18. The contractor agrees and certifies that all activities performed pursuant to any Agreement entered as a result of the contractor's bid, and all goods and services procured under that Agreement, shall comply with 2 C.F.R. § 200.216 (Prohibition on certain telecommunications and video surveillance services and equipment) and 2 C.F.R. 200 § 200..323 (Procurement of recovered materials), to the extent either section is applicable.

19. If this bid involves construction work for a project totaling \$10 million or more, then the contractor further agrees that all laborers and mechanics, etc., employed in the construction of the public facility project assisted with funds provided under this Agreement, whether employed by contractor, or contractor's contractors, or subcontractors, shall be paid wages complying with the Davis-Bacon Act (40 U.S.C. 3141-3144). Contractor agrees that all of contractor's contractors and subcontractors will pay laborers and mechanics the prevailing wage as determined by the Secretary of Labor and that said laborers and mechanics will be paid not less than once a week. The contractor agrees to comply with the Copeland Anti- Kick Back Act (18 U.S.C. § 874) and its implementing regulations of the U.S. Department of Labor at 29 CFR part 3 and part 5. The contractor further agrees to comply with the applicable provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. Section 327-333), and the applicable provisions of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. et seq.). Contractor further agrees that it will report all suspected or reported violations of any of the laws identified in this paragraph to LFUCG.

Signature

Date

SELECTION CRITERIA:

Selection Criteria.

1. Demonstrated familiarity and understanding of the project as conveyed via the submitted proposal, including project schedule and budget, as well as demonstrated understanding of EPA's expectations as conveyed in the proposal (25 points)
2. Specialized experience and technical competence in the types of services required (climate action planning, GHG inventories, stakeholder and community engagement, etc.) (25 points)
3. Effectiveness of the individual or firm in creating and implementing marketing and communications strategies and approaches, including the ability to reach and appeal to diverse audiences per EPA definition (20 points)
4. The 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 (15 points)
5. A comprehensive and detailed listing all costs, fees, and reimbursable fees to be incurred as part of the individual's or firm's work (10 points)
6. Degree of local employment (5 points)

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 submitted via IonWave at: <https://lexingtonky.ionwave.net>

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.

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 Procurement 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 _____, 20__.

My Commission expires: _____

NOTARY PUBLIC, STATE AT LARGE

EQUAL OPPORTUNITY AGREEMENT

Standard Title VI Assurance

The Lexington Fayette-Urban County Government, (hereinafter referred to as the "Recipient") hereby agrees that as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78Stat.252, 42 U.S.C. 2000d-4 (hereinafter referred to as the "Act"), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, (49 CFR, Part 21) Nondiscrimination in Federally Assisted Program of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the "Regulations") and other pertinent directives, no person in the United States shall, on the grounds of race, color, national origin, sex, age (over 40), religion, sexual orientation, gender identity, veteran status, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance from the U.S. Department of Transportation, including the Federal Highway Administration, and hereby gives assurance that will promptly take any necessary measures to effectuate this agreement. This assurance is required by subsection 21.7(a) (1) of the Regulations.

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: _____

| Categories | Total | White (Not Hispanic or Latino) | | Hispanic or Latino | | Black or African- American (Not Hispanic or Latino) | | Native Hawaiian and Other Pacific Islander (Not Hispanic or Latino) | | Asian (Not Hispanic or Latino) | | American Indian or Alaskan Native (not Hispanic or Latino) | | Two or more races (Not Hispanic or Latino) | | Total | |
|-------------------------|-------|--------------------------------------|---|-----------------------|---|---|---|--|---|--------------------------------------|---|---|---|--|---|-------|---|
| | | M | F | M | F | M | F | M | F | M | F | M | F | M | F | M | F |
| Administrators | | | | | | | | | | | | | | | | | |
| Professionals | | | | | | | | | | | | | | | | | |
| Superintendents | | | | | | | | | | | | | | | | | |
| Supervisors | | | | | | | | | | | | | | | | | |
| Foremen | | | | | | | | | | | | | | | | | |
| Technicians | | | | | | | | | | | | | | | | | |
| Protective | | | | | | | | | | | | | | | | | |
| Para- | | | | | | | | | | | | | | | | | |
| Office/Clerical | | | | | | | | | | | | | | | | | |
| Skilled Craft | | | | | | | | | | | | | | | | | |
| Service/Maintena | | | | | | | | | | | | | | | | | |
| Total: | | | | | | | | | | | | | | | | | |

Prepared by: _____ Date: ____/____/____

(Name and Title)

Revised 2015-Dec-15

**DIRECTOR, DIVISION OF PROCUREMENT
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

Notice of requirement for Affirmative Action to ensure Equal Employment Opportunities and Disadvantaged Business Enterprises (DBE) Contract participation. Disadvantaged Business Enterprises (DBE) consists of Minority-Owned Business Enterprises (MBE) and Woman-Owned Business Enterprises (WBE).

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 Disadvantaged Business Enterprises, which is made up of MBEs and WBEs. The Lexington Fayette Urban County Government also has set a goal that not less than three percent (3%) of the total value of this Contract be subcontracted to Veteran-owned Small Businesses. The goal for the utilization of Disadvantaged Business Enterprises as well Veteran –owned Small Businesses as subcontractors is a recommended goal. Contractor(s) who fail to meet such goal will be expected to provide written explanations to the Director of the Division of Purchasing of efforts they have made to accomplish the recommended goal, and the extent to which they are successful in accomplishing the recommended goal will be a consideration in the procurement process. Depending on the funding source, other DBE goals may apply.

For assistance in locating Disadvantaged Business Enterprises Subcontractors contact:

Sherita Miller, MPA, Division of Procurement
Lexington-Fayette Urban County Government
200 East Main Street, 3rd Floor, Room 338
Lexington, Kentucky 40507
smiller@lexingtonky.gov

Firm Submitting Proposal: _____

Complete Address: _____
Street City Zip

Contact Name: _____ Title: _____

Telephone Number: _____ Fax Number: _____

Email address: _____

Lexington-Fayette Urban County Government
MWDBE PARTICIPATION GOALS

A. GENERAL

- 1) The LFUCG request all potential contractors to make a concerted effort to include Minority-Owned (MBE), Woman-Owned (WBE), Disadvantaged (DBE) Business Enterprises and Veteran-Owned Small Businesses (VOSB) as subcontractors or suppliers in their bids.
- 2) Toward that end, the LFUCG has established 10% of total procurement costs as a Goal for participation of Minority-Owned, Woman-Owned and Disadvantaged Businesses on this contract.
- 3) **It is therefore a request of each Bidder to include in its bid, the same goal (10%) for MWDBE participation and other requirements as outlined in this section.**
- 4) The LFUCG has also established a 3% of total procurement costs as a Goal for participation for of Veteran-Owned Businesses.
- 5) **It is therefore a request of each Bidder to include in its bid, the same goal (3%) for Veteran-Owned participation and other requirements as outlined in this section.**

B. PROCEDURES

- 1) The successful bidder will be required to report to the LFUCG, the dollar amounts of all payments submitted to Minority-Owned, Woman-Owned or Veteran-Owned subcontractors and suppliers for work done or materials purchased for this contract. (See Subcontractor Monthly Payment Report)
- 2) Replacement of a Minority-Owned, Woman-Owned or Veteran-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 MWDBE Firm; this is subject to approval by the LFUCG. (See LFUCG MWDBE Substitution Form)
- 3) For assistance in identifying qualified, certified businesses to solicit for potential contracting opportunities, bidders may contact:
 - a) The Lexington-Fayette Urban County Government, Division of Procurement (859-258-3320)
- 4) The LFUCG will make every effort to notify interested MWDBE and Veteran-Owned subcontractors and suppliers of each Bid Package, including information on the scope of work, the pre-bid meeting time and location, the bid date, and all other pertinent information regarding the project.

C. DEFINITIONS

- 1) A Minority-Owned Business Enterprise (MBE) is defined as a business which is certified as being at least 51% owned, managed and controlled by persons of African American, Hispanic, Asian, Pacific Islander, American Indian or Alaskan Native Heritage.
- 2) A Woman-Owned Business Enterprise (WBE) is defined as a business which is certified as being at least 51% owned, managed and controlled by one or more women.

- 3) A Disadvantaged Business (DBE) is defined as a business which is certified as being at least 51% owned, managed and controlled by a person(s) that are economically and socially disadvantaged.
- 4) A Veteran-Owned Small Business (VOSB) is defined as a business which is certified as being at least 51% owned, managed and controlled by a veteran and/or a service disabled veteran.
- 5) Good Faith Efforts are efforts that, given all relevant circumstances, a bidder or proposer actively and aggressively seeking to meet the goals, can reasonably be expected to make. In evaluating good faith efforts made toward achieving the goals, whether the bidder or proposer has performed the efforts outlined in the Obligations of Bidder for Good Faith Efforts outlined in this document will be considered, along with any other relevant factors.

D. OBLIGATION OF BIDDER FOR GOOD FAITH EFFORTS

- 1) **The bidder shall make a Good Faith Effort to achieve the Participation Goal for MWDBE and Veteran-Owned 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.**
- 2) Award of Contract shall be conditioned upon satisfaction of the requirements set forth herein.
- 3) The Form of Proposal includes a section entitled “MWDBE Participation Form”. The applicable information must be completed and submitted as outlined below.
- 4) **Failure to submit this information as requested may be cause for rejection of bid or delay in contract award.**

E. DOCUMENTATION REQUIRED FOR GOOD FAITH EFFORTS

- 1) Bidders reaching the Goal are required to submit only the MWDBE Participation Form.” The form must be fully completed including names and telephone number of participating MWDBE firm(s); type of work to be performed; estimated value of the contract and value expressed as a percentage of the total Lump Sum Bid Price. The form must be signed and dated, and is to be submitted with the bid.
- 2) Bidders not reaching the Goal must submit the “MWDBE Participation Form”, the “Quote Summary Form” and a written statement documenting their Good Faith Effort to do so. If bid includes no MWDBE and/or Veteran participation, bidder shall enter “None” on the subcontractor / supplier form). In addition, the bidder must submit written proof of their Good Faith Efforts to meet the Participation Goal:
 - a. Advertised opportunities to participate in the contract in at least two (2) publications of general circulation media; trade and professional association publications; small and minority business or trade publications; and publications or trades targeting minority, women and disadvantaged businesses not less than fifteen (15) days prior to the deadline for submission of bids to allow MWDBE firms and Veteran-Owned businesses to participate.
 - b. Included documentation of advertising in the above publications with the bidders good faith efforts package

- c. Attended LFUCG Procurement Economic Inclusion Outreach event
- d. Attended pre-bid meetings that were scheduled by LFUCG to inform MWDBEs and/or Veteran-Owned businesses of subcontracting opportunities
- e. Sponsored Economic Inclusion event to provide networking opportunities for prime contractors and MWDBE firms and Veteran-Owned businesses.
- f. Requested a list of MWDBE and/or Veteran subcontractors or suppliers from LFUCG and showed evidence of contacting the companies on the list(s).
- g. Contacted organizations that work with MWDBE companies for assistance in finding certified MWDBE firms and Veteran-Owned businesses to work on this project. Those contacted and their responses should be a part of the bidder's good faith efforts documentation.
- d. Sent written notices, by certified mail, email or facsimile, to qualified, certified MWDBEs and/or Veteran-Owned businesses soliciting their participation in the contract not less than seven (7) days prior to the deadline for submission of bids to allow them to participate effectively.
- e. Followed up initial solicitations by contacting MWDBEs and Veteran-Owned Businesses to determine their level of interest.
- j. Provided the interested MWDBE firm and/or Veteran-Owned business with adequate and timely information about the plans, specifications, and requirements of the contract.
- k. Selected portions of the work to be performed by MWDBE firms and/or Veteran-Owned businesses in order to increase the likelihood of meeting the contract goals. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate MWDBE and Veteran participation, even when the prime contractor may otherwise perform these work items with its own workforce
- l. Negotiated in good faith with interested MWDBE firms and Veteran-Owned businesses not rejecting them as unqualified without sound reasons based on a thorough investigation of their capabilities. Any rejection should be so noted in writing with a description as to why an agreement could not be reached.
- m. Included documentation of quotations received from interested MWDBE firms and Veteran-Owned businesses which were not used due to uncompetitive pricing or were rejected as unacceptable and/or copies of responses from firms indicating that they would not be submitting a bid.
- n. Bidder has to submit sound reasons why the quotations were considered unacceptable. The fact that the bidder has the ability and/or desire to perform the contract work with its own forces will not be considered a sound reason for rejecting a MWDBE and/or Veteran-Owned business's quote. Nothing in this provision shall be construed to require the bidder to accept unreasonable quotes in order to satisfy MWDBE and Veteran goals.

o. Made an effort to offer assistance to or refer interested MWDBE firms and Veteran-Owned businesses to obtain the necessary equipment, supplies, materials, insurance and/or bonding to satisfy the work requirements of the bid proposal

p. Made efforts to expand the search for MWBE firms and Veteran-Owned businesses beyond the usual geographic boundaries.

q. Other--any other evidence that the bidder submits which may show that the bidder has made reasonable good faith efforts to include MWDBE and Veteran participation.

Note: Failure to submit any of the documentation requested in this section may be cause for rejection of bid. Bidders may include any other documentation deemed relevant to this requirement which is subject to review by the MBE Liaison. Documentation of Good Faith Efforts must be submitted with the Bid, if the participation Goal is not met.



MINORITY BUSINESS ENTERPRISE PROGRAM

Sherita Miller, MPA
Minority Business Enterprise Liaison
Division of Procurement
Lexington-Fayette Urban County Government
200 East Main Street
Lexington, KY 40507
smiller@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 484-2017 – A Certified Minority, Women and Disadvantaged Business Enterprise ten percent (10%) minimum goal and a three (3%) minimum goal for Certified Veteran-Owned Small Businesses and Certified Service Disabled Veteran – Owned Businesses for government contracts.

The resolution states the following definitions shall be used for the purposes of reaching these goals (a full copy is available in Procurement):

Certified Disadvantaged Business Enterprise (DBE) – a business in which at least fifty-one percent (51%) is owned, managed and controlled by a person(s) who is socially and economically disadvantaged as defined by 49 CFR subpart 26.

Certified Minority Business Enterprise (MBE) – a business in which at least fifty-one percent (51%) is owned, managed and controlled by an ethnic minority (i.e. African American, Asian American/Pacific Islander, Hispanic Islander, Native American/Native Alaskan Indian) as defined in federal law or regulation as it may be amended from time-to-time.

Certified Women Business Enterprise (WBE) – a business in which at least fifty-one percent (51%) is owned, managed and controlled by a woman.

Certified Veteran-Owned Small Business (VOSB) – a business in which at least fifty-one percent (51%) is owned, managed and controlled by a veteran who served on active duty with the U.S. Army, Air Force, Navy, Marines or Coast Guard.

Certified Service Disabled Veteran Owned Small Business (SDVOSB) – a business in which at least fifty-one percent (51%) is owned, managed and controlled by a disabled veteran who served on active duty with the U.S. Army, Air Force, Navy, Marines or Coast Guard.

The term “Certified” shall mean the business is appropriately certified, licensed, verified, or validated by an organization or entity recognized by the Division of Purchasing as having the appropriate credentials to make a determination as to the status of the business.

We have compiled the list below to help you locate certified MBE, WBE and DBE certified businesses. Below is a listing of contacts for LFUCG Certified MWDBEs and Veteran-Owned Small Businesses in (<https://lexingtonky.ionwave.net>)

| Business | Contact | Email Address | Phone |
|---|--|--|--------------|
| LFUCG | Sherita Miller | smiller@lexingtonky.gov | 859-258-3323 |
| Commerce Lexington – Minority Business Development | Tyrone Tyra | ttyra@commercelexington.com | 859-226-1625 |
| Tri-State Minority Supplier Diversity Council | Susan Marston | smarston@tsmsdc.com | 502-365-9762 |
| Small Business Development Council | Shawn Rogers UK SBDC | shawn.rogers@uky.edu | 859-257-7666 |
| Community Ventures Corporation | Phyllis Alcorn | palcorn@cvky.org | 859-231-0054 |
| KY Transportation Cabinet (KYTC) | Melvin Bynes | Melvin.bynes2@ky.gov | 502-564-3601 |
| KYTC Pre-Qualification | Shella Eagle | Shella.Eagle@ky.gov | 502-782-4815 |
| Ohio River Valley Women’s Business Council (WBENC) | Sheila Mixon | smixon@orvwbc.org | 513-487-6537 |
| Kentucky MWBE Certification Program | Yvette Smith, Kentucky Finance Cabinet | Yvette.Smith@ky.gov | 502-564-8099 |
| National Women Business Owner’s Council (NWBOC) | Janet Harris-Lange | janet@nwvoc.org | 800-675-5066 |
| Small Business Administration | Robert Coffey | robertcoffey@sba.gov | 502-582-5971 |
| LaVoz de Kentucky | Andres Cruz | lavozdeky@yahoo.com | 859-621-2106 |
| The Key News Journal | Patrice Muhammad | production@keynewsjournal.com | 859-685-8488 |



LFUCG MWDBE PARTICIPATION FORM

Bid/RFP/Quote Reference # _____

The MWDBE and/or veteran 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 Procurement for approval immediately. **Failure to submit a completed form may cause rejection of the bid.**

| MWDBE Company, Name, Address, Phone, Email | MBE WBE or DBE | 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 MWDBE 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

Company Representative

Date

Title



LFUCG MWDBE SUBSTITUTION FORM

Bid/RFP/Quote Reference # _____

The substituted MWDBE and/or veteran 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 Procurement 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 MWDBE Company Name, Address, Phone, Email | MWDBE 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

Company Representative

Date

Title



MWDBE QUOTE SUMMARY FORM

Bid/RFP/Quote Reference # _____

The undersigned acknowledges that the minority and/or veteran subcontractors listed on this form did submit a quote to participate on this project. Failure to submit this form may cause rejection of the bid.

| | |
|---------------------|------------------------|
| Company Name | Contact Person |
| Address/Phone/Email | Bid Package / Bid Date |

| MWDBE 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 | Veteran |
|-----------------------|----------------|---|----------------|--------------------------|---|--|---|---------|
| | | | | | | | | |
| | | | | | | | | |
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| | | | | | | | | |
| | | | | | | | | |

(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. The LFUCG also has a 3% goal plan adopted by cited council to increase the participation of veteran owned businesses in the procurement process. In order to measure that goal LFUCG will track spending with MWDBE and Veteran contractors 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 Procurement/ 200 East Main Street / Room 338 / Lexington, KY 40507.

Bid/RFP/Quote # _____

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

Bid/RFP/Quote # _____

By the signature below of an authorized company representative, we certify that we have utilized the following Good Faith Efforts to obtain the maximum participation by MWDBE and Veteran-Owned business enterprises on the project and can supply the appropriate documentation.

_____ Advertised opportunities to participate in the contract in at least two (2) publications of general circulation media; trade and professional association publications; small and minority business or trade publications; and publications or trades targeting minority, women and disadvantaged businesses not less than fifteen (15) days prior to the deadline for submission of bids to allow MWDBE firms and Veteran-Owned businesses to participate.

_____ Included documentation of advertising in the above publications with the bidders good faith efforts package

_____ Attended LFUCG Procurement Economic Inclusion Outreach event

_____ Attended pre-bid meetings that were scheduled by LFUCG to inform MWDBEs and/or Veteran-Owned Businesses of subcontracting opportunities

_____ Sponsored Economic Inclusion event to provide networking opportunities for prime contractors and MWDBE firms and Veteran-Owned businesses

_____ Requested a list of MWDBE and/or Veteran subcontractors or suppliers from LFUCG and showed evidence of contacting the companies on the list(s).

_____ Contacted organizations that work with MWDBE companies for assistance in finding certified MWDBE firms and Veteran-Owned businesses to work on this project. Those contacted and their responses should be a part of the bidder's good faith efforts documentation.

_____ Sent written notices, by certified mail, email or facsimile, to qualified, certified MWDBEs soliciting their participation in the contract not less than seven (7) days prior to the deadline for submission of bids to allow them to participate effectively.

_____ Followed up initial solicitations by contacting MWDBEs and Veteran-Owned businesses to determine their level of interest.

_____ Provided the interested MWDBE firm and/or Veteran-Owned business with adequate and timely information about the plans, specifications, and requirements of the contract.

_____ Selected portions of the work to be performed by MWDBE firms and/or Veteran-Owned businesses in order to increase the likelihood of meeting the contract goals. This includes, where appropriate, breaking out contract work items

into economically feasible units to facilitate MWDBE and Veteran participation, even when the prime contractor may otherwise perform these work items with its own workforce

_____ Negotiated in good faith with interested MWDBE firms and Veteran-Owned businesses not rejecting them as unqualified without sound reasons based on a thorough investigation of their capabilities. Any rejection should be so noted in writing with a description as to why an agreement could not be reached.

_____ Included documentation of quotations received from interested MWDBE firms and Veteran-Owned businesses which were not used due to uncompetitive pricing or were rejected as unacceptable and/or copies of responses from firms indicating that they would not be submitting a bid.

_____ Bidder has to submit sound reasons why the quotations were considered unacceptable. The fact that the bidder has the ability and/or desire to perform the contract work with its own forces will not be considered a sound reason for rejecting a MWDBE and/or Veteran-Owned business's quote. Nothing in this provision shall be construed to require the bidder to accept unreasonable quotes in order to satisfy MWDBE and Veteran goals.

_____ Made an effort to offer assistance to or refer interested MWDBE firms and Veteran-Owned businesses to obtain the necessary equipment, supplies, materials, insurance and/or bonding to satisfy the work requirements of the bid proposal

_____ Made efforts to expand the search for MWBE firms and Veteran-Owned businesses beyond the usual geographic boundaries.

_____ Other--any other evidence that the bidder submits which may show that the bidder has made reasonable good faith efforts to include MWDBE and Veteran participation.

NOTE: Failure to submit any of the documentation requested in this section may be cause for rejection of bid. Bidders may include any other documentation deemed relevant to this requirement which is subject to approval by the MBE Liaison. Documentation of Good Faith Efforts must be submitted with the Bid, if the participation Goal is not met.

The undersigned acknowledges that all information is accurate. Any misrepresentations 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

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 and IonWave Q&A, 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.
20. Contractor [or Vendor or Vendor's Employees] will not appropriate or make use of the Lexington-Fayette Urban County Government (LFUCG) name or any of its trade or service marks or property (including but not limited to any logo or seal), in any promotion, endorsement, advertisement, testimonial or similar use without the prior written consent of the government. If such consent is granted LFUCG reserves the unilateral right, in its sole discretion, to immediately terminate and revoke such use for any reason whatsoever. Contractor agrees that it shall cease and desist from any unauthorized use immediately upon being notified by LFUCG.

Signature

Date

**RISK MANAGEMENT PROVISIONS
INSURANCE AND INDEMNIFICATION**

INDEMNIFICATION AND HOLD HARMLESS PROVISION

- (1) It is understood and agreed by the parties that Contractor hereby assumes the entire responsibility and liability for any and all damages to persons or property caused by or resulting from or arising out of any act or omission on the part of Contractor or its employees, agents, servants, owners, principals, licensees, assigns or subcontractors of any tier (hereinafter "CONTRACTOR") under or in connection with this agreement and/or the provision of goods or services and the performance or failure to perform any work required thereby.
- (2) CONTRACTOR shall indemnify, save, hold harmless and defend the Lexington-Fayette Urban County Government and its elected and appointed officials, employees, agents, volunteers, and successors in interest (hereinafter "LFUCG") from and against all liability, damages, and losses, including but not limited to, demands, claims, obligations, causes of action, judgments, penalties, fines, liens, costs, expenses, interest, 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 CONTRACTOR's performance or breach of the agreement and/or the provision of goods or services provided that: (a) it 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 the negligent acts, errors or omissions or willful misconduct of the CONTRACTOR; and (b) not caused solely by the active negligence or willful misconduct of LFUCG.
- (3) In the event LFUCG is alleged to be liable based upon the above, CONTRACTOR shall defend such allegations and shall bear all costs, fees and expenses of such defense, including but not limited to, all reasonable attorneys' fees and expenses, court costs, and expert witness fees and expenses, using attorneys approved in writing by LFUCG, which approval shall not be unreasonably withheld.
- (4) These provisions shall in no way be limited by any financial responsibility or insurance requirements, and shall survive the termination of this agreement.
- (5) LFUCG is a political subdivision of the Commonwealth of Kentucky. CONTRACTOR acknowledges and agrees that LFUCG is unable to provide indemnity or otherwise save, hold harmless, or defend the CONTRACTOR in any manner.
- (6) Notwithstanding, the foregoing with respect to any professional services performed by CONTRACTOR hereunder (and to the fullest extent permitted by law), CONTRACTOR shall indemnify, save, hold harmless and defend LFUCG from and against any and all liability, damages and losses, including but not limited to, demands, claims, obligations, causes of action, judgments, penalties, fines, liens, costs, expenses, interest, defense costs and reasonable attorney's fees, for any damage due to death or injury to any person or injury to any property (including the loss of use resulting therefrom) to the extent arising out of, pertaining to or relating to the negligence, recklessness or willful misconduct of CONTRACTOR in the performance of this agreement.

FINANCIAL RESPONSIBILITY

BIDDER/CONTRACTOR understands and agrees that it shall demonstrate the ability to assure compliance with the above Indemnity provisions and these other risk management provisions prior to final acceptance of its bid and the commencement of any work or provision of goods.

INSURANCE REQUIREMENTS

YOUR ATTENTION IS DIRECTED TO THE INSURANCE REQUIREMENTS BELOW, AND YOU MAY NEED TO CONFER WITH YOUR INSURANCE AGENTS, BROKERS, OR CARRIERS TO DETERMINE IN ADVANCE OF SUBMISSION OF A RESPONSE THE AVAILABILITY OF THE INSURANCE COVERAGES AND ENDORSEMENTS REQUIRED HEREIN. IF YOU FAIL TO COMPLY WITH THE INSURANCE REQUIREMENTS BELOW, YOU MAY BE DISQUALIFIED FROM AWARD OF THE CONTRACT.

Required Insurance Coverage

BIDDER/CONTRACTOR shall procure and maintain for the duration of this contract 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 LFUCG in order to protect LFUCG 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 CONTRACTOR. The cost of such insurance shall be included in any bid:

| <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 |
| Auto Liability | \$1 million per occurrence |
| Worker's Compensation | Statutory |
| Employer's Liability | \$100K |
| Professional (E&O) Liability | \$1 million per claim |

The policies above shall contain the following conditions:

- a. All Certificates of Insurance forms used by the insurance carrier shall be properly filed and approved by the Department of Insurance for the Commonwealth of Kentucky (DOI). LFUCG shall be named as an additional insured in the General Liability Policy and Commercial Automobile Liability Policy using the Kentucky DOI approved forms.
- b. The General Liability Policy shall be primary to any insurance or self-insurance retained by LFUCG.
- c. LFUCG 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.
- d. Said coverage shall be written by insurers acceptable to LFUCG and shall be in a form acceptable to LFUCG. 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.

Renewals

After insurance has been approved by LFUCG, evidence of renewal of an expiring policy must be submitted to LFUCG, 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.

Deductibles and Self-Insured Programs

IF YOU INTEND TO SUBMIT A SELF-INSURANCE PLAN IT MUST BE FORWARDED TO LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, DIVISION OF RISK MANAGEMENT, 200 EAST MAIN STREET, LEXINGTON, KENTUCKY 40507 NO LATER THAN A MINIMUM OF FIVE (5) WORKING DAYS PRIOR TO THE RESPONSE DATE.

Self-insurance programs, deductibles, and self-insured retentions in insurance policies are subject to separate approval by Lexington-Fayette Urban County Government's Division of Risk Management, upon review of evidence of BIDDER/CONTRACTOR's financial capacity to respond to claims. Any such programs or retentions must provide LFUCG with at least the same protection from liability and defense of suits as would be afforded by first-dollar insurance coverage

Safety and Loss Control

CONTRACTOR 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 LFUCG.

Verification of Coverage

BIDDER/CONTRACTOR agrees to furnish LFUCG with all applicable Certificates of Insurance signed by a person authorized by the insurer to bind coverage on its behalf prior to final award, and if requested, shall provide LFUCG copies of all insurance policies, including all endorsements.

Right to Review, Audit and Inspect

CONTRACTOR understands and agrees that LFUCG may review, audit and inspect any and all of its records and operations to insure compliance with these Insurance Requirements.

DEFAULT

BIDDER/CONTRACTOR understands and agrees that the failure to comply with any of these insurance, safety, or loss control provisions shall constitute default and that LFUCG may elect at 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 BIDDER/CONTRACTOR for any such insurance premiums purchased, or suspending or terminating the work.

00548704

RFP #1-2024
REQUEST FOR PROPOSALS
COMPREHENSIVE CLIMATE ACTION PLAN

SECTION I
SPECIFICATIONS

1. INTRODUCTION AND BACKGROUND

The Lexington-Fayette County Metropolitan Statistical Area (MSA) was recently awarded a Climate Pollution Reduction Grant (CPRG) from the United States (US) Environmental Protection Agency (EPA). The CPRG will allow the region to develop local greenhouse gas reduction strategies. By developing regional Climate Action Plans (CAPs) through this EPA grant, the MSA will become eligible to apply for \$4.6 billion of competitive grant funding that will allow for the implementation of GHG reduction programs, policies, projects, and measures (collectively referred to as “GHG reduction measures,” or “measures”) identified in a Priority Climate Action Plan developed under a CPRG planning grant.

As of the 2020 census, the Lexington-Fayette County metropolitan area population was 516,811. It was the 109th largest MSA in the United States and is comprised of the six-county area of Bourbon, Clark, Fayette, Jessamine, Scott, and Woodford counties. As the largest municipality in the MSA, the Lexington-Fayette Urban County Government (LFUCG) is designated as the lead agency to oversee and be responsible for the management of the grant funds, activities, and deliverables.



2. PROJECT DESCRIPTION

On behalf of the Lexington-Fayette County MSA, the Lexington-Fayette Urban County Government (LFUCG) is seeking proposals from professional consultants to serve as the primary manager of the Climate Pollution Reduction Planning Grant responsible for implementation of this project by completing the following activities:

- Develop a Comprehensive Climate Action Plan (CCAP) to help advance sustainability;
- Develop a comprehensive greenhouse gas emissions inventory “GHG inventory” for the Lexington-Fayette Co. MSA building off the 2021 community-wide Lexington-Fayette Co. GHG Inventory and the simplified GHG inventory developed for the Priority Climate Action Plan (PCAP);
- Finalize target reductions and options for reducing emissions within each sector building off the voluntary reduction measures included in the PCAP;
- Compute refined estimates or ranges of estimates for reductions achievable under each option;
- Develop refined uncertainty analyses for each option’s emissions reduction estimate;
- Perform extensive stakeholder outreach, community engagement, and cross-sector coordination between the six (6) counties in the MSA;

- Continue focused efforts to achieve GHG reductions in low-income and disadvantaged communities, as identified in the PCAP, including efforts for continued meaningful engagement with the communities; and
- Present these analyses and options in technical reports and presentations with transparent, easy-to-understand data that are consistent with the deliverables required under the Climate Pollution Reduction Planning Grants.

Throughout this entire project, the Consultant will be expected to provide overall project management, quality control/quality assurance, data organization, GHG emissions calculations, analysis of GHG inventory results, and Climate Action Plans, with oversight, guidance, and input from the Project Team which will include members from the lead organization (LFUCG staff), and key city and county representatives from the MSA (region).

Note that due to the early deadlines stipulated for the Quality Assurance Project Plan (QAPP) and PCAP, LFUCG procured the development of those deliverables under the policy allowing for professional services under \$40,000 to be obtained without a formal RFP. The QAPP and PCAP, along with the data used to develop those documents, will be provided to the Consultant selected via this RFP.

3. RFP AND SUBMISSION INFORMATION

The anticipated timeline for the CPRG RFP process and project completion follows below:

- **RFP Release:** 1/2/2024
- **Question Submission Deadline:** 1/12/2024
- **Proposal Submission Deadline:** 1/23/2024 2:00 p.m.
- **Consultant Interviews** (if needed): Week of 2/5/2024
- **Consultant Selected** (target): Week of 2/5/2024
- **Council Approval:** March 2024
- **Project Kickoff** (target): March 2024
- **Comprehensive GHG Inventory Completion** (target): May 2025
- **Comprehensive Climate Action Plan Completion** (target): May 2025

4. SCOPE OF WORK

The following general tasks comprise the scope of work to complete the Comprehensive Climate Action Plan for the Lexington-Fayette Co. MSA.

Format of Proposal

The proposal should be succinct and easy to follow with clear, concise information preferred. The Consultant’s approach for completing the tasks described below should be limited to three (3) pages. The opening vision and introduction should be limited to one (1) page.

Opening Vision and Introduction: Open the proposal with the vision for this project that includes the Consultant’s capacity to complete the scope within the project schedule. This introduction should include descriptions about:

- The vision for the final deliverables;
- Understanding of EPA requirements;
- Communication strategies and facilitation skills for diverse stakeholder groups;

- Consensus building expertise to engage and achieve buy-in for adaptation strategies across sectors and stakeholder groups;
- Consultant staff or partner capacity to support this level of work with a strong local presence; and
- Elements that set your team apart to establish the Lexington-Fayette Co. region as a leader in climate action planning.

The Consultant is expected to understand the EPA requirements and how to communicate with and support the varied stakeholders. The Consultant should have a local staff or partner capacity to facilitate in-person meetings and community engagement. Describe the strategies to support the vision, including approaches to gain consensus on reduction measures that can be implemented across a diverse region and across multiple sectors, public and private. Demonstrate understanding that this region is diverse across the six (6) counties, rural and urban, and that there will be varied levels of desired adaptation strategies for long-term implementation.

Task 1: Project Management

This task represents overall project management and coordination with the Lexington-Fayette Co. MSA team (Project Team). Following contract approval, the Consultant will follow the approved Workplan (Attachments A & B) to guide the project's implementation. The Workplan includes a schedule of proposed project meetings, the project timeline, and the deliverables. The proposal should include the Consultant's communication strategy for effective project management. At a minimum, the communication strategy should include monthly check-ins with the Project Team, six (6) meetings with counties within the MSA, and one meeting for LFUCG's leadership and the Urban County Council's Environmental Quality and Public Works (EQ&PW) Committee.

Expected Deliverables:

- Manage project using a detailed Work Plan outlining the project scope, general methodology, and the project timeline. Update as needed.
- Monthly project meeting agendas, summaries, Project Team action items, and next steps.
- Create monthly progress reports and billing consistent with EPA-required progress reports. EPA may have specific reporting requirements on the part of the consultant. The Project Team will share additional EPA details as they become available.
- Progress meetings / presentations (6 virtual and 2 in-person). Examples include:
 - Monthly progress meetings with Project Team;
 - Presentations to Lexington-Fayette Co. MSAs and LFUCG's leadership / EQ&PW Committee / MPO Lexington Metropolitan Planning Organization (MPO);
 - Update presentations to Lexington-Fayette Co. MSAs;
 - Attendance and presentations should include high-level overviews identifying benefits and goals; technical approaches and methodologies; and key messages, best practices and recommendations.

Task 2: Background Review and Data Collection

LFUCG reactivated its community-wide GHG Inventory for 2021. The goal is to build the MSA's regional GHG inventory on the 2021 community-wide LFUCG GHG inventory, and to use the 2012 Empower Lexington, the draft updated 2023 Empower Lexington Plan, and other documents and resources to help provide the foundation for the Climate Action Plans. The data for Lexington's 2021 community-wide GHG inventory and the 2023 Empower Lexington Plan will be provided to the selected consultant. The 2012 Empower Lexington Plan can be accessed at

https://drive.google.com/file/d/1GRu2bKFSIGAYScm153C6Dtll_Hck1PHk/view. It is important to also review priorities compiled by federal and state agencies, as well as similar work completed by other organizations, as the CCAP is developed.

Expected Deliverables:

- Summary of relevant priorities

Task 3: Partner Coordination and Community Engagement

Meaningful engagement at all levels will be critical for project success. These discussions and outreach will support the development of other tasks in this scope of services. Include details on the approach for engaging the stakeholders listed below, and any other proposed engagement or outreach activities. Consultant support is expected for leading public meetings and facilitating buy-in on reduction measures, prioritization approach, and presenting technical information. With the assistance of the Project Team, the Consultant is expected to develop content for these meetings that can inform the reduction measures and prioritization process described in Task 5. This includes documenting key decisions, suggested reduction measures, and other input received. The CCAP's measures should follow accepted protocols by sector, including electricity generation and/or use, transportation, commercial and residential buildings, industry, agriculture, natural and working lands, and waste and materials management. CCAP goals and guiding principles should be developed in cooperation with representatives of these groups and others described below. Creating graphics and visuals to easily understand complex processes and concepts is expected.

Note: While Task 1 suggested a specific number of anticipated meetings, the proposal should put forward recommended strategies and approaches for stakeholder engagement. Outside of Project Team meetings, focus groups by sector and other community groups is a critical expectation of this grant. The Consultant's recommended approach must show an efficient process during the project's timeline. While LFUCG will be involved in the execution of this grant and will assist with coordinating agencies and community partners across the Lexington-Fayette Co. MSA, such as the Lexington Area Metropolitan Planning Organization, Environmental Commission, Empower Lexington, Lexington-Fayette County Health Department, Mayor Gorton's Racial Justice and Equality Commission, KY Division of Air Quality, and other regional planning agencies, the Consultant is expected to manage and facilitate community outreach and stakeholder engagement at a high level.

In addition to securing a consultant to develop the CCAP, LFUCG anticipates needing to utilize sub-awards and/or contracts with partners to meet the grant deliverables. The Consultant will help coordinate and utilize these sub-awardees for the creation of the CCAP.

Expected Deliverables:

- Agendas and content for meetings and focus groups
- Summaries of meetings and focus groups

Task 4: GHG Inventory, Emissions Projections, Targets

LFUCG is in the process of completing its 2021 GHG inventory. The Consultant developing the PCAP will complete a simplified GHG inventory for the Lexington-Fayette Co. MSA using 2021 as the reporting year, and building off the 2021 community-wide Lexington-Fayette Co. GHG inventory. The Consultant selected for developing the CCAP will develop a comprehensive GHG inventory by updating and expanding the level of detail found in the simplified GHG inventory developed for the PCAP. The comprehensive GHG inventory will include GHG emissions from sources located within the Lexington-Fayette Co. MSA ("Scope 1" emissions), GHG emissions resulting from the use of grid-supplied energy within the Lexington-Fayette Co. MSA ("Scope 2" emissions), and specific GHG

emissions that occur outside the Lexington-Fayette Co. MSA as a result of activity within the Lexington-Fayette Co. MSA boundary (“Scope 3” emissions).

The inventory must comply with the methodology and reporting template prescribed by the Global Protocol for Community-Scale Greenhouse Gas Emissions (GPC).¹ Please refer to the GPC reference document available online (see footnote below) for definitions, requirements, and technical details. Additional specifications are described below.

- **Types of GHGs to be Measured:** To the extent possible based on available data, the 2021 Lexington-Fayette Co. MSA GHG inventory shall include emissions of carbon dioxide (CO₂), methane (CH₄), and nitrous oxide (N₂O). Hydrofluorocarbons (HFCs), perfluorinated chemicals (PFCs), sulphur hexafluoride (SF₆), and nitrogen trifluoride (NF₃) are optional. All emissions shall be reported by individual chemicals as well as by carbon dioxide equivalent (CO₂e), in keeping with GPC measurement protocols and the best available global warming potential factors for each GHG.
- **Types of GHG Emission Sources to be Measured:** At minimum, the 2021 GHG emissions inventory must meet all requirements of the GPC BASIC reporting level. The comprehensive GHG inventory must meet all requirements of the GPC BASIC reporting level and GPC BASIC PLUS (+) reporting requirements will be considered if data and funds are available through this grant.
 - **GPC BASIC** - The BASIC level GHG emissions inventory includes: Scope 1 emissions from stationary energy sources, transportation sources, and in-boundary generated waste; and Scope 2 emissions from stationary energy sources and transportation.
 - **GPC BASIC PLUS (+)** - The BASIC PLUS (+) level GHG emissions inventory includes: GHG emissions from all BASIC sources; Scope 1 emissions from industrial processes and product use (IPPU) and agriculture, forestry, and other land use (AFOLU); and Scope 3 emissions from stationary energy sources (transmission and distribution losses) and transportation.
- **GHG Emission Factors:** The GHG inventory should be based on the best available GHG emission factors for all sources of emissions, at a level of specificity that appropriately reflects the MSA’s conditions and meets GPC reporting guidelines.
- **Trends and Benchmarks:** The GHG emissions should be compared with comparable city, regional, national, and international GHG emissions data and other relevant benchmarks.
- **“Business as Usual” Forecasts:** The GHG emissions inventory should include “business-as-usual” scenario forecasts for 2030, and 2050 (i.e., GHG emissions likely to occur in the Lexington-Fayette Co. MSA if no action was taken). These “business-as-usual” forecasts should be based on relevant forecasting data for population growth, transportation growth, and other available forecasts. Alternate forecast years based on benchmarked inventories may be proposed during the contract negotiation phase.
- **Data Collection:** The Consultant will gather data used in the emissions inventory from public and other sources of information, with emphasis on integrity and transparency in collection, and collect the data from multiple stakeholders to minimize individual stakeholder reporting responsibilities. LFUCG will be available to facilitate data collection where necessary.

Transportation-related GHG emissions should be broken down by transportation modes, including on-road, rail, waterborne navigation, aviation, and off-road vehicles. To the greatest extent possible, emissions should also be broken down by passenger and freight transportation. Emissions should be

¹[Global Protocol for Community-Scale Greenhouse Gas Emissions](#)

calculated on a per mile basis for each mode of transportation, and (where applicable) per mile for each vehicle type.

To the greatest extent possible, GHG emissions of stationary energy consumption in buildings should be broken down by different building use types, including commercial, multifamily, institutional, municipal, industrial, single-family residential, and other relevant building uses.

As part of the developing the comprehensive GHG inventory, the Consultant shall recommend tools for long-term use and updates of the GHG inventory for the region, along with training opportunities for staff and partners in the six (6) county region.

Proposals should address the requirements of the GPC's BASIC and BASIC PLUS (+) levels of GHG emissions accounting and provide the Consultant's approach to proposing achievable GHG reduction targets which align with US targets.² Include the approach for formulating overall and sector-specific emissions targets, including the basis for sector-specific targets for the six (6) county MSA. Proposals should provide separate costs and staffing for both emissions reporting levels.

Expected Deliverables:

- Complete GHG emission calculations that satisfy GPC reporting requirements;
- All supporting documents, data, and calculations gathered or created in the course of this effort;
- A detailed summary of steps followed such that the same methods can be used to update the GHG inventory going forward;
- Overall and sector-specific reduction targets;
- Recommendations for maintaining, updating, and using the GHG inventory by the six (6) counties comprising the MSA.

Task 5: Finalize Reduction Measures, Implementation Priorities, and Reduction Quantification

Various proposed GHG reduction measures will be developed through the engagement process and review of the GHG emissions targets. This task will focus on further developing the reduction measures to include the quantification and prioritization of those measures and may include subsequent technical analysis.

The Consultant will finalize the list of recommended quantitative GHG reduction targets based on an analysis of existing trends and constraints. The reduction targets should be documented in such a way as to include a thorough explanation of how each target could be met based on these trends and constraints. The targets should be aspirational yet achievable and should include intermediate milestones. The document should also include a summary of targets adopted in benchmark and other cities.

The Consultant will propose sector-by-sector reduction targets. These sector-by-sector targets should total to an overall reduction goal.

These measures will be based on the GHG emissions inventory and will focus on achieving significant GHG reductions, while incorporating other relevant planning goals. GHG reduction measures may include both measures that reduce GHG emissions and/or measures that enhance carbon sinks with nature-based solutions. The rationale for selecting a measure for the plan will include other factors,

² [Fact Sheet: President Biden Sets 2030 GHG Reduction Target](#)

such as reduction of co-pollutants (including criteria pollutant/precursors and air toxics), benefits to low-income and disadvantaged communities, cost-effectiveness, or other economic factors. A transparent process for prioritizing the measure will also be developed and projected emissions reductions from identified measures should be quantified. Note: low-income and disadvantaged communities must be based on EPA's definition for this project.

Expected Deliverables:

- Narrative summary of prioritization process, basis for reductions measure quantification with companion easy-to-understand visual representation of the factors considered in the process.
- Summary table or matrix with various reduction measures, their emission reductions, co-benefits, and other relevant information.

Task 6: Quantitative Cost Estimates, Authority to Implement, and Intersection with Other Funding

For each reduction target, the CCAP will include a range of proposed GHG reduction measures, and the plan must provide quantitative cost estimates for planning and implementation. The cost estimates could also be connected with the available workforce and material supply needed for implementation.

The Consultant must also identify whether the six (6) counties in the MSA already have existing statutory or regulatory authority to implement each measure, or whether such authority still must be obtained. The Consultant shall prepare a schedule of milestones for actions needed by the MSA for obtaining any authority needed to implement each listed program or measure.

In developing the CCAP, the Consultant shall assess funding availability broadly and work with the counties comprising the MSA to align public investment opportunities. The Consultant should consider a wide array of public investment available as a result of the passage of the Bipartisan Infrastructure Law and Inflation Reduction Act. Additionally, for each measure, the Consultant shall identify potential sources of funding, public or private, for implementation, and shall include sources for private, local, regional, and state entities.

Expected Deliverables:

- Cost estimates for planning and implementing each reduction measure.
- Schedule of milestones for actions needed to obtain implementation authority for any program or measure currently lacking such authority to implement.
- Documentation of funding availability, opportunities to align public investment, and potential sources of funding for each measure.

Task 7: CCAP Reporting

The CCAP must include a full suite of implementation measures that have been identified to meet the GHG reduction targets specified elsewhere in the CCAP. It should touch on all significant GHG sources/sinks and sectors present in the MSA. Establish near-term and long-term GHG emissions reduction goals and provide strategies and identify measures to achieve those goals. The plan must include measures to follow accepted protocols by sector, including electricity generation and/or use, transportation, commercial and residential buildings, industry, agriculture, natural and working lands, and waste and materials management.

Similar to the PCAP, for each measure, the CCAP must identify the quantifiable GHG emissions reductions (or enhancement of carbon sinks), key implementing agency or agencies, implementation schedule and milestones, expected geographic location if applicable, milestones for obtaining implementation authority as appropriate, identification of funding sources if relevant, and metrics for tracking progress. It must also include cost information for each measure.

Expected Deliverables:

- Projection of GHG emissions under a scenario where the plan is fully implemented.
- Detailed CCAP report covering all required project tasks.
- Website or interactive dashboard.

Task 8: Additional Support and Analysis

This RFP includes the expected elements of a regional Climate Action Plan. RFP Respondents may use this task to propose tasks not outlined within this proposal that may be critical to complete the requirements of the CPRG or beneficial to the development of a CCAP.

SECTION II EVALUATION CRITERIA

1. PROPOSAL REQUIREMENTS

1. List or provide an organizational chart of staff assigned to this project by name and title and provide their main role in relation to the project. Include resumes of key staff who will be assigned to the project.
2. Provide examples of recent project experience that involved key staff who will be assigned to this project in the areas of developing GHG emissions inventories and recommending scientifically defensible GHG reduction targets (goals) for 2030 and 2050, including how best to accomplish targets by sector and for expanded GHG emissions sources. Submit at least one example, but not more than three examples, for each project type requested.
3. Identify hourly rates for the assigned staff / staff types and provide a project schedule and budget to deliver the tasks in the scope of work based on the completion dates in Section I Item #3.
4. Include contact information for at least three references on past or current comparable projects.
5. The Format of Proposal items enumerated in Section I Item #4.
6. Discuss, with justification included, any proposed modifications to the above scope of work that could enhance the stated project goals and objectives.
7. Provide additional information on how you or your firm meets the desired qualifications stated in this RFP. (**optional**)

Consultants may be shortlisted for interviews following an initial selection committee review. Interviews, if held, will be tentatively scheduled during the week of February 5, 2024.

2. SELECTION CRITERIA

The Proposals received pursuant to this **Request for Proposals** will be evaluated on the following:

- Demonstrated familiarity and understanding of the project as conveyed via the submitted proposal, including project schedule and budget, as well as demonstrated understanding of EPA's expectations as conveyed in the proposal (25 points)

- Specialized experience and technical competence in the types of services required (climate action planning, GHG inventories, stakeholder and community engagement, etc.) (25 points)
- Effectiveness of the individual or firm in creating and implementing marketing and communications strategies and approaches, including the ability to reach and appeal to diverse audiences per EPA definition (20 points)
- The 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 (15 points)
- A comprehensive and detailed listing all costs, fees, and reimbursable fees to be incurred as part of the individual's or firm's work (10 points)
- Degree of local employment (5 points)

TOTAL 100 POINTS

ATTACHMENT A
Climate Pollution Reduction Grants-Planning Grant Workplan

Climate Pollution Reduction Grants-Planning Grant
Workplan

FOR
Lexington-Fayette Co. Metropolitan Statistical Areas

30 May 2023

Submitted by
Lexington-Fayette Urban County Government
Division of Environmental Services
200 East Main Street
Lexington, Kentucky 40507
Jada W. Griggs (859) 258-3144
jgriggs@lexingtonky.gov

Cooperative Agreement Number: Pending

A. WORKPLAN SUMMARY:

The Lexington-Fayette County metropolitan area is the 109th largest metropolitan statistical area (MSA) in the United States and is comprised of the six-county area of Bourbon, Clark, Fayette, Jessamine, Scott, and Woodford counties. The Lexington-Fayette Co. MSA will use the funding provided by the Climate Pollution Reduction Planning Grant to develop an action plan that supports existing and new communities, government, industry, and non-governmental organization projects while engaging stakeholders to reduce emissions and improve air quality. The Climate Action Plans will be focused on science-based emissions reduction targets (goals) using voluntary measures that can be implemented to reduce greenhouse gas (GHG) emissions and enhance carbon sinks. This work will rely heavily on stakeholders and interagency / intergovernmental coordination and collaboration.

As the largest municipality in the MSA, the Lexington-Fayette Urban County Government (LFUCG) is designated as the lead agency to oversee and be responsible for the management of the grant funds, activities, and deliverables.

The Lexington-Fayette Co. MSA will develop and release a Request for Proposal (RFP) for professional consulting services to develop a regional Priority Climate Action Plan (PCAP) and Comprehensive Climate Action Plan (CCAP) that includes calculating community-wide greenhouse gas emissions and identify target reductions for each MSA. The idea is to establish a plan that may be used regionally and by each individual county in the MSA. The consultant will be responsible to complete monthly Status Reports that provides an update on the information included in the CCAP. The PCAP will focus on priority sectors and implementable voluntary emission reduction measures, while the CCAP will include a full suite of voluntary reduction measures. The development of these deliverables will rely heavily on the feedback from the stakeholders. LFUCG will lead the interagency coordination and help coordinate the stakeholder and intergovernmental coordination and collaboration effort. This effort will include working with the other five counties in the MSA, sector-specific stakeholders, metropolitan planning organizations, disadvantaged communities, and members of the public.

LFUCG has developed a timeline and milestones calendar, and budget that will ensure the Lexington-Fayette Co. MSA's success in the implementation of this grant.

We believe the strategies proposed below represent viable and valuable opportunities to significantly reduce local greenhouse gas emissions.

B. RESPONSIBLE ENTITIES:

Lead Organization:

LFUCG is the lead agency for the Lexington-Fayette Co. MSA. The points of contact are:

| | |
|--|--|
| Jada Walker Griggs | Christopher Evilia |
| Program Manager Senior | Transportation Planning Manager |
| Division of Environmental Services | Division of Planning |
| jgriggs@lexingtonky.gov | cevia@lexingtonky.gov |
| 859-258-3144 | 859-258-3167 |

Coordinating Entities:

LFUCG will be significantly involved in the execution of this grant and will assist with coordinating agencies and community partners across the Lexington-Fayette Co. MSA, such as the Lexington Area Metropolitan Planning Organization, Environmental Commission, Empower Lexington, Lexington-Fayette County Health Department, Mayor Gorton's Racial Justice and Equality Commission, KY Division of Air Quality and other regional planning agencies. LFUCG will also coordinate with regional utilities such as Kentucky American Water, Kentucky Utilities, Bluegrass Energy and Clark Energy Cooperative. Other agencies, organizations and groups will be identified during the early months of the grant in coordination with the other 5 MSAs involved in the deliverable development process.

Lead representatives from the three Kentucky MSAs that submitted their Letter of Intent to apply for the CPRG have formed an ad hoc working group that will meet virtually ahead of milestones (minimum quarterly) during the grant period to brainstorm, and to share knowledge and ideas to help make the most of this planning grant. This ad hoc working group includes the following:

Jada Walker Griggs, Lexington-Fayette Urban County Government
Sumedha Rao, Louisville/Jefferson County Metro Government
Matt Powell, City of Bowling Green

C. DELIVERABLES DEVELOPMENT PROCESS:

LFUCG is the lead entity on this grant with substantial involvement and support by a consultant. LFUCG will submit the required deliverables as follows:

- *Priority Climate Action Plan (PCAP) – due March 1, 2024*
- *Comprehensive Climate Action Plan (CCAP) – due 2 years from award (summer-fall 2025)*
- *Status Report – due 4 years from award (summer-fall 2027)*

LFUCG will ensure the above deliverables include the required elements as listed in the Program Guidance for the grant. LFUCG will issue subawards to professional consultants. Generally, LFUCG will be responsible for the technical components of this workplan while the professional consultant will be responsible for developing a Strategic Plan of deliverables detailed in the RFP for the PCAP and CCAP and for stakeholder engagement. The activities to be funded under this announcement support EPA's Fiscal Year (FY) 2022-2026 Strategic Plan. Awards made under this announcement will support Goal 1, "Tackle the Climate Crisis" Objective 1.1, "Reduce Emissions that Cause Climate Change," of EPA's Strategic Plan. Applications must be for projects that support this goal and objective. For more information see EPA's FY 2022-2026 Strategic Plan. The Quality Assurance Project Plan (QAPP) will be performed where required. Specific responsibilities for each required element and deliverable are described below.

LFUCG and the other five counties in the MSA will meet regularly to create a development protocol for each of the above deliverables. This protocol will include the details of how LFUCG will create the deliverables, such as how the preliminary GHG emissions inventories (Basic or Basic +) will be developed and how voluntary emission reduction measures will be identified. This protocol will also identify how each deliverable will be developed and how decisions will be made.

The professional consultant, in coordination with LFUCG, will develop an outreach and engagement plan for each deliverable. This document will include specifics on how meetings will be held and how information will be disseminated to community stakeholders. These documents are included in the timeline below.

Throughout this grant, LFUCG will coordinate with the other five counties to ensure their input is captured during the development of the required deliverables.

Key Deliverable #1: Priority Climate Action Plan:

PCAP Development Approach:

LFUCG and the professional consultant will coordinate with the Lexington-Fayette Co. MSA municipalities, county governments, state agencies, and other stakeholders in the Lexington-Fayette Co. MSA to ensure that each stakeholder's priority, implementable voluntary measures are included in the PCAP. LFUCG will ensure the final PCAP is available to all eligible entities for their use in developing an implementation grant application. Lexington-Fayette Co. MSA's PCAP will include a focused list of near-term, high-priority, implementation-ready measures. The timeline and milestones for the PCAP in

Section E are included as Attachment A. LFUCG will ensure the following required elements are included in the final PCAP:

GHG Inventory: LFUCG will initiate the development of the preliminary greenhouse gas (GHG) emissions inventory and quantifying the voluntary GHG reduction measures for priority sectors through its procurement process to select a professional consulting firm. The professional consultant will develop a simplified GHG emissions inventory using readily available data and focus on priority sectors in the Lexington-Fayette Co. MSA.

Quantified Voluntary GHG Reduction Measures: LFUCG will assist the professional consultant in identifying the priority sectors and voluntary reduction measures through the stakeholder and interagency / intergovernmental coordination described below. The professional consultant will focus on those voluntary reduction measures identified by the stakeholders and the results of the GHG emissions inventories as being readily implementable with funding. Once the reduction measures are identified, the professional consultant will quantify the emission reductions for the priority measures included in the PCAP using readily available tools.

Low Income and Disadvantaged Communities Benefits Analysis (LI-DC): LFUCG and the other five counties will conduct the LI-DC benefits analysis for the priority measures using available guidance and will include estimated GHG and co-pollutant emission reductions. LFUCG and the other five counties will identify the low income and disadvantaged communities using available tools, such as EJSCREEN. Rising surface temperatures, worsening air quality, and historic marginalization have left LI-DC more vulnerable to the effects of extreme weather events and climate change, and LI-DC are more disproportionately impacted by air toxins, various particulate matter, and urban heat island effects. According to the Kentucky Division of Air Quality, the main chemical co-pollutants found in the air throughout the Lexington-Fayette Co. MSA include sulfur dioxide (SO₂), nitrogen dioxide (NO₂), ozone (O₃), and carbon monoxide (CO), along with the two forms of particulate pollution, PM₁₀ (particles with a diameter of 10 micrometers or less), and PM_{2.5} (particles or droplets that are two and one half microns or less in width). The source of the majority of the co-pollutants comes from power plants, factories, and other industrial sites, all of which utilize coal, oil, diesel, and natural gas. The combustion of fossil fuels leads to large-scale emissions and the release of many chemical pollutants and hazardous particles.

Review of Authority to Implement: Once the reduction measures have been identified, LFUCG will review these measures with the representatives of the Lexington-Fayette Co. MSA for potential implementation.

PCAP Interagency and Intergovernmental Coordination:

The professional consultant, in coordination with LFUCG and the other five counties in the MSA, will develop an outreach plan for the PCAP, including a list of entities and contacts.

LFUCG will lead the collaboration and coordination of the Climate Pollution Reduction Planning Team. LFUCG's Division of Environmental Services and Division of Planning staff have been meeting to coordinate the preliminary grant process. Additional meetings will be held to include representatives from the other five counties in the MSA, and will be expanded as needed to carry out the deliverables for the grant. LFUCG will coordinate with agencies on adoption of the PCAP.

In coordination with LFUCG, the professional consultant will lead communications with the Lexington-Fayette Co. MSA. The professional consultant will convene meetings and/or conversations throughout the PCAP process, with frequency and size tailored to specific needs of communities and entities. Information gathered during these meetings will inform the final draft of the PCAP. Once the PCAP is completed, LFUCG and the professional consultant will work together to ensure the PCAP is provided to these entities in a timely manner.

PCAP Public and Stakeholder Engagement:

The professional consultant will lead public and stakeholder engagement. To engage stakeholders, the Lexington-Fayette Co. MSA and the professional consultant will leverage relationships that were built through the Empower Lexington update, Imagine Lexington, and other community/regional processes.

Purposeful efforts will be made to engage the low-income and disadvantaged communities identified by the Lexington-Fayette Co. MSA. The professional consultant will work with LFUCG and the other five counties to leverage existing relationships and develop additional contacts. Meetings and conversations will take place to identify priorities and create the PCAP.

Key Deliverable #2: Comprehensive Climate Action Plan:

CCAP Development Approach:

LFUCG and the professional consultant will continue the coordination with the other five counties and other stakeholders. LFUCG and the professional consultant will complete the development protocol and outreach and engagement plan that will guide the development of the CCAP and stakeholder involvement. The timeline and milestones for the CCAP in Section E are included as Attachment A. LFUCG will ensure the following required elements are included in the final CCAP:

GHG Inventory: Building on the preliminary GHG inventory from the PCAP, the professional consultant will develop a comprehensive GHG emissions and sinks inventory that includes all significant GHG sources and sinks by emission source and sink category for the following sectors: industry, electricity generation and/or use, transportation, commercial and residential building, agriculture, natural and working lands, and waste and materials management. This inventory will be developed following commonly accepted protocols. LFUCG anticipates issuing a Request for Proposals to select a professional consultant to develop the Lexington-Fayette Co. MSA-specific GHG emissions and sinks inventory.

GHG Emissions Projections: The professional consultant will develop near-term (2030-2035) and long-term (e.g., 2050) projections of GHG emissions for inclusion in the CCAP. These projections will include two scenarios: absence of plan measures and plan measures fully implemented. The professional consultant will provide sector-based projections, as appropriate. LFUCG anticipates issuing a Request for Proposals for professional consulting services for the development of the Lexington-Fayette Co. MSA-specific GHG emissions projections.

GHG Reduction Goals: The professional consultant will develop near-term (2030-2035) and long-term (e.g., 2050) GHG emissions reduction goals (on either a gross or net GHG emission basis) for the Lexington-Fayette Co. MSA. The professional consultant will develop sector-based emission reduction goals for the highest priority sections, if appropriate. These reduction goals will be developed based on the reduction measures included in the PCAP, additional voluntary reduction measures identified during the development of the CCAP, and feedback received during stakeholder and interagency / intergovernmental coordination described below.

Quantified Voluntary GHG Reduction Measures: Building on the voluntary reduction measures included in the PCAP, the professional consultant will identify a full suite of voluntary measures that reduce GHG emissions and, if possible, voluntary measures that enhance carbon sinks that will enable the Lexington-Fayette Co. MSA to meet the near-term and long-term reduction goals discussed above. These voluntary measures will be identified through the stakeholder and interagency / intergovernmental coordination described below. In addition to voluntary GHG emissions reductions, the plan will be to focus on those measures that reduce criteria pollutants cost-effectively and those that will be readily accepted by the effected sector. Once the measures are identified, the professional consultant will quantify GHG emissions reductions for the full suite of voluntary measures using readily

available tools. For each voluntary reduction measure and carbon sink enhancement measure, the professional consultant will include the following information in the CCAP:

- Metric tons of each GHG and/or metric tons of carbon dioxide equivalent (CO₂e)
- Key implementing agency (e.g., municipalities, Lexington-Fayette Co. MSA, Department of Agriculture)
- Implementation schedule and milestones
- Expected geographic location, if applicable
- Milestones for obtaining authority, if applicable
- Identification of funding sources, if applicable
- Metrics for tracking progress
- Cost of implementation

Benefits Analysis: The professional consultant will assess the benefits of GHG emissions reduction measures across the Lexington-Fayette Co. MSA. The professional consultant will lead the quantification of co-pollutant reductions for the suite of voluntary measures included in the CCAP and will also track, minimize, and mitigate, to the extent possible, any potential disbenefits resulting from implementation of the GHG reduction measures included in the CCAP.

Low Income and Disadvantaged Communities Benefits Analysis: The professional consultant will update the LI-DC benefits analysis included in the PCAP to include the full suite of reduction measures identified for the CCAP. The consultant will lead the evaluation of the extent to which any voluntary GHG reduction measures in the CCAP will deliver co-pollutant emission reductions and other benefits to low-income and disadvantaged communities using available guidance.

Review of Authority to Implement: The professional consultant will update the review of authority to implement included in the PCAP to include the full suite of reduction measures identified for the CCAP. LFUCG will review the suite of voluntary GHG reduction measures included in the CCAP and indicate whether statutory or regulatory authority to implement the measure currently exists or whether such authority still must be obtained. If authority does not currently exist, a schedule of milestones will be developed for those actions needed by key entities for obtaining the needed authority to implement each measure.

Intersection with Other Funding Availability: The Lexington-Fayette Co. MSA will identify other funding programs that are available to potential recipients or that have been secured by recipients from federal, state, and local sources that could be leveraged to pursue the GHG reduction measures identified in the CCAP. LFUCG and the professional consultant will collaborate on the identification and applicability of funding programs.

Workforce Planning Analysis: The professional consultant will lead a workforce planning analysis for the CCAP and will connect with entities in the Lexington-Fayette Co. MSA regarding workforce development. The analysis will contain workforce-related challenges and opportunities associated with the proposed reduction measures. This could include skilled labor shortages, impacts on existing jobs and industries, opportunities to create high-quality jobs, and expanded opportunities to support underserved workers through activities described in the CCAP. The analysis will also describe anticipated workforce shortages that could limit the Lexington-Fayette Co. MSA's ability to achieve the goals described in the CCAP, and will identify potential opportunities and partners at the state, regional, and/or local level that are equipped to help address those challenges.

CCAP Interagency and Intergovernmental Coordination:

The professional consultant, in coordination with LFUCG and the other five counties, will develop an outreach plan for the CCAP, including a list of entities and contacts. As outreach takes place, this list will be expanded based upon recommendations from initial contacts.

LFUCG will lead the collaboration and coordination of the Climate Pollution Reduction Planning Team. LFUCG's Division of Environmental Services and Division of Planning staff have been meeting to coordinate the preliminary grant process. Additional meetings will be held to include the other five counties in the MSA and will be expanded as needed to carry out the deliverables for the grant. LFUCG will coordinate with agencies on adoption of the CCAP.

In coordination with LFUCG, the professional consultant will lead communications with the Lexington-Fayette Co. MSA. Throughout the CCAP process, the professional consultant will convene meetings and/or conversations with frequency and size tailored to specific needs of communities and entities. Information gathered during these meetings will inform the final version of the CCAP.

CAP Public and Stakeholder Engagement:

The professional consultant will work with LFUCG and the other communities to develop a process for community and stakeholder engagement. The consultant will lead in-depth focus groups and conversations on key priority areas and actions that can reduce emissions. Drawing on connections created in the PCAP process, the professional consultant will continue to invite stakeholders and communities to these conversations. As noted in the PCAP section, low-income and disadvantaged community contacts will be identified early in the PCAP process. Workshops across the Lexington-Fayette Co. MSA will be held during the CCAP process for stakeholders to share input to inform the CCAP. In addition, stakeholders (including low-income and disadvantaged communities) will be encouraged to share input throughout the CCAP process. Once the CAP is finalized, resources, likely in both English and Spanish, will be provided and disseminated to all interested parties. Stakeholders will be encouraged to share these resources with their networks.

Key Deliverable #3: Status Report

Status Report Development Approach:

LFUCG and the professional consultant will build on the efforts started during the development of the PCAP and CCAP by continuing the coordination with the other five counties, agencies, and other stakeholders. The Lexington-Fayette Co. MSA's Status Report will include required elements as identified in the Program Guidance for this grant. LFUCG and the professional consultant will complete the development protocol and outreach and engagement plan that will guide the development of the Status Report and stakeholder involvement. The timeline and milestones for the Status Report in Section E are included as Attachment A. LFUCG will ensure the following required elements are included in the final Status Report:

GHG Inventory: The comprehensive GHG emissions and carbon sinks inventory will be updated, if needed.

Quantified Voluntary GHG Reduction Measures: LFUCG will assist the professional consultant in efforts to update the status of the CCAP implementation, including the status of implementation for the individual voluntary measures identified in the CCAP.

Benefits Analysis: LFUCG will assist the professional consultant in efforts to update the estimates of co-pollutant reductions associated with GHG reduction measures identified in the CCAP that have been implemented or are expected to be implemented. The Lexington-Fayette Co. MSA will track, minimize, and mitigate, to the extent possible, any potential disbenefits resulting from implementation of GHG reduction measures included in the CCAP.

Low Income and Disadvantaged Communities Benefits Analysis: The professional consultant will lead the effort to update the analysis of co-pollutant emission reductions and other program benefits to low-income and disadvantaged communities associated with GHG reduction measures included in the CCAP that have been implemented or are expected to be implemented.

Review of Authority to Implement: The professional consultant will update the information included in the Lexington-Fayette Co. MSA's CCAP.

Intersection with Other Funding Availability: The Lexington-Fayette Co. MSA and the professional consultant will collaborate to update the funding analysis included in the Lexington-Fayette Co. MSA's CCAP.

Workforce Planning Analysis: The professional consultant will evaluate workforce development progress that has been made since submitting Lexington-Fayette Co. MSA's CCAP, as well as any ongoing workforce development challenges that are limiting progress toward meeting the CCAP's goals.

Next Steps/Future Budget and Staffing Needs: LFUCG and the professional consultant will collaborate on identifying next steps the Lexington-Fayette Co. MSA expects to take to continue implementation of its CCAP following closeout of this grant. These next steps may include steps that would need additional funding.

Status Report Interagency and Intergovernmental Coordination:

The Lexington-Fayette Co. MSA will continue agency collaboration and determine what steps have taken place since its release.

In coordination with LFUCG, the professional consultant will lead communications with the Lexington-Fayette Co. MSA. Through conversations with these entities, an update on steps that have been taken to address the goals and actions listed in the CCAP will be completed.

Status Report Public and Stakeholder Engagement:

The professional consultant will continue collaboration and determine what steps have taken place since its release.

In coordination with LFUCG, the professional consultant will continue to lead communications with the Lexington-Fayette Co. MSA. Through conversations with these entities, updates on steps that have been taken to address the goals and actions listed in the CCAP will be documented. This will also include the opportunity for stakeholders and communities, including low-income and disadvantaged communities, to share ideas around next steps that can further the goals listed in the CCAP.

D. ENVIRONMENTAL RESULTS - OUTPUTS, AND OUTCOMES:

LFUCG will utilize existing performance measures to track progress and develop annual reports. LFUCG will track the following performance measures for this project:

- LFUCG will conduct oversight of professional consultants in accordance with LFUCG procurement policies.
- LFUCG will track and report project progress on all fiscal activities, including expenditures and purchases, through the quarterly report process.
- LFUCG will review and report on actual project accomplishments and compare them to the proposed outputs / outcomes during the annual reporting process.

The following are outputs and outcomes of the deliverables funded by this grant:

Outputs

- Priority Climate Action Plan
- Comprehensive Climate Action Plan
- Status Report
- Meetings, events, stakeholder sessions conducted

- Dissemination of information and final deliverables via list serves, websites, journals, and outreach events

Outcomes

- Tons of pollution (GHGs and co-pollutants) reduced over the lifetime of the voluntary measures identified in the PCAP and CCAP
- Tons of pollution (GHGs and co-pollutants) reduced annually from the voluntary measures identified in the PCAP and CCAP
- Tons of pollution (GHGs and co-pollutants) reduced with respect to low-income and disadvantaged communities of the voluntary measures identified in the PCAP and CCAP
- Enhanced community engagement

E. SCHEDULE:

The Timeline and Milestone Schedule of required deliverables covering the 4-year duration of the grant project period (07-01-2023 – 06-30-2027) is included as **Attachment A**.

F. REPORTING:

LFUCG will submit quarterly performance progress reports within 30 days after the end of the reporting period, as identified in the timeline above. These quarterly reports will include work status, work progress, difficulties encountered, financial expenditures, preliminary data results if applicable, anticipated future activities, and any changes of key personnel.

Within 120 calendar days of the grant end date, LFUCG will submit a final report. This final report will include a high-level summary of activities completed during the grant period, links for access of all deliverables, a synopsis of outputs and outcomes achieved, and a financial summary of expenditures during the grant period.

G. BUDGET:

The Budget is included in **Attachment B**.

H. CLIMATE INNOVATION TEAMS (OPTIONAL):

The Lexington-Fayette Co. MSA will not participate in the Climate Innovation Teams.

ATTACHMENT B
Lexington-Fayette Co. MSA Climate Planning Timeline and Milestones



ADDENDUM #1

RFP Number: #1-2024

Date: January 5, 2024

Subject: Consultant for Comprehensive Climate Action Plan

Address Inquiries to:
Sondra Stone
sstone@lexingtonky.gov

TO ALL PROSPECTIVE SUBMITTERS:

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

See Attachment B, MSA Budget CPRG Planning Grant.

Todd Slatin, Director
Division of Procurement

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 submittal.

COMPANY NAME: _____
ADDRESS: _____
SIGNATURE OF BIDDER: _____



Attachment B

| Lexington-Fayette Co. MSA Budget CPRG Planning Grant | | | | | | |
|--|------------------|------------------|------------------|------------------|--|------------------|
| | Year 1 | Year 2 | Year 3 | Year 4 | | Total |
| Personnel | | | | | | |
| 0.2 FTE Program Manager @ \$95,000/yr | \$ 19,000 | \$ 19,000 | \$ 19,000 | \$ 19,000 | | \$ 76,000 |
| 0.5 FTE Outreach Coordinator @ \$60,000/yr | \$ - | \$ - | \$ - | \$ - | | \$ - |
| TOTAL PERSONNEL | \$ 19,000 | \$ 19,000 | \$ 19,000 | \$ 19,000 | | \$ 76,000 |
| Fringe Benefits | | | | | | |
| Program Manager @ 41.034% of salary | \$ 7,796 | \$ 7,796 | \$ 7,796 | \$ 7,796 | | \$ 31,184 |
| Outreach Coordinator @ 21% of salary | \$ - | \$ - | \$ - | \$ - | | \$ - |
| TOTAL FRINGE BENEFITS | \$ 7,796 | \$ 7,796 | \$ 7,796 | \$ 7,796 | | \$ 31,184 |
| Travel | | | | | | |
| Travel for 1 staff to attend Climate Innovation Team Training Workhop | | \$ - | | \$ - | | \$ - |
| Airfare: 1 @ \$600 round trip | \$ 600 | \$ 600 | \$ 600 | \$ 600 | | \$ 2,400 |
| Per Diem: 1 staff X 4 days @ \$44/day | \$ 176 | \$ 176 | \$ 176 | \$ 176 | | \$ 704 |
| Hotel: 1 staff X 3 nights @ \$250/night | \$ 750 | \$ 750 | \$ 750 | \$ 750 | | \$ 3,000 |
| Local Mileage | | | | | | \$ - |
| Outreach Coordinator, 100 mi/mo @ \$.54/mi x 12 mo | \$ 648 | \$ 648 | \$ 648 | \$ 648 | | \$ 2,592 |
| TOTAL TRAVEL | \$ 2,174 | \$ 2,174 | \$ 2,174 | \$ 2,174 | | \$ 8,696 |
| Equipment | | | | | | |
| TOTAL EQUIPMENT | \$ - | \$ - | \$ - | \$ - | | \$ - |
| Supplies | | | | | | |
| Office and related supplies to support outreach meetings, trainings, etc | \$ 2,000 | \$ 2,000 | \$ 1,000 | \$ 1,000 | | \$ 6,000 |
| | | | | | | \$ - |
| TOTAL SUPPLIES | \$ 2,000 | \$ 2,000 | \$ 1,000 | \$ 1,000 | | \$ 6,000 |
| Contractual | | | | | | |
| Professional Consultant | \$ 250,000 | \$ 200,000 | \$ 50,000 | \$ 50,000 | | \$ 550,000 |
| Climate View | \$ 30,000 | \$ 30,000 | \$ 30,000 | \$ 30,000 | | \$ 120,000 |
| Analytical and Modeling Services | \$ 50,000 | \$ 50,000 | \$ 10,000 | \$ 25,000 | | \$ 135,000 |

| | | | | | | |
|---|-------------------|-------------------|-------------------|-------------------|--|-------------------|
| TOTAL CONTRACTUAL | \$ 330,000 | \$ 280,000 | \$ 90,000 | \$ 105,000 | | \$ 805,000 |
| Other | | | | | | |
| Subgrant to Support Regional Planning | \$ - | \$ - | \$ - | \$ - | | \$ - |
| Outreach activities such as advertising, project webpage, social media | \$ 20,000 | \$ 30,000 | \$ 7,500 | \$ 15,000 | | \$ 72,500 |
| TOTAL OTHER | \$ 20,000 | \$ 30,000 | \$ 7,500 | \$ 15,000 | | \$ 72,500 |
| Indirect Charges | | | | | | |
| Federal Negotiated Indirect Cost Rate = 0% (Indirect Rate x Personnel = Indirect Costs) | \$ - | \$ - | \$ - | \$ - | | \$ - |
| TOTAL INDIRECT | \$ - | \$ - | \$ - | \$ - | | \$ - |
| TOTAL FUNDING | \$ 380,970 | \$ 340,970 | \$ 127,470 | \$ 149,970 | | \$ 999,380 |

EXHIBIT B
GRANT AGREEMENT

| | | | | |
|--|---|---|--|--|
|  | U.S. ENVIRONMENTAL PROTECTION AGENCY Grant Agreement | | GRANT NUMBER (FAIN): 02D55923 MODIFICATION NUMBER: 0 PROGRAM CODE: 5D | DATE OF AWARD 09/04/2023 |
| | | | TYPE OF ACTION New | MAILING DATE 09/07/2023 |
| | | | PAYMENT METHOD: ASAP | ACH# 40317 |
| | | | RECIPIENT TYPE: County | |
| RECIPIENT: Lexington-Fayette Urban County Government 200 East Main Street Lexington, KY 40507 EIN: 61-0858140 | | PAYEE: Lexington-Fayette Urban County Government 200 East Main Street Lexington, KY 40507 | | |
| PROJECT MANAGER Jada Griggs 200 East Main Street Lexington, KY 40507 Email: jgriggs@lexingtonky.gov Phone: 859-258-3144 | | EPA PROJECT OFFICER Maya Odeh-Adimah 61 Forsyth Street, S.W. Atlanta, GA 30303 Email: OdehAdimah.Maya@epa.gov Phone: 404-562-8415 | | EPA GRANT SPECIALIST Sharonita Johnson Grants Management Section 61 Forsyth Street, S.W. Atlanta, GA 30303 Email: johnson.sharonita@epa.gov Phone: 404-562-8311 |
| PROJECT TITLE AND DESCRIPTION Climate Pollution Reduction Grants See Attachment 1 for project description. | | | | |
| BUDGET PERIOD 07/01/2023 - 07/01/2027 | | PROJECT PERIOD 07/01/2023 - 07/01/2027 | | TOTAL BUDGET PERIOD COST \$999,380.00 |
| | | | | TOTAL PROJECT PERIOD COST \$999,380.00 |
| NOTICE OF AWARD | | | | |
| <p>Based on your Application dated 05/25/2023 including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards \$999,380.00. EPA agrees to cost-share 100.00% of all approved budget period costs incurred, up to and not exceeding total federal funding of \$999,380.00. Recipient's signature is not required on this agreement. The recipient demonstrates its commitment to carry out this award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. If the recipient disagrees with the terms and conditions specified in this award, the authorized representative of the recipient must furnish a notice of disagreement to the EPA Award Official within 21 days after the EPA award or amendment mailing date. In case of disagreement, and until the disagreement is resolved, the recipient should not draw down on the funds provided by this award/amendment, and any costs incurred by the recipient are at its own risk. This agreement is subject to applicable EPA regulatory and statutory provisions, all terms and conditions of this agreement and any attachments.</p> | | | | |
| ISSUING OFFICE (GRANTS MANAGEMENT OFFICE) | | | AWARD APPROVAL OFFICE | |
| ORGANIZATION / ADDRESS U.S. EPA, Region 4 61 Forsyth Street Atlanta, GA 30303-8960 | | | ORGANIZATION / ADDRESS U.S. EPA, Region 4, Air and Radiation Division R4 - Region 4 61 Forsyth Street, S.W. Atlanta, GA 30303 | |
| THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY | | | | |
| Digital signature applied by EPA Award Official Shantel Shelmon - Grants Management Officer | | | | DATE 09/04/2023 |

EXHIBIT C
PROPOSAL OF ENGINEERING SERVICES
AND RELATED MATTERS

4863-0001-5529, v. 1



TETRA TECH



Response to RFP #1-2024

**Consultant for
Climate Pollution Reduction
Planning**





TETRA TECH

January 23, 2024

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

Attn: Selection Committee

Re: **Tetra Tech Proposal (RFP #1-2024)**
Consultant for Climate Pollution Reduction Planning

Dear Selection Committee Member:

In the dynamic landscape of sustainability and climate action planning, the success of any visionary project hinges on the strength and expertise of the team steering its course. **Tetra Tech, Bluegrass Greensource,** and **KERAMIDA** have partnered to bring the Lexington-Fayette Urban County Government (LFUCG) a powerhouse team of experts to develop the city's first Comprehensive Climate Action Plan.

Our team is more than just a collection of professionals. We are a synergistic force that brings together a diverse range of skills, experiences, and insights. Together, we present a wealth of knowledge, a commitment to excellence, and a track record of delivering the gold standard. This proposal illustrates our team, our qualifications, and our plan and approach.

Highlights include:

Global Environmental Consulting Expertise. We are consistently ranked by *Engineering News-Record* in many environmental categories, including being ranked as the "#1 Environmental Firm." Tetra Tech brings a deep bench of resources, with a strong team of professionals from across the country to ensure that Lexington receives the benefit of expertise in energy efficiency, renewables, and sustainability planning from industry leaders.

Lexington Leadership. The Tetra Tech team has enjoyed a 30-year working relationship with LFUCG, and as a result, has built a trusting relationship with Lexington stakeholders over the years. We take pride in calling Lexington our home and are passionate about the local projects we complete.

Proven Approach. We have experience working on similar programs for many clients. Our project planning and approach have been successfully implemented and have been improved on over time to be cost effective and efficient. Combined with our local knowledge and national experience, we can produce the highest quality work, control costs, and meet the desired schedule.

Should you have any questions or need further information from us please contact me, **Abby Terry, your main point of contact for this project.**

We look forward to working with you on this project!

Respectfully submitted,

Abby Terry, PE, LEED Green Associate
Project Manager
Tetra Tech

Andrew R. Webster, LEED AP
Vice President
Tetra Tech

Tetra Tech

424 Lewis Hargett Circle, Suite 110, Lexington, KY 40503
Telephone: 859.223.8000 | www.tetrattech.com

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1. Vision

INTRODUCTION

To reach community-wide net zero greenhouse gas emissions by the year 2050, it will take community-wide support. **Lexington-Fayette County Metropolitan Statistical Area's (MSA) Comprehensive Climate Action Plan (CCAP) will be a plan for the community, by the community, that will hold the promise of preserving the place we live and love for years to come.** The plan will contain the MSA's first comprehensive greenhouse gas inventory, providing a solid foundation for benchmarking and measuring progress. Once we know where we stand, we will begin our path forward.

Over the next year, our team will meet with members of the Lexington-Fayette County MSA and the public to gather ideas and build consensus on the projects that will shape our future. Bluegrass Greensource will lead partner coordination and community engagement. They are a trusted, established organization that has served each of the counties in the MSA since 2001. They have worked with low income and disadvantaged communities (LI-DC) since inception, including their recent initiative to help LI-DC residents in Central Kentucky learn how to make their home more energy efficient, save money, and reduce greenhouse gas emissions. The Tetra Tech team has enjoyed a 30-year working relationship with LFUCG, and as a result, has built a trusting relationship with Lexington stakeholders over the years. We know the culture of the community because it is our community.

With community support and Lexington-Fayette County MSA direction, we will draft a plan containing near- and long-term projects that will facilitate emissions reductions. To maintain community engagement, we will build a community dashboard where residents will be able to view current and past greenhouse gas inventories, our reduction targets implementation measure database, and how each measure would affect our emissions inventory.

We are ready to bring unparalleled expertise, dedication, and innovation to the table, ensuring that your project not only meets industry standards but sets new benchmarks for excellence. ■



2. Project Approach

COMPREHENSIVE CLIMATE ACTION PLAN

Our commitment is not just to meet your expectations but to exceed them, providing not just consultancy but a partnership dedicated to planning for the future of the place we call home. Following is a summary of how the Tetra Tech Team (Team) will execute the project:

Task 1: Project Management

In a multi-divisional, multi-agency project, it is essential to understand the operations and organization of the parties involved. Our project manager, Abby Terry, has worked with LFUCG over the last five years. She has a deep understanding of the dynamics and stakeholders of the Lexington community. She will use this knowledge to deliver informed, efficient project management. Tetra Tech will use the approved Workplan to ensure the project remains on track and facilitate:

- **Monthly Status Reports** containing a summary of work and billing completed for the preceding month. Tetra Tech will provide these reports in a format consistent with the Quarterly Grant Progress Reports required to be submitted by the Grantee to EPA.
 - Tetra Tech may assist with development of the Quarterly Grant Progress Report submittals to EPA upon request.
- **Monthly Meetings** with the internal LFUCG Climate Pollution Reduction Grant Team including agendas, meeting notes, and action items/next steps
 - In person or virtual, according to LFUCG preference
- **Bi-Monthly Meetings** with MSA Representatives
 - Every two months
 - In person or virtual, according to LFUCG preference
- **Presentations** to Lexington-Fayette County MSA and LFUCG leadership/Environmental Quality & Public Works Committee/ Lexington Area Metropolitan Planning Organization (MPO)
 - Presentations may be in person or virtual, according to LFUCG preference

Task 2: Background Review and Data Collection

Tetra Tech is in the process of finalizing Lexington's 2021 community-wide and municipal greenhouse gas inventories.

As a result, minimal effort will be required for background review. We will collect the necessary data for the remaining counties within the MSA and discuss the results of the 2021 inventories in order to identify priority sectors for reduction measures

Task 3: Partner Coordination and Community Engagement

Bluegrass Greensource will lead partner coordination and community engagement efforts with support from Tetra Tech as needed. We will use our existing contacts to organize a group of interested stakeholders including organizations such as the local chamber of commerce, utilities, extension offices, libraries, community action, government officials (elected as well as staff), neighborhood groups, rotary clubs, school officials, churches, and special interest groups. In addition, EPA requires early and frequent engagement with low-income and disadvantaged communities. Bluegrass Greensource is already working with low to moderate income residents throughout Central Kentucky as part of EPA's Environmental Justice Grant Program. Thus, they will draw on their experience and connections to engage these communities and use the EPA's Climate and Economic Justice Screening Tool to ensure all identified communities are included.

Bluegrass Greensource will facilitate discussions to build trust with stakeholders and solicit input on reduction targets and measures. Meetings will be held in person and virtually to ensure equal access. Bluegrass Greensource will develop agendas and content for the meetings as well as meeting summaries for the LFUCG Climate Pollution Reduction Grant Team and the Lexington-Fayette County MSA representatives.

In addition to organizing stakeholder meetings, Bluegrass Greensource will meet members of the community where they are by attending existing meetings of local organizations such as rotary, school board, houses of worship, etc. to make presentations and solicit ideas. Depending on participation, Bluegrass Greensource may also host its own meetings and open houses. Campaigns advertising the public meetings in addition to a general information campaign about the CCAP through local newspapers, radio shows, and social media will be instrumental to gaining public support for the plan.

Task 4: GHG Inventory, Emissions Projections, & Targets

The PCAP will include a simplified inventory for the Lexington-Fayette County MSA based on "existing data" as defined by the EPA. The CCAP will expand on the preliminary inventory and will include GHG emissions and sinks by emission source and sink by category following the *Global Protocol for Community Greenhouse Gas Inventories (GPC)*.

Our methodology is built on "outcome logic," a proven step-by-step process linking emission reductions to required behavioral changes. Outcome logic shows that reaching a desired outcome

requires city planners to identify levers they want to pull. A “lever” is defined as a shift from one activity to another to fulfill a need. Levers are influenced by behavioral dynamics, which are influenced by measurable properties of the built environment, known as attributes, which in turn are influenced through decision-making processes. KERAMIDA’s propriety digital platform, ClimateOS, blends advanced agent-based modeling with powerful data visualization. The full methodology is described in the whitepaper *“Data-driven transitions - A co-created methodology.”*

Baseline Data

We will apply our stringent methodological approach described above to calculate GHG emissions and quantify reductions. Using ClimateOS, we can turn the CCAP into a “living plan” that allows for continuous improvement and collaboration. We will use the following steps to quantify GHG emissions reductions.

We will upload the data collected into the ClimateOS inventory to establish the 2021 baseline and complement the data with socio-economic parameters to carry out the scenario modeling. It is important to note that we establish the baseline with activity-based data that allows us to shift activities from high-carbon to low-carbon activities (e.g., the levers within our methodology) that fulfill the same need.

Define Near-Term and Long-Term Projections

Based on the employed method and work executed with the help of the Target Balancing feature in ClimateOS, we will estimate and visualize the following projections:

1. Business-as-usual emissions for 2030, 2035, and 2050, assuming no mitigation measures are implemented, and population growth occurs according to projections.
2. Plan implementation for 2030, 2035, and 2050, meaning that all existing, updated, and new mitigation measures are implemented as planned by the above target years. In practice, this means that for each mitigation measure (lever), we will set the target in activity units such as vehicle-km, kWh, etc., or in percent, and balance the levers against each other to find the optimal plan scenario for the MSA.

With ClimateOS, projection-building can be instantly visualized for sectors and sub-sectors, including transportation, electricity generation, commercial and residential buildings, waste and materials management, and parts of industry (e.g., new constructions). For process emissions from industry as well as agriculture, we will calculate reduction projections outside of ClimateOS based on existing, updated, and new measures and with the data from the Ninth Biennial Report on Progress toward Greenhouse Gas Reduction Goals as a baseline.

Task 5: Finalize Reduction Measures, Implementation Priorities, and Reduction Quantification

Select Relevant Levers & Calculate GHG Emissions Reductions

For each new implementation measure proposed, we will select the corresponding lever from the Transition Atlas, or configure it with customized levers (the ClimateOS platform allows for complete flexibility). For each lever, we then set the updated or new target (e.g., 750,000 electric vehicles by 2050). This can be done individually for each lever (see Figure 2), or collectively in our interactive Target Balancing feature. This feature considers interdependencies between the measures (e.g., if you increase the number of electric vehicles, you need to shift less of the total commutes to public transport or home office and vice versa).

The Target Balancing feature will allow the MSA to compare the various sub-sector measures and select the best reduction scenario that blends technical feasibility with political and societal ambition. Exploring these “what-if” scenarios will be best developed collaboratively with the MSA, relevant State agencies, and other stakeholders.

Assess Benefits to Low Income and Disadvantaged Communities (LIDAC) and Priority Populations

The Team will provide a qualitative discussion and quantitative assessment of the expected costs and benefits to LIDAC census tracts and priority populations for new and updated reduction measures. By using ClimateOS to quantify the benefits for each reduction measure, the Team will be able to identify the proportion of each benefit data point (i.e., co-pollutant reductions, public health outcomes, economic benefits, climate resilience impacts) flowing into LIDAC census tracts for each reduction measure.

The Team will summarize all information provided related to planned and ongoing engagement with representatives and residents of LIDACs to ensure all CPRG LIDAC Benefits Analysis requirements are fulfilled. Deliverables will exceed the requirements outlined by the CPRG Planning Grant program.

Quantification of Co-Pollutant Reductions

ClimateOS’ advanced modeling techniques adhere to IPCC guidelines and can provide precise estimates of co-pollutant reductions accompanying GHG reduction measures. The model encompasses various pollutants, including PM2.5, NOx, SO2, VOCs, and air toxics. This ensures a robust evaluation of the environmental impact of proposed GHG reduction measures across the entire geographic scope of the climate action plan.

Comprehensive Co-Benefits Assessment

Along with quantifying co-pollutant reductions, ClimateOS offers a holistic assessment of other co-benefits associated with the selected GHG reduction measures. Beyond conventional metrics, it delves into improved public health outcomes (e.g., less noise pollution due to fewer ICE commutes), economic benefits (e.g., fuel cost savings from an increased share of renewables),

job creation (e.g., additional labor needed for weatherization), increased climate resilience (e.g., decreased human losses from improved urban design and breaking up heat islands), and other environmental gains (e.g., increased biodiversity through added green space).

Transparent Disbenefits Estimation

Understanding the intricacies and interdependencies of effective mitigation measures, ClimateOS conducts a comprehensive assessment and visualization of their co-benefits and potential disbenefits. These are highlighted through negative numbers and red outlining, immediately distinguishing between positive and negative economic effects associated with the chosen scale of the measure. For example, a 20% versus an 80% increase in EV adoption until 2050 entails significant value variations, impacting both vehicle purchase costs (a disbenefit) and particle emission savings (a benefit).

All benefits and disbenefits are consolidated into a unified net economic case, presenting a holistic perspective to showcase either a net positive or net negative impact. This method ensures a balanced and real-time assessment that can be repeated until the optimal balance is found across all affected parameters, offering stakeholders a clear understanding of both favorable and unfavorable implications. This streamlined presentation facilitates the comprehension and communication of intricate relationships and effects. The Team will work closely with the LFUCG to ensure methodological continuity in cost and benefit analysis.

Task 6: Quantitative Cost Estimates, Authority to Implement, and Intersection with Other Funding

The CCAP is required to include cost information for each implementation measure. The Team will develop cost estimates for planning and implementing each reduction measure. In addition, it will outline whether existing statutory or regulatory authority to implement the measure exists, or whether such authority still must be obtained and a schedule of milestones for actions needed by key entities for obtaining any authority. The CCAP will also identify what other funding programs are available or have been secured by the recipient from federal, state, local and private sources that could be leveraged to pursue the objectives of the CCAP.

An analysis of anticipated workforce shortages that could prevent the MSA from achieving the goals described in the CCAP and identification of potential solutions and partners at the state, regional, and/or local level that are equipped to help address those challenges will also be included in the CCAP.

This cost information and the economic analyses can be seamlessly bundled towards an investment plan in the ClimateOS Platform, including key figures such as projected GHG emission reduction per invested dollar by the MSA or economic benefits per invested dollar.

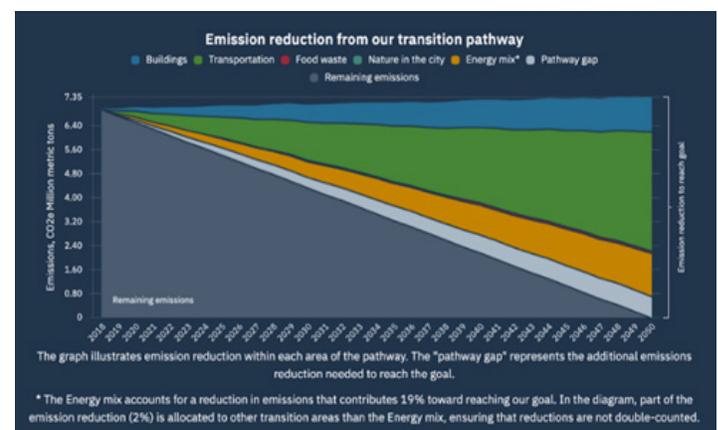
To track progress over time and monitor the execution of mitigation measures, ClimateOS uses predefined metrics, so-

called leading indicators. They allow for early identification if implementation is off-track so the MSA can take appropriate action to achieve the measures and its near and long-term goals until 2035 and 2050.

Task 7: CCAP Reporting

Tasks 1-6 will culminate in the development of Lexington-Fayette County MSA's first Comprehensive Climate Action Plan. Tetra Tech will provide the CCAP in digital format to the Lexington-Fayette County MSA team.

To maintain community engagement, Tetra Tech will build an interactive community dashboard where residents will be able to view current and past greenhouse gas inventories, our reduction targets, implementation measures database, and associated emissions reductions.



Example Data Visualization

With the dashboard in ClimateOS, different projections and datasets can be instantly visualized - economy-wide or by sector. We will utilize the platform's dashboards to present the findings to desired stakeholders. These online reports offer advanced visualizations such as interactive graphs and charts. This approach will make complex GHG emissions data accessible and engaging to the different stakeholders. The interactive nature of the dashboards allows stakeholder groups to explore and evaluate different scenarios in real time, facilitating active engagement and a deeper understanding of the positive and negative repercussions of various transition strategies.

Task 8: Additional Support and Analysis

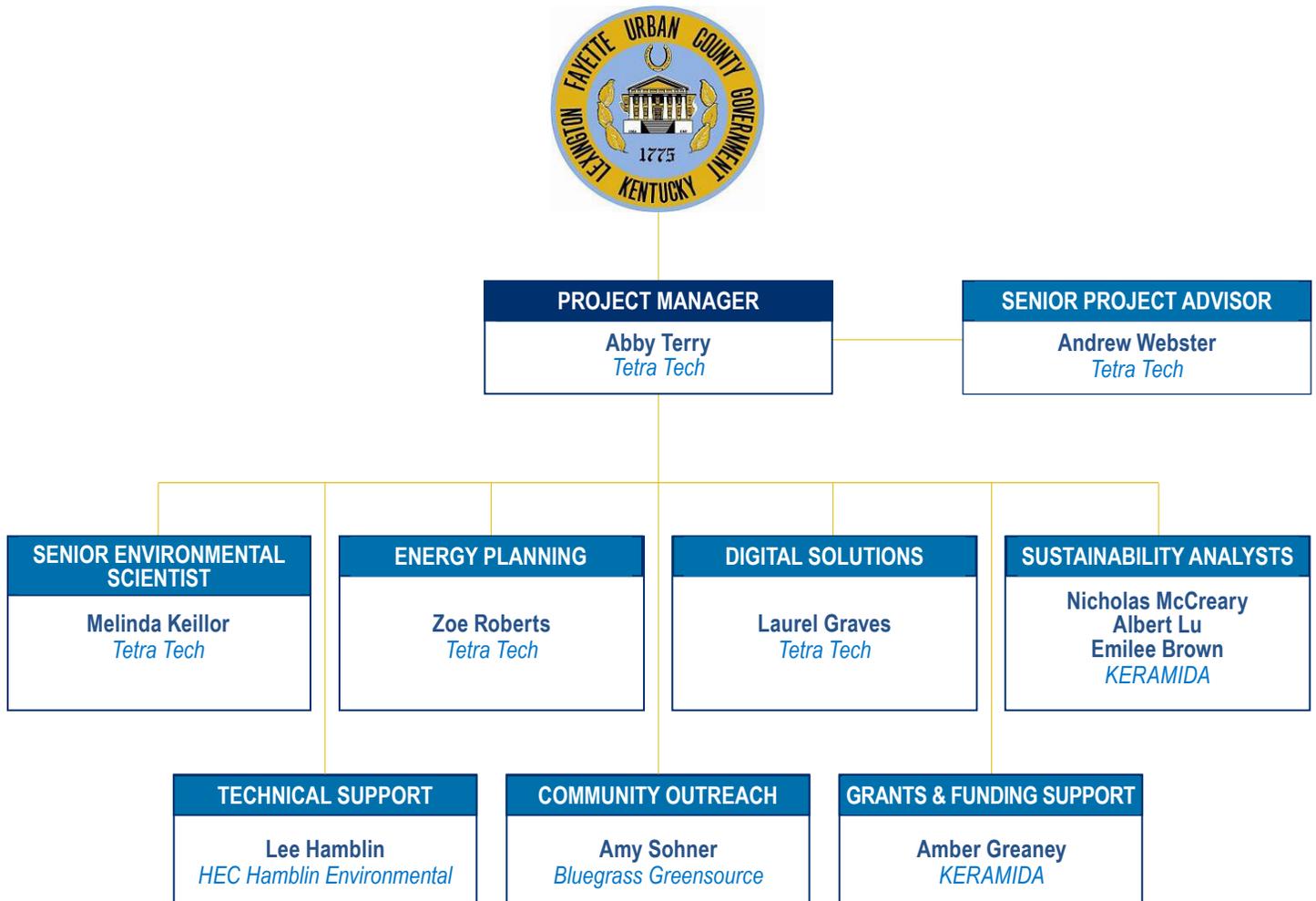
The Team will provide additional support, as requested. Completion of these additional tasks may reduce available effort in other areas. Possible additional support tasks include:

- Quarterly Progress Report Submittal Support
- Development of CCAP Fact Sheet
- Identification of Next Steps/Future Budget and Staffing Needs for Status Report ■

3. Our Team

ORGANIZATIONAL CHART

The Tetra Tech team will provide LFUCG with a highly-qualified group of environmental engineers and scientists with specialized experience. Our team has a rich blend of in-depth local knowledge and national experience.



ABBY TERRY, PE, LEED GREEN ASSOCIATE | **PROJECT MANAGER**

Immersed. That is the kind of project manager you get with Abby on your team. Abby has extensive experience working with the Lexington-Fayette County Urban Government. She provides day-to-day support to the Division of Water Quality's Municipal Separate Storm Sewer System (MS4) Program, and recently completed a community-wide and municipal greenhouse gas inventory for the Division of Environmental Services. As a result, she has a deep understanding of the dynamics and stakeholders of the Lexington community.

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT PROJECTS**EDUCATION**

BS, Civil Engineering, University of Kentucky, Lexington, KY

REGISTRATIONS/CERTIFICATIONS

- Professional Engineer, KY-39144
- LEED Green Associate
- Kentucky Erosion Prevention and Sediment Control (KEPSC) Inspector

PROFESSIONAL AFFILIATIONS

- Kentucky Society of Professional Engineers
- Kentucky Stormwater Association
- Society of Women Engineers

- **Quality Assurance Project Plan & Priority Climate Action Plan (Project Manager)**
 - Development of a Quality Assurance Project Plan in compliance with EPA requirements for collecting data and performing calculations for the Priority Climate Action Plan
 - Compilation of a simplified greenhouse gas inventory for the Lexington-Fayette County MSA
 - Development of a Priority Climate Action Plan for the Lexington-Fayette County MSA containing quantified priority GHG reduction measures, a low-income and disadvantaged communities benefit analysis, stakeholder involvement, and a review of authority to implement
- **Greenhouse Gas Emissions Inventory, Target Setting, and Reduction Plan (Project Manager)**
 - Community-wide and municipal greenhouse gas (GHG) inventories using the Global Protocol for Community-Scale Greenhouse Gas Emission Inventories
 - Arc Scoring for LEED for Cities
 - Trend analysis and development of "business-as-usual" emissions forecasts for 2025, 2030, and 2050 to set emission reduction targets that align with current U.S. initiatives
 - Emissions Reduction Plan containing emission reduction targets and mechanisms to achieve reductions
- **Municipal Separate Storm Sewer System (MS4) Compliance & Program Management (Project Engineer)**
 - Program management services ensuring compliance with MS4 Permit
 - Development of policies and procedures for various program elements for city staff and community-facing publications covering activities for each year
 - Conducts trainings and workshops on various program elements for city staff and community stakeholders

ANDREW WEBSTER, LEED AP | **SENIOR PROJECT ADVISOR**

For over 20 years Andy has provided clients with technical expertise and project solutions related to critical processes and infrastructure projects involving air, water, waste media, design and construction, permitting, compliance solutions, regulatory reporting, and sustainability-related projects which are centered on each client's unique needs. He has extensive background implementing sustainable management systems that leverage an organization's culture, processes, operating practices, and performance objectives. He is also an experienced multimedia environmental compliance and conformance auditor, and serves as a multi-media subject matter expert for regulatory compliance.

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT PROJECTS

- **MSA Quality Assurance Project Plan & Priority Climate Action Plan**, Lexington-Fayette Urban County Government
- **Greenhouse Gas Emissions Inventory, Target Setting, and Reduction Plan**, Lexington-Fayette Urban County Government

SUSTAINABILITY

- **Transformation Sustainability**, Ford Motor Company Dearborn Campus
- **Life Cycle Analyses Studies And Modeling**, Center for Innovative Food Technologies
- **Enterprise GHG Inventory**, Health Care Service Corporation
- **Sustainability Management Planning**, Sunny Delight Beverages Company
- **Energy Efficiency and Conservation Block Grant (EECBG) Strategy Development**, Department of Energy - Prince George's County, MD
- **Wastewater Treatment Plant Energy & Process Optimization**, City of Adrian, MI
- **Existing Building USGBC LEED Gap Analyses**, Comerica Bank, Lansing, MI
- **Corporate Greenhouse Gas Baseline Inventory**, Sunny Delight Beverages Company
- **Resource Efficiency Assessments**, Sunny Delight Beverages Company

ENVIRONMENTAL MANAGEMENT AND COMPLIANCE

- **Environmental Management and Compliance**, CBRE – Deutsche Bank, Implementation of Compliance Program, U.S.
- **Compliance Program, Confidential Client**, Financial Services Industry, U.S.
- **Environmental Permitting, DTE Energy**, Blue Water Energy Center
- **316(b) Compliance Strategy/Ongoing Support**, DTE NorthwindTM LLC
- **Design of Impingement Reduction Measures**, DTE Energy
- **Preparation of 316(b) NPDES Application Requirements**, DTE Energy, Multiple Facilities
- **EHS Compliance Program**, BMW of North America, U.S.

**TETRA TECH ROLE**

Vice President

Senior Program Manager

Environmental Science & Management, Operations Manager

SME, Environmental Compliance

EDUCATION

MS, Environmental Health, University of Michigan, Ann Arbor MI

BS, Environmental Protection, Ball State University, Muncie IN

REGISTRATIONS/CERTIFICATIONS

- LEED Accredited Professional
- Ionizing Radiation Safety
- ISO 14001 Lead Auditor
- ANSI-RAB Lead Auditor
- 40-hour HAZWOPER
- DOT/IATA Training

PROFESSIONAL AFFILIATIONS

- Project Management Institute
- US Green Building Council
- National Environmental Health Association
- American Industrial Hygiene Association

MELINDA KEILLOR | SENIOR ENVIRONMENTAL SCIENTIST

Mindy has over 30 years of environmental experience with expertise in waste and air regulations for public agencies, such as Michigan Department of Environment, Great Lakes, and Energy (EGLE), and for private sector in waste, automotive, steel, and cement/aggregate industries. Her roles have included Environmental Manager at Lafarge Holcim; Environmental Specialist at Toyota; Environmental Engineer at U.S. Steel; and Environmental Health & Safety Manager at US Ecology. During her tenure at EQ, she was the company expert for Federal & State Air regulations. Mindy has extensive experience specializing in compliance, inspection, and environmental response.

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT PROJECTS

- **MSA Quality Assurance Project Plan & Priority Climate Action Plan**, Lexington-Fayette Urban County Government
- **Greenhouse Gas Emissions Inventory, Target Setting, and Reduction Plan**, Lexington-Fayette Urban County Government

REGULATORY AGENCY PROJECTS

- **Air Emission Inventory Annual Reporting, Hazardous Waste TSDF**, Automotive, Manufacturing, Steel, Mining, MI, NY, OH, OK
- **Air Compliance Reporting (Title V, PTI, PTIO), Hazardous Waste TSDF**, Automotive, Steel, Mining, MI, NY, OH, OK
- **Air Permit Application**, Ohio EBIZ, PTIO, Renewable Energy, OH
- **Air RMP (EPA Risk Management Program, 112r, 40 CFR 68)**, Renewable Energy, OH
- **Onsite Environment Staff Support**, Manufacturing, MI
- **Episode Plan**, Automotive, MI
- **Air Greenhouse Gas (GHG)**, Hazardous Waste TSDF, MI
- **Tier II Reporting (SARA Title III, Tier II, 312) Hazardous Waste TSDF**, Automotive R&D, Mining, MI, NY, OH
- **Toxic Release Inventory Reporting & Reviewer (SARA Title III, Tier III, 313), Hazardous Waste TSDF**, Automotive, Mining (Asphalt & Ready Mix), MI, NY, OH
- **Asbestos - Hazardous Waste TSDF**, MI
- **Award Applications**, National Stone Sand and Gravel Association & Michigan Manufacturing Association, Mining, MI, NY, OH
- **CERCLA - Hazardous Waste TSDF**, MI
- **Department of Homeland Security, Hazardous Waste TSDF Requirements**, DHS, MI
- **Hazardous Waste Inspections (Part 111, formerly Act 64 & RCRA)**, State Agency, MI
- **Hazardous Waste Management (Part 111, formerly Act 64 & RCRA), Hazardous Waste TSDF**, Automotive R&D, Mining
- **Hazardous Materials (HAZMAT, DOT, IATA, IMDG)**, Waste Management Company, Automotive R&D, Mining
- **Solid Waste (Part 115, formerly Act 641)**, State Agency, Waste Management Company, Automotive, Mining, MI
- **Spill Prevention Control and Countermeasures**, Mining, MI, NY, OH
- **Water Annual Withdrawal (Use) Reporting**, Mining, MI, NY, OH
- **Water Groundwater**, Mining, MI
- **Water Industrial Stormwater NPDES/SWPPP**, (Individual & General) Mining, MI, NY, OH
- **Toxic Substances Control Act Compliance**, Waste Management, Automotive R&D, MI
- **Tanks (AST) – Hazardous Waste TSDF**, Automotive R&D, Mining, MI, NY, OH
- **Tanks (UST) Inspection**, Automotive, Mining
- **Award Applications**, Wildlife Habitat Council, Mining
- **Hazardous Waste TSDF Database Tracking and Reporting**, Steel, Mining, MI, NY, OH, OK

**EDUCATION**

BS, Natural Resources, University of Michigan, Ann Arbor, MI

REGISTRATIONS/CERTIFICATIONS

- Industrial Wastewater Operator, A1a, W 7486
- Industrial Storm Water Operator, A1i, I-14905
- ISO 14001 Lead Auditor Training
- DEQ Hazardous Waste Inspector
- McCoy RCRA Training
- Hazardous Materials (HAZMAT), DOT, IMDG, IATA
- MIOSHA/OSHA Industrial, 30-hr
- MIOSHA/OSHA Construction 10-hr
- OSHA 24-hr Hazardous Waste Operations & Emergency Response (HAZWOPER), 8-hr Refreshers
- MSHA 24-hr 2017 & 8-Refreshers

PROFESSIONAL AFFILIATIONS

- Air & Waste Management Assoc
- Board Member, Air & Waste Management Assoc, East MI Chapter
- Suppliers Partnership for the Environment
- Wildlife Habitat Council

ZOE ROBERTS, EIT | ENERGY PLANNING

Zoe has modeled energy usage and savings measures for a variety of building types. She is currently supporting a retrofit project of a historic state building to reach net zero and electrification goals. With her background in mechanical engineering, Zoe brings a deep understanding of design and system selection to energy projects.



EDUCATION

- BS, Mechanical Engineering, Rice University, Houston, TX

REGISTRATIONS/CERTIFICATIONS

- Engineer in Training (EIT):
CA-18-309-20

- **Carbon Neutral Facilities Plan**, City of San Luis Obispo, CA
 - Reduce GHG emissions from city owned facilities
 - Assist the city with the process and development of a strategic plan that lays out near term funding priorities for the 2023-25 Financial Plan
 - Creates policy and long-term strategy through 2030
- **Energy and Water Evaluations, Mississippi Army National Guard**, State of Mississippi Army Military Department, MS
 - 6M+ SF of EISA compliant energy and water evaluations across the state of Mississippi
 - Utilized BUILDER SMS database to identify critical energy projects
- **Energy Efficiency & Resiliency Action Plan**, George Mason University, Fairfax, VA
 - 9 million SF of building space and multiple central utility plants
 - Developing multiple pathways to carbon neutrality for multiple George Mason campuses
 - Partners from concept through implementation
- **Strategic Energy & Carbon Neutrality Plan**, California State University East Bay, Hayward, CA
 - Providing a strategic energy plan and carbon neutrality for CSU East Bay
 - The project will include energy audits, building electrification, and energy management planning
- **Carbon Neutrality Plan**, San Diego State University, San Diego, CA
 - Established a carbon neutrality roadmap to decarbonize campus energy, building and transportation system
 - Provided a campus energy transition and phasing plan to decommission existing co-generation central plant and steam distribution
- **Integrated Energy Resource Plan**, Los Angeles Community College, Los Angeles, CA
 - Developed energy master plan for three LACCD campuses
 - Focused on campus decarbonization, energy efficiency, renewable energy and microgrid analysis
- **Confidential Municipal Client District Energy Feasibility Study**
 - Feasibility study for a district thermal energy system for a multi-use development
 - A variety of system variations were studied with recommendations given to the utility who would operate the system

LAUREL GRAVES | DIGITAL SOLUTIONS MANAGER

Laurie has nearly 30 years of professional, technical, and analytical expertise in database design, data analytics, data integration, business/systems analysis, implementation of Agile software development, and helpdesk/troubleshooting for business applications. Her digital design solutions, teaching/training, and technical/business writing have been a valuable asset to project teams. Laurie excels at leadership and customer satisfaction, as she is meticulous with quality assurance, and has worked on numerous regulatory compliance projects.

GENERAL MOTORS (GMR2) SUSTAINABLE REPORTING

- Software Development, Integrations & Database Design for Regulatory Reporting and Data Coordination
- Automatic Notification System (ANS) Business Analyst
- Material Safety Data Sheet (MSDS) Gatekeeper
- IT Team Leader Environmental Software Integrations: Sphera, ETQ Reliance®, and ERA Sustainability Assessments
- Environmental Reporting and Data Management
- Service Parts Operations (SPO) Compliance Metrics Coordinator for World HQ
- Training Materials Portal Development
- SARA 312, 311, Michigan Air Emissions Reporting System, and Michigan Annual Wastewater Report



EDUCATION

- MA, Higher Education, University of Michigan
- BA, Social Sciences, Michigan State University

REGISTRATIONS/CERTIFICATIONS

- ICAgile Certified Professional - Business Value Analysis
- Cybersecurity (CC) certified (ISC2)
- Enablon Training: Shared Functions, Audit Compliance (ACS), Action Plan (AP), Compliance (RCM), Health & Safety
- Enablon QS Methodology
- Enablon QS Certification
- Qualified User: Myers-Briggs Type Indicator (Facilitator)

AMY SOHNER | COMMUNITY OUTREACH

Amy has a background in environmental education, and a degree in Natural Resource Conservation and Management. She is a Certified Environmental Educator, a graduate of the Leadership Lexington Program, a board member of both Bluegrass Tomorrow, and Keep Lexington Beautiful, and is the Chair of both Women Leading Kentucky and the Lexington Stormwater Stakeholder Advisory Committee.

Since 2001, she and Bluegrass Greensource (BGGs) have provided outreach to schools, community groups, businesses, local governments, and citizens throughout the region to focus on water quality, waste reduction and energy efficiency. Amy has built BGGs from the ground up, and has managed every aspect of the organization from strategic planning, marketing and social media to grant writing, training, and program development.



EDUCATION

- BS Natural Resource Conservation and Management, University of Kentucky
- Natural Resource Conservation and Management, Study Abroad Program Napier University, Edinburgh, Scotland

PROFESSIONAL AFFILIATIONS

- Women Leading Kentucky, Board Member, and Chair
- Keep Lexington Beautiful, Board Member
- Bluegrass Tomorrow, Board Member
- City of Lexington Stormwater Stakeholder Advisory Council, Chair
- Empower Lexington Plan Steering Committee, Member

- **Community Energy Advisor**, City of Lexington
 - Developed and implemented energy efficiency programs throughout the city; these included retrofit grants for nonprofits, community engagement programs and resource development
- **Comprehensive Stormwater Education**, Georgetown and Scott counties
 - Relationship building
- **Main Street Clean Sweep, Energy Efficiency Workshops**, Bourbon, Clark, Fayette, Jessamine, Scott, and Woodford counties
 - Deep relationships with elected officials and community leaders for community events, PreK-12 Education, Past Grant Program
- **Energy Efficiency Workshops for Low to Moderate Income (LMI) Communities**, Bourbon, Clark, Fayette, Jessamine, Scott, and Woodford counties
 - Organize, plan, and promote workshops (minimum of 10 per year) to help LMI residents in central Kentucky learn how to make their home more energy efficient, save money and reduce greenhouse gas emissions. The first grant received through EPA's Environmental Justice grant program, and continues to focus on low income and disadvantaged communities
- **Sustainable Hospitality Program**, VisitLEX
 - Managed five focus groups, performed administration and reporting
- **Hinkston Creek Watershed and Dix River Watershed**, Bourbon, Montgomery, Nicholas, Boyle, Garrard, Lincoln counties
 - Managed stakeholder groups

NICHOLAS MCCREARY, LEED AP BD+C | **SUSTAINABILITY ANALYST**

Nick focuses his sustainability practice on helping clients facilitate practical climate action plans and sustainability strategies to support significant improvements in their sustainability reporting. He advises clients on Climate Action Planning, Environmental, Social, and Governance (ESG) Strategy, Planning and Reporting, Energy Management, ESG Assurance Services, ESG Audits, and supporting the needs of executive boards for ESG strategies, and education issues. Nick is adept at convening stakeholders, and managing community relations.

He has past experience with Creighton University in Omaha, as lead author and originator for their inaugural sustainability plan, where Nick developed a sustainability-focused internal grant fund, and launched a post-consumer composting program. He has also served as a sustainability coordinator for Indiana State University, where he directed a multi-disciplinary committee that created the university's sustainability plan. Additionally, Nick held a professorship in environmental science and sustainability science.

**EDUCATION**

- MS, Environmental Science & Sustainability, St. Louis University, St. Louis, MO
- BA, Earth Science, DePauw University, Greencastle, IN

REGISTRATIONS/CERTIFICATIONS

- USGBC, LEED AP BD+C

ALBERT LU | SUSTAINABILITY ANALYST

Albert is an Environmental Engineer with combined experience in greenhouse gas (GHG) emission inventory projects, GHG verification and assurance, environmental regulation and compliance, and data modeling. He has performed major public and private sector roles in improving corporate GHG inventories, developing ESG strategies, and constructing public infrastructure megaprojects. Albert has worked for clients in various industries such as tech, entertainment, media, banking and financial services, manufacturing, real estate, insurance, marketing, and utility services. He is experienced in state and federal environmental permitting, GHG and criteria air pollutant modeling, and GIS hardware and software. Albert is proficient with the emission calculation methodologies of GHG Protocol, and the ISO 14064-3 standard for GHG verification.



AREAS OF EXPERTISE:

- GHG data and inventory management
- GHG accounting and verification
- Criteria air pollutants emissions estimation
- Data modeling and validation
- Environmental regulation and compliance
- Environmental impact assessment
- Infrastructure megaprojects
- Natural resources management

SUSTAINABILITY ANALYTICS

- **Envision Gap Analysis**, Sepulveda Transit Corridor Project (Bechtel and LA Metro)
- **GHG Scope 1, 2, and 3 inventory, Carbon Disclosure Project (CDP), GHG emissions disclosure**, Beyondsoft and Microsoft supplier
- **Scope 1, 2, and 3 verification, GRESB disclosure**, Macerich
- **Scope 1, 2, and 3 verification, CDP disclosure**, GLG
- **Scope 1, 2, and 3 verification, Microsoft supplier GHG emissions disclosure**, One10
- **Scope 1, 2, and 3 verification**, Paramount
- **Sustainability strategy research and development**, PNC Bank
- **Scope 1, 2, and 3 verification**, Rambus
- **Scope 1, 2, and 3 verification, CDP disclosure**, Steel Dynamics
- **Scope 1, 2, and 3 verification**, Symetra
- **Department of Energy Federal Loan Application, Community Benefits Plan**, Wabash Valley Resources
- **GHG Scope 1, 2, and 3 data and inventory management**, Masonite
- **Climate Transition Plan GHG emissions reduction modeling**, GridTek
- **GHG and environmental data quality control, and audit support**, AES
- **GHG Scope 1, 2, and 3 limited assurance**, Fresh Del Monte
- **Health Risk Assessment and air quality modeling**, Holz Rubber

KERAMIDA

EDUCATION

- MS Environmental Engineering, University of Southern California (USC) Los Angeles, CA
- BS Environmental Science, University of California, Los Angeles (UCLA), Los Angeles, CA

TRAINING

- National Environmental Policy Act (NEPA)
- California Environmental Quality Act (CEQA)
- Construction and Operational Safety
- Federal and California State Emergency Management and Response
- Software/Analytics: Greenstone+, ESRI ArcGIS, R, MATLAB

EMILEE BROWN | SUSTAINABILITY ANALYST

Emilee's expertise has centered around ESG reporting projects, benchmarking, sustainability report writing, materiality assessments, and data analysis projects. She recently published a blog detailing the key considerations companies should include in their Net Zero goals and strategies. Her focus is on climate action planning, corporate sustainability consulting, and stakeholder engagement. Her diverse background in multiple sectors of sustainability include environmental policy, conservation, corporate sustainability, community organizing, and higher education. Emilee has spearheaded strategic initiatives in sustainability education, fossil fuel divestment, renewable energy, and institutional policy development. She has engaged over 750 community members and sustainability professionals in trainings on topics such as recycling, community organizing, sustainability fundamentals, intersectionality, and strategic planning.

AREAS OF EXPERTISE

- Sustainability
- Climate Action Planning
- Community Organizing
- Strategic Planning
- ESG Reporting Standards
- Materiality Assessments
- Benchmarking
- Net Zero Road mapping



EDUCATION

- BAESS Environmental Sustainability Studies, Indiana University, Bloomington, IN

REGISTRATIONS/CERTIFICATIONS

- Global Reporting Initiative (GRI) Trainer

AMBER GREANEY, ENV SP, LEED GREEN ASSOCIATE | **GRANTS AND FUNDING SUPPORT**

Amber's professional focus is sustainability with her experience that is derived from various projects from a wide array of client partners such as cities, municipalities, universities, corporations, non-profits, and private clients. She has led numerous technical projects, including Science Based Targets initiative (SBTi) development and adoption, climate action plan strategy, transit-oriented development, vehicle technology analyses, and benchmarking policies. In addition, she has utilized a variety of sustainability reporting frameworks.

She also is an associate professor to an undergraduate-level course for the Indiana University, O'Neill School of Public and Environmental Affairs, which focuses on sustainable management, LEED standards, biosphere/human sphere, climate action plans, reporting standards, ecosystems and habitats, green buildings and sites, and livable cities.

Amber has previously served as a program manager for energy and environment for the city of Indianapolis, Office of Sustainability, as the city's technical expert for sustainability information, best practices, data, principles, LEED standards, international reporting frameworks, and has acted as a city spokesperson on sustainability programs with internal and external constituencies.

AREAS OF EXPERTISE

- Sustainable Building Design
- Sustainability Reporting Frameworks (GRI, CDP, ICLEI)
- Utility tracking via EPA's Energy Star Portfolio Manager
- Energy Tracking via Tableau
- Carbon Disclosure Project (CDP)
- GHG Protocol (Climate View, EPA Calculator, SBTi)
- Statistical Analysis

**EDUCATION**

- MPA, Environmental Policy and Sustainability/Public Affairs, Indiana University, Indianapolis, IN
- BS, Sustainability Management & Policy, Indiana University, Indianapolis, IN
- BS, Public Affairs, Indiana University, Indianapolis, IN

REGISTRATIONS/CERTIFICATIONS

- Institute for Sustainable Infrastructure (ISI), Envision Sustainability Professional (ENV SP)
- USGBC, LEED Green Associate

PROFESSIONAL AFFILIATIONS

- Associate Faculty member at Indiana University Indianapolis

DEGREE OF LOCAL EMPLOYMENT

Tetra Tech's local office is located at 424 Lewis Hargett Circle, Suite 110, Lexington, KY. Tetra Tech is currently registered by the Commonwealth of Kentucky in accordance with KRS 322.060 to perform the engineering services needed for this project. **Our Kentucky registration number is 1555.**

Bluegrass Greensource, is a non-profit organization, located at 835 National Ave, Lexington, KY. Amy Sohner is the Executive Director of this organization.

HEC Hamblin Environmental, is a Kentucky-based business located at 460 Old Germantown Rd, Brooksville, KY.



AFFIRMATIVE ACTION/EEO PARTICIPATION

We understand the importance of Minority-Owned (MBE), Woman-Owned (WBE), Disadvantaged (DBE) Business Enterprises and Veteran-Owned Small Business (VOSB) goals and are committed to providing meaningful participation at levels desired by LFUCG. Our track record on similar efforts demonstrates our commitment to, and success in, achieving or exceeding project-specific goals.

To achieve and exceed your 10% MWDBE participation goal, we have enlisted the services of **KERAMIDA** to provide our team a highly qualified Woman-Owned Business Enterprise.

To achieve your 3% Veteran-Owned participation goal, we have enlisted the services of **HEC Hamblin Environmental**.

TETRA TECH IS A PROUD PARTNER OF



4. Specialized Experience | Technical Competence

RECENT PROJECT EXPERIENCE

The following examples of recent projects demonstrate our capabilities to perform climate action planning, greenhouse gas inventories, and stakeholder and community engagement.

| EXAMPLE PROJECTS | 1 | 2 | 3 |
|--|---|---|---|
| Greenhouse Gas Inventories | ■ | ■ | ■ |
| Emissions Reductions | ■ | ■ | ■ |
| Climate Action Planning | | ■ | ■ |
| Community & Stakeholder Engagement | | ■ | ■ |
| Low Income & Disadvantaged Community Targeting | | ■ | ■ |



GREENHOUSE GAS EMISSIONS INVENTORY, TARGET SETTING, & REDUCTION PLAN

1

Tetra Tech is currently finalizing community-wide and municipal greenhouse gas (GHG) emissions inventories in accordance with Intergovernmental Panel on Climate Change (IPCC) requirements and the Global Protocol for Community-Scale Greenhouse Gas Emission Inventories (GPC). The GPC is a globally recognized standard that enables cities to utilize consistent methodologies for developing inventories, thus allowing for ease of comparison to peers, transparent calculations, and meaningful results. The GPC is a comprehensive inventory method resulting in emissions aggregated by sector, scope, gas, total, and biogenic origin. The GPC accomplishes this through the use of two frameworks, “scopes” and “city-induced.”

From the GPC, “The scopes framework allows cities to comprehensively report all GHG emissions attributable to activities taking place within the geographic boundary of the city by categorizing the emission sources into in-boundary sources (scope 1, or “territorial”), grid-supplied energy sources (scope 2), and out-of-boundary sources (scope 3).” The city-induced framework ensures all emissions generated by a city, inside or outside of the geographic boundary, are totaled. The GPC offers a BASIC and a BASIC+ level of reporting that represent varying degrees of inventory completeness.

The BASIC level includes Scope 1 emissions from stationary energy, in-boundary transportation, and waste and wastewater generated and disposed of in the geographic boundary, Scope 2 emissions from grid-supplied electricity, and Scope 3 emissions from waste and wastewater generated in the geographic boundary and disposed of outside of the boundary. BASIC+ includes the components of the BASIC level plus Scope 3 emissions for electricity transmission and distribution and out-of-boundary transportation as well as Scope 1 emissions for Industrial Processes and Product Use (IPPU), Agriculture, Forestry, and Land Use (AFOLU), and any other emissions occurring outside of the geographic boundary as a result of city activities. Therefore, the BASIC+ level of reporting requires challenging data collection and more complex calculation methodologies. The City elected to report on the BASIC+ level.

After completion of the GHG inventories, Tetra Tech will compare the current reporting year (2021) to prior emissions inventories to identify trends in aggregate, per capita, and gross domestic product (GDP) inventory results. In addition, an analysis of relevant trends such as sector-level drivers, data availability, data sources, emission factors, and methodology will be conducted to determine how these factors may impact changes in GHG inventory emissions. The base inventory and results of the trend analysis will be used to develop “business-as-usual” emissions forecasts for 2025, 2030, and 2050 that represent the expected emissions if no action is taken.

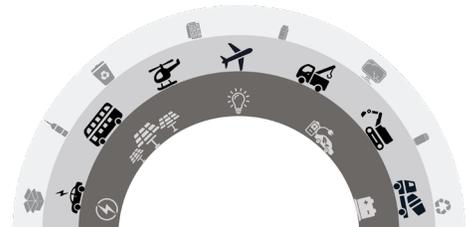
The data compiled from the GHG inventories, trend analysis, and forecasts will be used to develop an Arc score for the City. Arc is a software created by the Green Business Certification, Inc. (GBCI) that benchmarks the environmental impacts of a city through a performance score that can be compared to other cities globally. The Arc score can offer insight on areas (energy, water, waste, transportation and human experience) where the city may have room for improvement.

Finally, Tetra Tech will assist the City with setting emission reduction targets that align with the current U.S. initiative to “meet the moment” by achieving a 50-52 percent reduction from 2005 levels in economy-wide net greenhouse gas pollution in 2030 and net-zero greenhouse gas emissions by no later than 2050. Targets will be developed for each sector identified in the GHG inventories that total to an overall reduction goal. ■



LEXINGTON

- Carbon Accounting & Reduction Goals
- Greenhouse Gas Emissions Inventory
- Stakeholder/Community Engagement



LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

SIZE: Community-wide & Municipal Activities

START/END DATE: 2023/Ongoing

OWNER: Lexington-Fayette Urban County Government, KY

SERVICES: Sustainability Consulting

KEY STAFF INVOLVEMENT:

- Abby Terry, Project Manager
- Andrew Webster, Sr. Project Advisor
- Mindy Keillor, Sr. Env. Scientist



LEXINGTON-FAYETTE MSA CPRG QAPP & PCAP

2

The Climate Pollution Reduction Grants (CPRG) program is a U.S. Environmental Protection Agency (EPA) initiative to act as a catalyst in helping communities develop and implement ambitious plans for reducing GHG emissions and other harmful air pollution.

Tetra Tech was awarded the QAPP & PCAP pieces of Lexington-Fayette County MSA's CPRG Planning Grant. This work includes:

Quality Assurance Project Plan (QAPP)

Quality assurance is required for awards granted by the U.S. EPA under 2 CFR 1500.12. Directive No: CIO 2105-S-02.0 dated July 2023 defines the minimum requirements for the Quality Program supporting EPA environmental programs unless superseded by statutory requirements. A Quality Assurance Project Plan (QAPP) is a comprehensive document detailing project-specific quality assurance, quality control, and technical activities for the generation, collection, and use of environmental data or information. Tetra Tech completed the QAPP and it has been submitted to EPA for approval.

Priority Climate Action Plan (PCAP)

The PCAP is a precursor to the Comprehensive Climate Action Plan (CCAP), due two years after planning grant award. The PCAP must include a simplified GHG inventory for the MSA, quantified priority GHG reduction measures, a low-income and disadvantaged communities benefit analysis, stakeholder involvement, and a review of authority to implement.

Lexington-Fayette MSA GHG Inventory

Since Lexington's 2021 GHG inventory was just completed, 2021 will be used as the baseline year. The inventory will build on Lexington's 2021 inventory and will include Stationary Energy, Transportation, and Waste for the additional MSA members.

Quantified Voluntary GHG Reduction Measures

Tetra Tech will work with LFUCG to identify the priority sectors and voluntary reduction measures through stakeholder and interagency/intergovernmental coordination. Tetra Tech will focus on voluntary reduction measures identified by stakeholders and the results of the GHG emissions inventories that are readily implementable with funding. Once the reduction measures are identified, Tetra Tech will quantify the emission reductions for the priority measures included in the PCAP using readily available tools.

Low Income and Disadvantaged Communities Benefit (LI-DC) Analysis

The authorizing statute for the CPRG program specifies that implementation grant applications should include information on the extent of GHG reductions for low-income and disadvantaged communities. The PCAP should identify disadvantaged communities in the jurisdiction covered by the plan, how the recipient meaningfully engaged with such communities in the development of each plan, and how they intend to continue this engagement into the future.

Stakeholder Engagement

State and metropolitan area lead organizations must involve stakeholder groups and the public in the process for developing the PCAP. LFUCG will lead the collaboration and coordination of the Climate Pollution Reduction Planning Team. In coordination with LFUCG, Tetra Tech will support communications with the Lexington-Fayette Co. MSA. Tetra Tech will also support and facilitate public and stakeholder engagement by leveraging relationships that were built through the Empower Lexington update, Imagine Lexington, and other community/regional processes. Purposeful efforts will be made to engage the low-income and disadvantaged communities identified by the Lexington-Fayette Co. MSA. ■



LEXINGTON

- LFUCG MSA CPRG Planning Grant
- Stakeholder/Community Engagement

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

SIZE: Community-wide & Municipal Activities

START/END DATE: 2023/Ongoing

OWNER: Lexington-Fayette Urban County Government, KY

SERVICES: Sustainability Consulting

KEY STAFF INVOLVEMENT:

- Abby Terry, Project Manager
- Andrew Webster, Sr. Project Advisor
- Mindy Keillor, Sr. Env. Scientist



GRAND VALLEY METROPOLITAN COUNCIL METROPOLITAN STATISTICAL AREA (MSA) CLIMATE ACTION PLAN

KERAMIDA and ClimateView are working together to develop the Preliminary Climate Action Plan, Implementation Grant, Comprehensive Climate Action Plan, and Status Report for the Grand Rapids MSA. To date, KERAMIDA has submitted a QAPP which has been approved by the EPA, completed the regional GHG inventory, administered three community engagement events, established three advisory committees including the LIDAC advisory committee, and finished a first draft of the PCAP.

Having experience working on another CPRG project is invaluable. In addition to the CPRG planning grant requirements, KERAMIDA is advising and assisting the GVMC in writing an Implementation Grant for one or more mitigation measure included in the PCAP. ■

To view unique insights from participants contributing to the development of a plan that truly represents the diverse needs, concerns, and aspirations of Western Michigan's vibrant communities:



- Climate Pollution Reduction Grant
- Stakeholder/Community Engagement

GRAND VALLEY METROPOLITAN COUNCIL

SIZE: Community-wide & Municipal Activities

START/END DATE: 2023/Ongoing

OWNER: Grand Valley Metropolitan Council

SERVICES: Sustainability Consulting

KEY STAFF INVOLVEMENT:

- Nicholas McCreary, Sustainability
- Amber Greaney, Grants/Funding Support



GVMC

KERAMIDA
GLOBAL SUSTAINABILITY | CLIMATE | EHS

CDP
GOLD ACCREDITED PROVIDER 2024

ClimateView
Accredited Partner



5. Estimated Costs & Schedule

ESTIMATED COST OF SERVICES

Please review the following comprehensive and detailed listing of all costs, fees, and reimbursables to be included in the work for this project.

The total estimated cost on a time and materials not to exceed basis is estimated to be **\$505,000 USD**. Pricing is valid for 30 days. Our hourly rates for personnel engaged in the project are presented in the tables shown below. Tetra Tech proposes to conduct all work included in accordance with LFUCG Purchase of Service Agreement Terms. We will invoice each month for the portion of work completed and our payment terms are net 30 days.

HOURLY RATES

The following tables present hourly rates for all members and subconsultants of the project team.

TABLE 5-1: TETRA TECH

| ROLE | NAME | HOURLY BILLING RATE |
|--------------------------------|-----------------|---------------------|
| Project Manager | Abby Terry | \$130 |
| Senior Project Advisor | Andrew Webster | \$230 |
| Senior Environmental Scientist | Melinda Keillor | \$150 |
| Energy Planning Engineer | Zoe Roberts | \$190 |
| Digital Solutions Manager | Laurel Graves | \$160 |

TABLE 5-2: BLUEGRASS GREENSOURCE

| ROLE | NAME | HOURLY BILLING RATE |
|--------------------|------------|---------------------|
| Community Outreach | Amy Sohner | \$85 |

TABLE 5-3: KERAMIDA

| ROLE | NAME | HOURLY BILLING RATE |
|--------------------------|---------------|---------------------|
| Sustainability Analyst | Nick McCreary | \$275 |
| Sustainability Analyst | Albert Lu | \$175 |
| Sustainability Analyst | Emilee Brown | \$175 |
| Grants & Funding Support | Amber Greaney | \$175 |

TABLE 5-4: HEC HAMBLIN ENVIRONMENTAL

| ROLE | NAME | HOURLY BILLING RATE |
|-----------------------------|-------------|---------------------|
| As Needed Technical Support | Lee Hamblin | \$85 |

REIMBURSABLES

Reimbursables - Mileage will be billed at the IRS 2024 standard rate of 67 cents per mile.

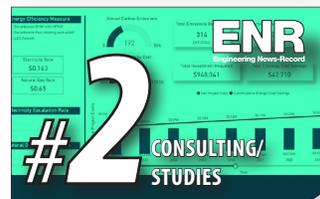
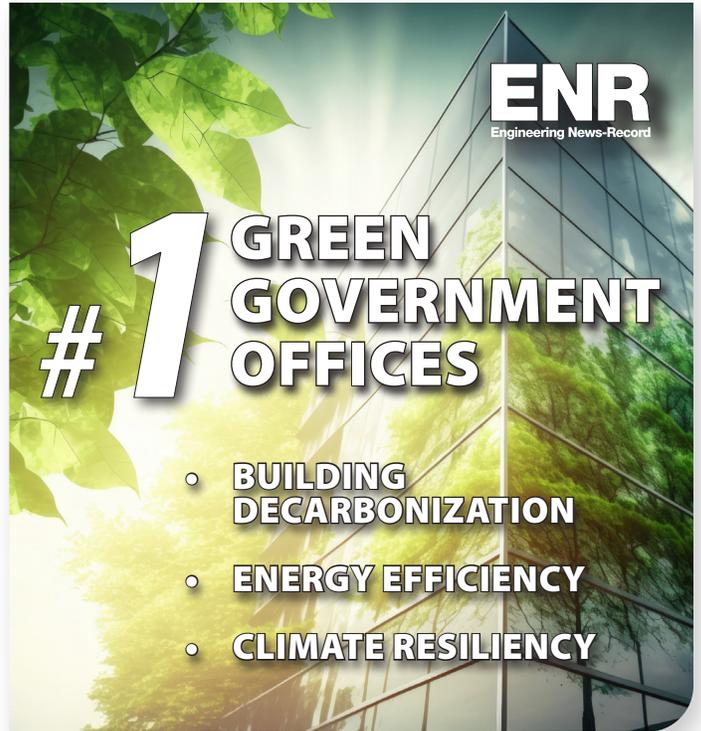
6. Additional Information

THE TETRA TECH ADVANTAGE

As the leading firm in environmental consulting, Tetra Tech brings a highly qualified blend of expertise and knowledge to the Lexington-Fayette Urban County Government (LFUCG). Our team of sustainability experts will follow an effective project approach and management plan to achieve the desired program results, all of which will be led by our highly responsive Project Manager, Abby Terry, from our Lexington office.

The LFUCG's Climate Pollution Reduction Plan will need a well-known representative whose long-standing local relationships will facilitate engagement of community stakeholders, and gain consensus across our diverse region. Tetra Tech presents an exceptional team of professionals that has the understanding, and the capacity to support you in this very endeavor. Garnered from our 30-year relationship supporting LFUCG and the team's specialized experience, we have a clear depth of understanding in the Lexington-Fayette regional agency operations, and most importantly we are currently engaging stakeholders to complete the precursors of this project to support you.

The Lexington-Fayette community is progressing towards achieving its goals and objectives to be an accomplished leader in climate action planning. We are proud to be your consultant for the Greenhouse Gas Emissions Inventory, Target Setting, and Reduction Plan, as well as the QAPP & PCAP projects, from the Climate Pollution Reduction Grants program. The best value we bring to LFUCG is our understanding and knowledge from these preliminary projects, that will save a substantial amount of time and money progressing towards the next step of completion of the Comprehensive Climate Action Plan. The Tetra Tech team has demonstrated the ability and commitment to undertake the work that you need immediately, and to dedicate the necessary personnel and resources to your projects. We will continue to prioritize your work as a trusted partner, and be your best resource as Lexington-Fayette Urban County Government's Climate Pollution Reduction Planning Consultant. ■



PAST RECORD & PERFORMANCE

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT AND TETRA TECH

THE QUALITIES YOU SEEK

The characteristics that you seek in a firm are embodied in our people and in the way we approach projects:

CHARACTER AND INTEGRITY

These qualities are demonstrated by the staff that represent Tetra Tech to our clients. We recognize the essential need to earn the trust of the many stakeholders that will be involved in a project of this type.

REPUTATION

Tetra Tech's reputation in Lexington is one of providing a high level of service to LFUCG. We do this while collaborating with your staff and other team members to ensure your goals are met.

EXPERIENCE

We have designed our team to provide Lexington with the best local capability along with the experience that we have in our offices around the country.

EFFICIENCY

Efficiency in professional services means "hitting the ground running." Because of our history of work with LFUCG, there will no learning curve for our staff. We understand the dynamics of LFUCG and the Lexington community.

PROJECTS

The Tetra Tech team has enjoyed a 30-year working relationship with LFUCG. We have listed below, a partial listing of current and completed projects, performed with responsiveness, and individualized attention to LFUCG's needs. **The quality of work, control of costs, and ability to meet schedules has been maintained.** We have worked in a collaborative manner with staff and stakeholders to complete project milestones on time, in a cost-effective manner, delivering high quality deliverables. Our team has a deep understanding and knowledge base of EPA regulations, as most of our projects with LFUCG require EPA compliance.

Through the work completed to date, Tetra Tech has worked with a variety of groups within the government including the Division of Water Quality, Division of Environmental Services, and Division of Engineering.

- **CPRG, QAPP & PCAP**
- **Greenhouse Gas Emissions Inventory, Target Setting & Reduction Plan**
- Division of Community Corrections Facility Air Permitting
- Municipal Separate Storm Sewer System (MS4) Program Management Services
- Development of the Stormwater Quality Management Program (SWQMP) as part of the EPA Consent Decree Negotiations
- Stormwater Manual
- Procedures Manual for Infrastructure Development
- Vaughns Branch / Sugar Mill Flood Mitigation
- Danby Corners FEMA Letter of Map Revision
- Expansion Area 2 Stormwater Master Plan
- Southland Drive Drainage Study
- North Elkhorn Hydrologic and Hydraulic Model
- Town Branch Hydrologic and Hydraulic Model
- Detention Basin Maintenance Program
- Firethorn Detention Basin Improvements
- Walhampton Stormwater Improvements
- Wolf Run Wet Weather Storage
- West Hickman Wet Weather Storage

REFERENCES

Our references are familiar with the extra effort put forth by our staff to establish and maintain good working relationships with our clients. The following references can attest to Tetra Tech's character and reputation. ■

JENNIFER CAREY, PE

Director of Environmental Services
Lexington-Fayette Urban County
Government
859.425.2888
jcarey@lexingtonky.gov

JADA WALKER GRIGGS

Sustainability Program Manager Sr.
Division of Environmental Services
Lexington-Fayette Urban County
Government
859.258.3144
jgriggs@lexingtonky.gov

BARRY MARIETTA

Director, Air Quality Services
Environmental Management &
Resources
DTE Energy
313.235.5611
barry.marietta@dteenergy.com

REQUIRED FORMS



AMERICAN RESCUE PLAN ACT

AMENDMENT 1 — CERTIFICATION OF COMPLIANCE FOR EXPENDITURES USING FEDERAL FUNDS, INCLUDING THE AMERICAN RESCUE PLAN ACT

The Lexington-Fayette Urban County Government (“LFUCG”) may use Federal funding to pay for the goods and/or services that are the subject matter of this bid. That Federal funding may include funds received by LFUCG under the American Rescue Plan Act of 2021. Expenditures using Federal funds require evidence of the contractor’s compliance with Federal law. Therefore, by the signature below of an authorized company representative, you certify that the information below is understood, agreed, and correct. 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.

The bidder (hereafter “bidder,” or “contractor”) agrees and understands that in addition to all conditions stated within the attached bid documents, the following conditions will also apply to any Agreement entered between bidder and LFUCG, if LFUCG uses Federal funds, including but not limited to funding received by LFUCG under the American Rescue Plan Act (“ARPA”), toward payment of goods and/or services referenced in this bid. The bidder also agrees and understands that if there is a conflict between the terms included elsewhere in this Request for Proposal and the terms of this Amendment 1, then the terms of Amendment 1 shall control. The bidder further certifies that it can and will comply with these conditions, if this bid is accepted and an Agreement is executed:

1. Any Agreement executed as a result of acceptance of this bid may be governed in accordance with 2 CFR Part 200 and all other applicable Federal law and regulations and guidance issued by the U.S. Department of the Treasury.
2. Pursuant to 24 CFR § 85.43, any Agreement executed as a result of acceptance of this bid can be terminated if the contractor fails to comply with any term of the award. This Agreement may be terminated for convenience in accordance with 24 CFR § 85.44 upon written notice by LFUCG. Either party may terminate this Agreement with thirty (30) days written notice to the other party, in which case the Agreement shall terminate on the thirtieth day. In the event of termination, the contractor shall be entitled to that portion of total compensation due under this Agreement as the services rendered bears to the services required. However, if LFUCG suspects a breach of the terms of the Agreement and/or that the contractor is violating the terms of any applicable law governing the use of Federal funds, LFUCG may suspend the contractor’s ability to receive payment by giving thirty (30) days’ advance written notice. Further, either party may terminate this Agreement for cause shown with thirty (30) days written notice, which shall explain the party’s cause for the termination. If the parties do not reach a settlement before the end of the 30 days, then the Agreement shall terminate on the thirtieth day. In the event of a breach, LFUCG reserves the right to pursue any and all applicable legal, equitable, and/or administrative remedies against the contractor.
3. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:
 - (1) 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 apprenticeship. The contractor agrees to post in conspicuous places, available to employees and

applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- (4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part, and the contractor may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

Provided, however, that in the event a contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

4. If fulfillment of the contract requires the contractor to employ mechanic's or laborers, the contractor further agrees that it can and will comply with the following:

- (1) *Overtime requirements: No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such a workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such a workweek.*

- (2) *Violation: liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.*
- (3) *Withholding for unpaid wages and liquidated damages. LFUCG shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.*
- (4) *Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower-tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.*

5. *The contractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.*

6. *The contractor shall report each violation to LFUCG and understands and agrees that LFUCG will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency Regional Office.*

7. *The contractor shall include these requirements in numerical paragraphs 5 and 6 in each subcontract exceeding \$100,000 financed in whole or in part with Federal funding.*

8. *The contractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.*

9. *The contractor shall report each violation to LFUCG and understands and agrees that LFUCG will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency Regional Office.*

10. *The contractor shall include these requirements in numerical paragraphs 8 and 9 in each subcontract exceeding \$100,000 financed in whole or in part with Federal funds.*

11. *The contractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.*

12. *The contractor shall report each violation to LFUCG and understands and agrees that LFUCG will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency regional office.*

13. *The contractor shall include these requirements in numerical paragraphs 11 and 12 in each subcontract exceeding \$100,000 financed in whole or in part with American Rescue Plan Act funds.*

14. The contractor shall include this language in any subcontract it executes to fulfill the terms of this bid: “the sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury’s Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with ‘Limited English Proficiency’ in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury’s Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.”

15. *Contractors who apply or bid for an award of \$100,000 or more shall file the required certification that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier, up to the recipient. The required certification is included here:*

- a. The undersigned certifies, to the best of his or her knowledge and belief, that:
 - (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.
 - (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
- b. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

16. The contractor acknowledges and certifies that it has not been debarred or suspended and further acknowledges and agrees that it must comply with regulations regarding debarred or suspended entities in accordance with 24 CFR § 570.489(1). Funds may not be provided to excluded or disqualified persons.

17. The contractor agrees and certifies that to the greatest extent practicable, it will prefer the purchase, acquisition, and use of all applicable goods, products or materials produced in the United States, in

conformity with 2 CFR 200.322 and/or section 70914 of Public Law No. 117-58, §§ 70901-52, also known as the Infrastructure Investment and Jobs Act, whichever is applicable.

18. The contractor agrees and certifies that all activities performed pursuant to any Agreement entered as a result of the contractor's bid, and all goods and services procured under that Agreement, shall comply with 2 C.F.R. § 200.216 (Prohibition on certain telecommunications and video surveillance services and equipment) and 2 C.F.R. 200 § 200..323 (Procurement of recovered materials), to the extent either section is applicable.

19. If this bid involves construction work for a project totaling \$10 million or more, then the contractor further agrees that all laborers and mechanics, etc., employed in the construction of the public facility project assisted with funds provided under this Agreement, whether employed by contractor, or contractor's contractors, or subcontractors, shall be paid wages complying with the Davis-Bacon Act (40 U.S.C. 3141-3144). Contractor agrees that all of contractor's contractors and subcontractors will pay laborers and mechanics the prevailing wage as determined by the Secretary of Labor and that said laborers and mechanics will be paid not less than once a week. The contractor agrees to comply with the Copeland Anti- Kick Back Act (18 U.S.C. § 874) and its implementing regulations of the U.S. Department of Labor at 29 CFR part 3 and part 5. The contractor further agrees to comply with the applicable provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. Section 327-333), and the applicable provisions of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. et seq.). Contractor further agrees that it will report all suspected or reported violations of any of the laws identified in this paragraph to LFUCG.



Signature

01/22/2024

Date

PRIVILEGED AND CONFIDENTIAL

**AFFIRMATIVE ACTION PROGRAM
FOR
WOMEN & MINORITIES**

Tetra Tech, Inc



AFFIRMATIVE ACTION PROGRAM
FOR
WOMEN & MINORITIES

Contractor: Tetra Tech, Inc.

EEO Manager: Janet Brunner

CONFIDENTIAL TRADE SECRET MATERIALS

(Not for distribution except on a need-to-know basis.)

This affirmative action program contains confidential information that is subject to the provision of 18 U.S.C. 1905, *Chrysler Corp. v. Brown*, 441 U.S. 281, 19 FEP 475 (1979). Furthermore, release of any trade secret, confidential statistical or commercial information is considered arbitrary and capricious and is in violation of the Administrative Procedure Act. See *CNA Financial Corp. v. Donovan* 830 F.2nd 1132, 1144 and n. 73 (D.C. Cir.) certiorari denied, 485 U.S. 977 (1988). Copies of this affirmative action program and all related appendices, documents, and support data are made available on loan to the U.S. Government upon the request of said Government on the condition that the Government holds them totally confidential and does not release copies to any persons whatsoever. This affirmative action program and its appendices and other supporting documents contain much confidential information that may reveal, directly or indirectly, plans for business or geographical expansion or contraction. Pursuant to the Freedom of Information Act, this affirmative action program is exempt from disclosure, reproduction and distribution upon the grounds, among others, that such material constitutes 1) personnel files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, and that are exempt from disclosure under 5 U.S.C. 552(b) (6); 2) confidential, commercial or financial information, which is exempt from disclosure under 5 U.S.C. 552(b) (4); 3) investigatory records compiled for law enforcement purposes, the production of which would constitute an unwarranted invasion of personal privacy, and that are exempt from disclosure under 5 U.S.C. 552(b) (7) (C); and 4) matters specifically exempted from disclosure by statute, which are exempt from disclosure under 5 U.S.C. 552(b) (3). Notice is hereby given of a request that this Program be kept confidential.

Tetra Tech, Inc wishes to make it clear that it does not consent to the release of any information whatsoever contained in this affirmative action program under the Freedom of Information Act or otherwise. If the U.S. Government, or any agency or subdivision thereof, is considering breaching the conditions under which this affirmative action program was loaned to such government, or is considering a request of this Program under the Freedom of Information Act, request is hereby made that the Government immediately notify Tetra Tech, Inc and its counsel of any and all Freedom of Information Act requests by the government or any other contemplated release of this Program by the Government that relates to information obtained by the Government. Tetra Tech, Inc further requests that everyone who has any contact with this affirmative action program and its supporting appendices, documents and other data treats such information as totally confidential and that such information not be released to any person whatsoever. Retention or disclosure of information relating to identifiable individuals may also violate the Privacy Act of 1974.

INTRODUCTION

Tetra Tech, Inc develops an annual affirmative action program as one of several tools to implement the affirmative action policies effectively. The form, language and analysis of the program necessarily complies with the requirements of 41 CFR 60-2, et seq. (affirmative action programs) and other regulations established pursuant to the provisions of Executive Order 11246 and all other civil rights related laws and regulations that have or may be enacted, as amended. Accordingly, terminology such as "problem areas" and "utilization analysis" appearing in this affirmative action program is that which the organization is required to use by these regulations. The criteria used in relation to these terms are those specified by the Government. These terms have no independent legal or factual significance whatsoever. Although Tetra Tech, Inc uses this terminology and methodology in connection with this affirmative action program and the affirmative action policies, such usage does not necessarily signify that the organization agrees that these terms properly apply to any particular factual situation.

Information regarding identifiable individuals is private and confidentially maintained. Everyone who has official access to confidential data will exercise every precaution to protect this information.

DESIGNATION OF RESPONSIBILITY

41 CFR Section 60-2.17(a), 60-2.10(b)(2)(i)

Dan Batrack, CEO, has overall responsibility for implementation of the Equal Employment Opportunity Policy. Janet Brunner, Equal Employment Opportunity Manager, assumes the responsibility for the development, implementation and monitoring of the affirmative action program, which includes all those positions located in subordinate and/or lower-level establishments for which the selection decisions are made at the corporate level.

Responsibility for the implementation and monitoring of the affirmative action program rests with the EEO Manager, whose responsibilities include but are not limited to the following:

1. Developing policy statements and affirmative action programs.
2. Developing internal and external communication procedures when appropriate.
3. Developing an internal audit and reporting system that:
 - a. Identifies areas that require remedial action, and develops programs to correct those problem areas.
 - b. Determines the degree to which the goals and objectives are reached.
4. Monitoring the following internal practices:
 - a. Proper display of EEO posters and policies.
 - b. Full participation of minority, female, and disabled employees in all Tetra Tech, Inc sponsored educational, training, recreational, and social activities.
5. Assisting management in solving any identified problems. It is the responsibility of department heads, managers, and supervisors to provide the EEO Manager with such information and/or statistical data as is necessary to measure progress toward the attainment of goals and to assure good faith efforts to implement the affirmative action program. Such information and/or statistical data are used to set reasonable placement goals.
6. Keeping management informed of the latest developments in the equal employment opportunity area.
7. Assisting employees in solving problems and resolving EEO complaints.
8. Serving as a liaison between Tetra Tech, Inc and appropriate women and minority groups.
9. Serving as a liaison between Tetra Tech, Inc and appropriate EEO enforcement agencies.

IDENTIFICATION OF PROBLEM AREAS

41 CFR Section 60-2.17(b)

As part of the monitoring practice, an analysis of personnel matters is conducted. The following items are considered:

1. Composition of the workforce by minority group and sex. Good faith placement goals are established where necessary.
2. Composition of applicant flow by minority group and sex. Corrective action is taken when appropriate whenever the referral ratio of women and minorities indicates a significantly higher percentage is being rejected as compared to non-minority and male applicants.
3. Compensation system. Tetra Tech, Inc evaluates its compensation system to determine whether there are gender, race or ethnicity-based disparities. The purpose of the analysis is to identify potential areas where impediments to equal employment opportunity may exist. Disparities alone do not necessarily indicate a problem area; there may be many non-discriminatory reasons for a disparity.
4. Selection process. The selection process includes: position descriptions, titles, application forms, pre-employment forms, interview procedures, test validity and administration, referral procedures, final selection process and similar factors. The application and related pre-employment forms are in compliance with federal guidelines, and position descriptions accurately reflect actual duties and responsibilities.

The following areas are reviewed annually to ensure the success of this affirmative action program:

- Transfer and promotion practices,
- Facility and Tetra Tech, Inc sponsored recreational, social and educational events,
- EEO posters,
- Policy statements,
- Training Programs, and
- Suitable housing and transportation does not inhibit recruitment efforts and employment of minorities.

ORGANIZATIONAL PROFILE

41 CFR Section 60-2.11

Organizational Display

The Organizational Display is a detailed presentation of the Tetra Tech, Inc. organizational structure. It identifies each organizational unit and shows the relationship to other organizational units.

An organizational unit is any component part of the Tetra Tech, Inc. corporate structure. It might be a department, division, section, branch, group, project team, job family, or similar component. This includes an umbrella unit (such as a department) that contains a number of subordinate units, and it separately includes each of the subordinate units (such as sections or branches).

For each organizational unit, the organizational display includes the following:

1. The name of the unit;
2. The job title, gender, race, and ethnicity of the unit supervisor(s) (if the unit has a supervisor);
3. The total number of male and female incumbents; and
4. The total number of male and female incumbents in each of the separate minority groups.

The total number of incumbents in each minority classification is given for each job title. All job titles, including all managerial job titles, are listed.

WORKFORCE BY JOB GROUP
41 CFR Sections 60-2.12, 60-2.17(b)(1)

The Job Group Analysis groups jobs with similar content, wage rates, and opportunities into job groups. This analysis includes a list of the job titles that constitute each job group.

PLACEMENT OF INCUMBENTS IN JOB GROUPS

41 CFR Section 60-2.13

Tetra Tech, Inc states separately the percentage of minorities and the percentage of women it employs in each job group established pursuant to Sec. 60-2.12.

WORKFORCE BY JOB GROUP - ANNOTATIONS

41 CFR Section 60-2.1e

Tetra Tech, Inc. prepares a separate Job Group Annotations report, which lists employees who are included in an affirmative action program for an establishment other than the one in which the employees are located, and identifies the actual location of such employees.

EVALUATION OF PERSONNEL ACTIVITY
41 CFR Section 60-2.17(b)(2)

Tetra Tech, Inc. evaluates personnel activity to determine whether there are selection disparities.

DETERMINING AVAILABILITY

41 CFR Section 60-2.14

Availability is an estimate of the number of qualified minorities or women available for employment in a given job group, expressed as a percentage of all qualified persons available for employment in the job group. The purpose of the availability determination is to establish a benchmark against which the demographic composition of the incumbent workforce can be compared in order to determine whether barriers to equal employment opportunity may exist within particular job groups.

Tetra Tech, Inc. separately determines the availability of women and minorities for each job group. To determine availability, Tetra Tech, Inc. considers the following factors:

1. The percentage of minorities or women with requisite skills in the reasonable recruitment area. The reasonable recruitment area is defined as the geographical area from which the contractor usually seeks or reasonably could seek workers to fill the positions in question. 41 C.F.R. 60-2.14(c)(1).

Factor 1a considers the percent of women and minorities with requisite skills in a local recruitment area. The most current U.S. Census data is used to derive the availability of women and minorities. If this factor is used, it is because Tetra Tech, Inc. recruits, and many of its applicants live within the local recruitment area, or because we plan on recruiting in this region in the future. Any recruitment practices unique to a job group are noted on the Availability Analysis.

2. The percentage of minorities or women among those promotable, transferable, and trainable within the contractor's organization. Trainable refers to those employees within the contractor's organization who could, with appropriate training that the contractor is reasonably able to provide, become promotable or transferable during the AAP year. 41 C.F.R. 60-2.14(c)(2).

Factor 2a considers the percentage of women and minorities promotable and transferable within the contractor's organization. If this factor is chosen, it is because we fill positions by recruiting from within the workforce either through promotions or transfers. Internal applicants normally apply for these positions. Any recruitment practices unique to a job group are noted on the Availability Analysis.

PLACEMENT GOALS - COMPARING INCUMBENCY TO AVAILABILITY

41 CFR Section 60-2.15

Tetra Tech, Inc compares the percentage of women and minorities in each job group determined pursuant to Sec. 60-2.13 with the availability for those job groups determined pursuant to Sec. 60-2.14. When the percentage of minorities or women employed in a particular job group is less than would reasonably be expected given their availability percentage in that particular job group, a placement goal is established in accordance with Sec. 60-2.16.

PLACEMENT GOALS

41 CFR Section 60-2.16

Placement goals serve as objectives or targets reasonably attainable by means of applying every good faith effort to make all aspects of the entire affirmative action program work. Placement goals are also used to measure progress toward achieving equal employment opportunity.

The establishment of a goal under Sec. 60-2.15 is neither a finding nor an admission of discrimination.

Where, pursuant to Sec. 60-2.15, a placement goal for a particular job group is established, a percentage goal is equal to the availability figure derived for women or minorities, as appropriate, for that job group.

In establishing placement goals, the following principles from Sec 60-2.16(e) also apply:

1. Placement goals are neither rigid or inflexible quotas, nor are they considered to be either a ceiling or a floor for the employment of particular groups.
2. All employment decisions are made in a nondiscriminatory manner. Placement goals are not used to extend a preference to any individual, select an individual, or adversely affect an individual's employment status on the basis of that person's race, color, religion, sex, sexual orientation, gender identity, or national origin.
3. Placement goals do not create set-asides for specific groups, nor are they intended to achieve proportional representation or equal results.
4. Placement goals are not used to supersede merit selection principles.

ACTION ORIENTED PROGRAMS

41 CFR Section 60-2.17(c)

Tetra Tech, Inc develops these action-oriented programs to correct any problem areas identified in the Identification of Problem Areas 41 C.F.R. Section 60-2.17(b) and to attain established goals and objectives.

THE SELECTION PROCESS

1. At least annually, a detailed analysis of position descriptions is conducted to ensure that they accurately reflect position functions.
2. Job requirements are validated by division, department, location or other appropriate organizational units. Special attention is given to academic, experience, physical, and skill requirements to ensure that the requirements themselves do not constitute inadvertent discrimination. Job specifications are free from bias in regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disabled or veteran status, except where there is a bona fide occupational qualification. Job requirements are validated when the number of individuals from a particular race or gender group is disproportionately selected as determined by Impact Ratio studies.
3. Position descriptions and specifications are distributed to recruiting sources and members of management involved in the recruiting, screening, selection, and promotion processes.
4. Selection processes are evaluated at least annually to ensure that they are nondiscriminatory.
5. Individuals who have a role in the selection process are chosen with special care given to their qualifications for such roles and are provided any necessary ongoing training to ensure that the selection processes remain nondiscriminatory.

RECRUITMENT

Any one or all of the following techniques are used to improve recruitment and increase the flow of minority or female applicants:

1. Linkage with recruiting sources, which may include briefing sessions, plant tours, presentations by minority and female employees, and full descriptions of appropriate job openings and the selection process;
2. Encouragement of minority and female employees to refer qualified applicants;
3. Inclusion of women and minorities on the personnel staff;
4. Minority and female participation in career days, youth motivation programs and other similar programs in the community;
5. Minority and female participation in "job fairs;"
6. Active recruiting at various training institutions, especially those that have high minority and female enrollments; and
7. Expansion of help-wanted advertising to include the minority news media and women's interest media.

PROMOTIONS

Any one or all of the following techniques are used to improve promotional opportunities for minority and female employees:

1. Posting or general announcement of all appropriate job openings;
2. Assessment of current female and minority employees' academic, skill and experience levels;
3. Provision of job training and work-study programs;
4. Completion of performance appraisals;
5. Validation of job specifications;
6. Justification by supervisors when apparently qualified minority or female employees are passed over;
7. Establishment of career counseling programs, which may include attitude development, education aid, job rotations, buddy systems and similar programs;
8. Ongoing review of seniority practices in clauses and contracts to ensure that they are nondiscriminatory;
and
9. Review of all company-sponsored recreational and social activities to ensure that they are desegregated.

INTERNAL AUDIT AND REPORTING SYSTEMS

41 CFR Section 60-2.17(d)

Monitoring and reporting procedures are developed to evaluate the extent to which the goals of the affirmative action program are being met. Tetra Tech, Inc takes the following measures:

1. Information on race and sex is obtained when an application for a position is submitted.
2. An Adverse Impact (Impact Ratio) Analysis is performed when sufficient data exists on applicants, hires, promotions, and terminations to ensure compliance with the Uniform Employment Selection Guidelines.
3. Any training programs are analyzed regularly to eliminate potential discrimination in participation rates.
4. Any tests administered are routinely analyzed to uncover potential discrimination in grading scores or test results.
5. Compensation practices are reviewed at least annually for wage discrepancies.
6. The Availability Analysis for women and minorities is reviewed and good faith placement goals are established when necessary.
7. Progress toward established goals is reviewed at least annually for possible adjustments to employment practices.
8. Internal reporting is prepared as needed to determine why goals were not met.
9. Results of the affirmative action program are reviewed with all levels of management.
10. Top management is informed on a regular basis of the effectiveness of these policies and any recommendations for improvement.

GOALS PROGRESS
41 CFR Section 60-2.16, 60-2.17(d)

Tetra Tech, Inc. monitors progress toward goals.

RELIGION AND NATIONAL ORIGIN DISCRIMINATION GUIDELINES

41 CFR Section 60-50

Tetra Tech, Inc reaffirms its policy to afford equal employment opportunity to all individuals. Neither national origin nor religion is a factor in recruitment, selection, promotion, transfer, termination, or participation in training. The following activities are undertaken to ensure that religion and national origin are not used as a basis for employment decisions:

1. Employment practices are reviewed to ensure that members of particular religious and/or ethnic groups are given equal employment opportunities.
2. All employees, including supervisors, managers, and executives are informed of our commitment to provide equal employment opportunity without regard to religion or national origin.
3. Recruitment sources are informed of our commitment to provide equal employment opportunity without regard to religion or national origin.
4. Internal procedures exist to implement equal employment opportunity without regard to national origin or religion.

ACCOMMODATION FOR RELIGIOUS OBSERVANCE AND PRACTICE

41 CFR Section 60-50.3

The religious observances and practices of employees are accommodated by Tetra Tech, Inc, except where such accommodation would cause undue hardship on the conduct of business. The accommodation offered is determined by considering business necessity, financial expense and any personnel coverage problems that may result.

NONDISCRIMINATION

41 CFR Section 60-50.5

Tetra Tech, Inc does not discriminate against any qualified employee or applicant because of race, color, sex, sexual orientation, gender identity, age, disabled, or veteran status in implementing the policy concerning nondiscrimination based on religion or national origin

Firm Submitting Proposal: Tetra Tech, Inc.

Complete Address: 424 Lewis Hargett Circle, Suite 110, Lexington, KY 40503
Street City Zip

Contact Name: Andrew R Webster Title: Vice President, Environmental

Telephone Number: 734-213-5034 Fax Number: N/A

Email address: andy.webster@tetrattech.com

AFFIDAVIT

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

1. His/her name is Andrew R Webster and he/she is the individual submitting the proposal or is the authorized representative of Tetra Tech, 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 Procurement 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.

Andrew R Webster



STATE OF **Michigan**

COUNTY OF **Washtenaw**

The foregoing instrument was subscribed, sworn to and acknowledged before me

by **Andrew R Webster** on this the **19th** day

of **January**, 20**24**

My Commission expires: 5-16-2024

MICHAEL C. NOLTA
Notary Public, State of Michigan
County of Wayne
My Commission Expires 5-16-2024
Acting County of Washtenaw

Michael C. Nolta, Michigan
NOTARY PUBLIC, STATE AT LARGE

EQUAL OPPORTUNITY AGREEMENT

Standard Title VI Assurance

The Lexington Fayette-Urban County Government, (hereinafter referred to as the "Recipient") hereby agrees that as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78Stat.252, 42 U.S.C. 2000d-4 (hereinafter referred to as the "Act"), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, (49 CFR, Part 21) Nondiscrimination in Federally Assisted Program of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the "Regulations") and other pertinent directives, no person in the United States shall, on the grounds of race, color, national origin, sex, age (over 40), religion, sexual orientation, gender identity, veteran status, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance from the U.S. Department of Transportation, including the Federal Highway Administration, and hereby gives assurance that will promptly take any necessary measures to effectuate this agreement. This assurance is required by subsection 21.7(a) (1) of the Regulations.

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

Tetra Tech

Name of Business

WORKFORCE ANALYSIS FORM

Name of Organization: **Tetra Tech, Inc.**

| GRAND TOTAL | Total | | | |
|----------------------------------|------------------|--------------|---------------|-----------------|
| ALL US TT LOCATIONS | Employees | Male | Female | Minority |
| Exec/Sr Officials and Managers | 360 | 287 | 73 | 31 |
| First/Mid Officials and Managers | 1418 | 893 | 525 | 292 |
| Professionals | 5431 | 3272 | 2159 | 1474 |
| Technicians | 1457 | 1119 | 338 | 510 |
| Sales Workers | 0 | 0 | 0 | 0 |
| Administrative Support Workers | 544 | 118 | 426 | 279 |
| Craft Workers | 49 | 49 | 0 | 20 |
| Operatives | 210 | 199 | 11 | 105 |
| Laborers and Helpers | 42 | 42 | 0 | 15 |
| Service Workers | 1259 | 735 | 524 | 802 |
| TOTAL | 10770 | 6714 | 4056 | 3528 |
| PERCENTAGE | 100% | 62.3% | 37.7% | 32.8% |

| GRAND TOTAL | Male | | | | | | |
|----------------------------------|--------------|-------------|-------------|-------------|-------------|-------------|-------------|
| ALL US TT LOCATIONS | W | H | B | NHPI | A | NA | 2 |
| Exec/Sr Officials and Managers | 264 | 4 | 4 | 0 | 15 | 0 | 0 |
| First/Mid Officials and Managers | 734 | 48 | 31 | 1 | 55 | 3 | 21 |
| Professionals | 2445 | 263 | 159 | 5 | 263 | 23 | 114 |
| Technicians | 726 | 171 | 89 | 9 | 64 | 12 | 48 |
| Sales Workers | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Administrative Support Workers | 54 | 34 | 14 | 1 | 7 | 0 | 8 |
| Craft Workers | 29 | 11 | 4 | 0 | 2 | 2 | 1 |
| Operatives | 100 | 52 | 15 | 1 | 24 | 4 | 3 |
| Laborers and Helpers | 27 | 10 | 1 | 1 | 0 | 0 | 3 |
| Service Workers | 281 | 91 | 246 | 4 | 14 | 30 | 69 |
| TOTAL | 4660 | 684 | 563 | 22 | 444 | 74 | 267 |
| PERCENTAGE | 43.3% | 6.4% | 5.2% | 0.2% | 4.1% | 0.7% | 2.5% |

| GRAND TOTAL | Female | | | | | | |
|----------------------------------|---------------|-------------|-------------|-------------|-------------|-------------|-------------|
| ALL US TT LOCATIONS | W | H | B | NHPI | A | NA | 2 |
| Exec/Sr Officials and Managers | 65 | 1 | 2 | 0 | 5 | 0 | 0 |
| First/Mid Officials and Managers | 392 | 39 | 29 | 2 | 42 | 2 | 19 |
| Professionals | 1512 | 207 | 128 | 4 | 196 | 23 | 89 |
| Technicians | 221 | 59 | 15 | 2 | 25 | 1 | 15 |
| Sales Workers | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Administrative Support Workers | 211 | 87 | 56 | 1 | 38 | 3 | 30 |
| Craft Workers | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Operatives | 5 | 1 | 0 | 0 | 4 | 0 | 1 |
| Laborers and Helpers | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Service Workers | 176 | 72 | 197 | 1 | 6 | 17 | 55 |
| TOTAL | 2582 | 466 | 427 | 10 | 316 | 46 | 209 |
| PERCENTAGE | 24.0% | 4.3% | 4.0% | 0.1% | 2.9% | 0.4% | 1.9% |

Prepared by: Barbara Woo, Corporate Human Resources Date: 01 / 15 / 2024

(Name and Title)



LFUCG MWDBE PARTICIPATION FORM
Bid/RFP/Quote Reference # RFP #1-2024

The MWDBE and/or veteran 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 Procurement for approval immediately. **Failure to submit a completed form may cause rejection of the bid.**

| MWDBE Company, Name, Address, Phone, Email | MBE WBE or DBE | Work to be Performed | Total Dollar Value of the Work | % Value of Total Contract |
|---|----------------|---|--------------------------------|---------------------------|
| 1. KERAMIDA 401 N College Ave Indianapolis, IN 46202 | WBE | GHG Inventory, Target Setting, Emissions Reductions | \$245,750 | 48.7% |
| 2. HEC Hamblin Environmental 460 Old Germantown Rd Brooksville, KY | VOSB | As Needed Technical Support | \$15,000 | 3.0% |
| 3. | | | | |
| 4. | | | | |

The undersigned company representative submits the above list of MWDBE 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.

Tetra Tech

Company
 January 22, 2024

Date

Andrew R Webster 

Company Representative
 Vice President, Environmental

Title



LFUCG MWDBE SUBSTITUTION FORM
Bid/RFP/Quote Reference # RFP #1-2024

The substituted MWDBE and/or veteran 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 Procurement 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 MWDBE Company Name, Address, Phone, Email | MWDBE 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. N/A | | | | | |
| 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.

Tetra Tech

 Company

January 22, 2024

 Date

Andrew R Webster 

 Company Representative

Vice President, Environmental

 Title



MWDBE QUOTE SUMMARY FORM
 Bid/RFP/Quote Reference # RFP #1-2024

The undersigned acknowledges that the minority and/or veteran subcontractors listed on this form did submit a quote to participate on this project. Failure to submit this form may cause rejection of the bid.

| | |
|---|--|
| Company Name Tetra Tech | Contact Person Andrew R Webster |
| Address/Phone/Email 424 Lewis Hargett Circle, Suite 110 Lexington, KY 40503 734-213-5034 andy.webster@tetrattech.com | Bid Package / Bid Date RFP #1-2024 Consultant for Climate Pollution Reduction Planning January 23, 2024 |

| MWDBE 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 | Veteran |
|---|-------------------|---|----------------|---|---|--|---|---------|
| KERAMIDA 401 N College Ave Indianapolis, IN 46202 | Nicholas McCreary | (214) 934-6873 nmccreary@keramida.com | 1/4/2024 | GHG Inventory, Target Setting, Emissions Reductions | Email / Phone | \$245,750 | WBENC | |
| HEC Hamblin Environmental 460 Old Germantown Rd Brooksville, KY 41004 | Lee Hamblin | (606) 217-1905 lh460@gmail.com | 1/12/2024 | As Needed Technical Support | Email / Phone | \$15,000 | | X |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

(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.

Tetra Tech
Company
January 22, 2024
Date

Andrew R Webster
Company Representative
Vice President, Environmental
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. The LFUCG also has a 3% goal plan adopted by cited council to increase the participation of veteran owned businesses in the procurement process. In order to measure that goal LFUCG will track spending with MWDBE and Veteran contractors 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 Procurement/ 200 East Main Street / Room 338 / Lexington, KY 40507.

Bid/RFP/Quote # RFP #1-2024

Total Contract Amount Awarded to Prime Contractor for this Project \$505,000

| | |
|--|---|
| Project Name/ Contract # Consultant for Climate Pollution Reduction Planning RFP #1-2024 | Work Period/ From: _____ To: _____ |
| Company Name: Tetra Tech | Address: 424 Lewis Hargett Circle, Suite 110, Lexington, KY 40503 |
| Federal Tax ID: 95-4148514 | Contact Person: Andrew R Webster |

| 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 |
|--|---|--------------------------|---|-----------------------------------|---|------------------------------|----------------------------|
| KERAMIDA 401 N College Ave Indianapolis, IN 46202 Nicholas McCreary 214-934-6873 nmccreary@keramida.com | GHG Inventory, Target Setting, Emissions Reductions | \$245,750 | 48.7% | N/A | | | |
| Bluegrass Greensource 835 National Ave Lexington, KY Amy Sohner amy@bggreensource.org 859-321-2034 | Community Outreach | \$25,000 | 5.0% | N/A | | | |
| HEC Hamblin Environmental 460 Old Germantown Rd Brooksville, KY Lee Hamblin 606-217-1905 llh460@gmail.com | As Needed Technical Support | \$15,000 | 3.0% | N/A | | | |

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.

Tetra Tech

Company

January 22, 2024

Date

Andrew R Webster

Company Representative

Vice President, Environmental

Title

LFUCG STATEMENT OF GOOD FAITH EFFORTS

Bid/RFP/Quote # RFP #1-2024

By the signature below of an authorized company representative, we certify that we have utilized the following Good Faith Efforts to obtain the maximum participation by MWDBE and Veteran-Owned business enterprises on the project and can supply the appropriate documentation.

Advertised opportunities to participate in the contract in at least two (2) publications of general circulation media; trade and professional association publications; small and minority business or trade publications; and publications or trades targeting minority, women and disadvantaged businesses not less than fifteen (15) days prior to the deadline for submission of bids to allow MWDBE firms and Veteran-Owned businesses to participate.

Included documentation of advertising in the above publications with the bidders good faith efforts package

Attended LFUCG Procurement Economic Inclusion Outreach event

Attended pre-bid meetings that were scheduled by LFUCG to inform MWDBEs and/or Veteran-Owned Businesses of subcontracting opportunities

Sponsored Economic Inclusion event to provide networking opportunities for prime contractors and MWDBE firms and Veteran-Owned businesses

Requested a list of MWDBE and/or Veteran subcontractors or suppliers from LFUCG and showed evidence of contacting the companies on the list(s).

Contacted organizations that work with MWDBE companies for assistance in finding certified MWDBE firms and Veteran-Owned businesses to work on this project. Those contacted and their responses should be a part of the bidder's good faith efforts documentation.

Sent written notices, by certified mail, email or facsimile, to qualified, certified MWDBEs soliciting their participation in the contract not less than seven (7) days prior to the deadline for submission of bids to allow them to participate effectively.

Followed up initial solicitations by contacting MWDBEs and Veteran-Owned businesses to determine their level of interest.

Provided the interested MWDBE firm and/or Veteran-Owned business with adequate and timely information about the plans, specifications, and requirements of the contract.

Selected portions of the work to be performed by MWDBE firms and/or Veteran-Owned businesses in order to increase the likelihood of meeting the contract goals. This includes, where appropriate, breaking out contract work items

into economically feasible units to facilitate MWDBE and Veteran participation, even when the prime contractor may otherwise perform these work items with its own workforce

_____ Negotiated in good faith with interested MWDBE firms and Veteran-Owned businesses not rejecting them as unqualified without sound reasons based on a thorough investigation of their capabilities. Any rejection should be so noted in writing with a description as to why an agreement could not be reached.

_____ Included documentation of quotations received from interested MWDBE firms and Veteran-Owned businesses which were not used due to uncompetitive pricing or were rejected as unacceptable and/or copies of responses from firms indicating that they would not be submitting a bid.

_____ Bidder has to submit sound reasons why the quotations were considered unacceptable. The fact that the bidder has the ability and/or desire to perform the contract work with its own forces will not be considered a sound reason for rejecting a MWDBE and/or Veteran-Owned business's quote. Nothing in this provision shall be construed to require the bidder to accept unreasonable quotes in order to satisfy MWDBE and Veteran goals.

_____ Made an effort to offer assistance to or refer interested MWDBE firms and Veteran-Owned businesses to obtain the necessary equipment, supplies, materials, insurance and/or bonding to satisfy the work requirements of the bid proposal

_____ Made efforts to expand the search for MWBE firms and Veteran-Owned businesses beyond the usual geographic boundaries.

_____ Other--any other evidence that the bidder submits which may show that the bidder has made reasonable good faith efforts to include MWDBE and Veteran participation.

NOTE: Failure to submit any of the documentation requested in this section may be cause for rejection of bid. Bidders may include any other documentation deemed relevant to this requirement which is subject to approval by the MBE Liaison. Documentation of Good Faith Efforts must be submitted with the Bid, if the participation Goal is not met.

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

Tetra Tech

Company
1/22/2024

Date

Andrew R Webster 

Company Representative
Vice President, Environmental

Title

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 and IonWave Q&A, 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.
20. Contractor [or Vendor or Vendor's Employees] will not appropriate or make use of the Lexington-Fayette Urban County Government (LFUCG) name or any of its trade or service marks or property (including but not limited to any logo or seal), in any promotion, endorsement, advertisement, testimonial or similar use without the prior written consent of the government. If such consent is granted LFUCG reserves the unilateral right, in its sole discretion, to immediately terminate and revoke such use for any reason whatsoever. Contractor agrees that it shall cease and desist from any unauthorized use immediately upon being notified by LFUCG.



Signature

01/22/2024

Date



424 Lewis Hargett Circle, Suite 110
Lexington, KY 40503
Main: (859) 223-8000
www.tetrattech.com



TETRA TECH



CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)
02/19/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

| | | | |
|---|--|--|---------------|
| PRODUCER Aon Risk Insurance Services West, Inc. Los Angeles CA Office 707 Wilshire Boulevard Suite 2600 Los Angeles CA 90017-0460 USA | CONTACT NAME: PHONE (A/C. No. Ext): (866) 283-7122 FAX (A/C. No.): (800) 363-0105 | | |
| | E-MAIL ADDRESS: | | |
| INSURED Tetra Tech, Inc. 424 Lewis Hargett Circle Suite 110 Lexington KY 40503 USA | INSURER(S) AFFORDING COVERAGE | | NAIC # |
| | INSURER A: American International Group UK Ltd | | AA1120187 |
| | INSURER B: Allied World Surplus Lines Insurance Co | | 24319 |
| | INSURER C: Zurich American Ins Co | | 16535 |
| | INSURER D: | | |
| | INSURER E: | | |

COVERAGES **CERTIFICATE NUMBER:** 570103968232 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS. **Limits shown are as requested**

| INSR LTR | TYPE OF INSURANCE | ADDL INSD | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS | |
|----------|---|-----------|----------|--|-------------------------|-------------------------|--|----------------------------|
| C | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> X, C, U Coverage GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER: | Y | | GLO181740605 | 10/01/2023 | 10/01/2024 | EACH OCCURRENCE | \$2,000,000 |
| | | | | | | | DAMAGE TO RENTED PREMISES (Ea occurrence) | \$1,000,000 |
| | | | | | | | MED EXP (Any one person) | \$10,000 |
| | | | | | | | PERSONAL & ADV INJURY | \$2,000,000 |
| | | | | | | | GENERAL AGGREGATE | \$4,000,000 |
| | | | | | | | PRODUCTS - COMP/OP AGG | \$4,000,000 |
| C | <input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY | Y | | BAP 1857085 05 | 10/01/2023 | 10/01/2024 | COMBINED SINGLE LIMIT (Ea accident) | \$5,000,000 |
| | | | | | | | BODILY INJURY (Per person) | |
| | | | | | | | BODILY INJURY (Per accident) | |
| | | | | | | | PROPERTY DAMAGE (Per accident) | |
| A | <input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$100,000 | | | 62785232 | 10/01/2023 | 10/01/2024 | EACH OCCURRENCE | \$5,000,000 |
| | | | | | | | AGGREGATE | \$5,000,000 |
| C | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below | Y/N | | WC254061605 | 10/01/2023 | 10/01/2024 | <input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER | |
| | | N/A | | AOS | 10/01/2023 | 10/01/2024 | E.L. EACH ACCIDENT | \$1,000,000 |
| | | | | WC185708705 | | | E.L. DISEASE-EA EMPLOYEE | \$1,000,000 |
| | | | | WI | | | E.L. DISEASE-POLICY LIMIT | \$1,000,000 |
| B | Environmental Contractors and Prof | | | 03120276 Prof/Poll-Claims Made Cov SIR applies per policy terms & conditions | 10/01/2023 | 10/01/2024 | Each Claim Aggregate | \$1,000,000 \$1,000,000 |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: RFP #1-2024 Climate Pollution Reduction Planning. Lexington-Fayette Urban County Government is included as Additional Insured in accordance with the policy provisions of the General Liability and Automobile Liability policies as required by required contract. General Liability policy evidenced herein is Primary and Non-Contributory to other insurance available to an Additional Insured, but only in accordance with the policy provisions as required by required contract. Stop Gap Coverage for the following States: OH, ND, WA, WY.

| | |
|---|---|
| CERTIFICATE HOLDER Lexington-Fayette Urban County Government 200 E. Main St. Lexington KY 40507 USA | CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. |
| | AUTHORIZED REPRESENTATIVE |

Holder Identifier : 179

570103968232

Certificate No :



BLANKET NOTIFICATION TO OTHERS OF CANCELLATION OR NONRENEWAL ENDORSEMENT

This endorsement adds the following to Part Six of the policy.

**PART SIX
CONDITIONS**

Blanket Notification to Others of Cancellation or Nonrenewal

1. If we cancel or non-renew this policy by written notice to you, we will mail or deliver notification that such policy has been cancelled or non-renewed to each person or organization shown in a list provided to us by you if you are required by written contract or written agreement to provide such notification. However, such notification will not be mailed or delivered if a conditional notice of renewal has been sent to you. Such list:
 - a. Must be provided to us prior to cancellation or non-renewal;
 - b. Must contain the names and addresses of only the persons or organizations requiring notification that such policy has been cancelled or non-renewed; and
 - c. Must be in an electronic format that is acceptable to us.
2. Our notification as described in Paragraph 1. above will be based on the most recent list in our records as of the date the notice of cancellation or non-renewal is mailed or delivered to you. We will mail or deliver such notification to each person or organization shown in the list:
 - a. Within seven days of the effective date of the notice of cancellation, if we cancel for non-payment of premium; or
 - b. At least 30 days prior to the effective date of:
 - (1) Cancellation, if cancelled for any reason other than nonpayment of premium; or
 - (2) Non-renewal, but not including conditional notice of renewal.
3. Our mailing or delivery of notification described in Paragraphs 1. and 2. above is intended as a courtesy only. Our failure to provide such mailing or delivery will not:
 - a. Extend the policy cancellation or non-renewal date;
 - b. Negate the cancellation or non-renewal; or
 - c. Provide any additional insurance that would not have been provided in the absence of this endorsement.
4. We are not responsible for the accuracy, integrity, timeliness and validity of information contained in the list provided to us as described in Paragraphs 1. and 2. above.

All other terms and conditions of this policy remain unchanged.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective
Insured

Policy No.

Endorsement No.
Premium \$

Insurance Company



Blanket Notification to Others of Cancellation or Non-Renewal

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Policy No. GLO 1817406-05

Effective Date: 10/01/2023

This endorsement applies to insurance provided under the:

Commercial General Liability Coverage Part

- A.** If we cancel or non-renew this Coverage Part by written notice to the first Named Insured, we will mail or deliver notification that such Coverage Part has been cancelled or non-renewed to each person or organization shown in a list provided to us by the first Named Insured if you are required by written contact or written agreement to provide such notification. Such list:
1. Must be provided to us prior to cancellation or non-renewal;
 2. Must contain the names and addresses of only the persons or organizations requiring notification that such Coverage Part has been cancelled or non-renewed; and
 3. Must be in an electronic format that is acceptable to us.
- B.** Our notification as described in Paragraph **A.** of this endorsement will be based on the most recent list in our records as of the date the notice of cancellation or non-renewal is mailed or delivered to the first Named Insured. We will mail or deliver such notification to each person or organization shown in the list:
1. Within 10 days of the effective date of the notice of cancellation, if we cancel for non-payment of premium; or
 2. At least 30 days prior to the effective date of:
 - a. Cancellation, if cancelled for any reason other than nonpayment of premium; or
 - b. Non-renewal, but not including conditional notice of renewal,unless a greater number of days is shown in the Schedule of this endorsement for the mailing or delivering of such notification with respect to Paragraph **B.1.** or Paragraph **B.2.** above.
- C.** Our mailing or delivery of notification described in Paragraphs **A.** and **B.** of this endorsement is intended as a courtesy only. Our failure to provide such mailing or delivery will not:
1. Extend the Coverage Part cancellation or non-renewal date;
 2. Negate the cancellation or non-renewal; or
 3. Provide any additional insurance that would not have been provided in the absence of this endorsement.

D. We are not responsible for the accuracy, integrity, timeliness and validity of information contained in the list provided to us as described in Paragraphs **A.** and **B.** of this endorsement.

| SCHEDULE | |
|---|----|
| The total number of days for mailing or delivering with respect to Paragraph B.1. of this endorsement is amended to indicate the following number of days: | * |
| The total number of days for mailing or delivering with respect to Paragraph B.2. of this endorsement is amended to indicate the following number of days: | ** |
| * If a number is not shown here, 10 days continues to apply. ** If a number is not shown here, 30 days continues to apply. | |

All other terms and conditions of this policy remain unchanged.



ZURICH®

Blanket Notification to Others of Cancellation or Non-Renewal

| Policy No. | Eff. Date of Pol. | Exp. Date of Pol. | Eff. Date of End. | Producer No. | Add'l. Prem | Return Prem. |
|----------------|-------------------|-------------------|-------------------|--------------|-------------|--------------|
| BAP 1857085-05 | 10/01/2023 | 10/01/2024 | | 75272000 | INCL | |

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the:

Commercial Automobile Coverage Part

- A.** If we cancel or non-renew this Coverage Part by written notice to the first Named Insured, we will mail or deliver notification that such Coverage Part has been cancelled or non-renewed to each person or organization shown in a list provided to us by the first Named Insured if you are required by written contact or written agreement to provide such notification. However, such notification will not be mailed or delivered if a conditional notice of renewal has been sent to the first Named Insured. Such list:
 - 1. Must be provided to us prior to cancellation or non-renewal;
 - 2. Must contain the names and addresses of only the persons or organizations requiring notification that such Coverage Part has been cancelled or non-renewed; and
 - 3. Must be in an electronic format that is acceptable to us.
- B.** Our notification as described in Paragraph **A.** of this endorsement will be based on the most recent list in our records as of the date the notice of cancellation or non-renewal is mailed or delivered to the first Named Insured. We will mail or deliver such notification to each person or organization shown in the list:
 - 1. Within seven days of the effective date of the notice of cancellation, if we cancel for non-payment of premium; or
 - 2. At least 30 days prior to the effective date of:
 - a. Cancellation, if cancelled for any reason other than nonpayment of premium; or
 - b. Non-renewal, but not including conditional notice of renewal.
- C.** Our mailing or delivery of notification described in Paragraphs **A.** and **B.** of this endorsement is intended as a courtesy only. Our failure to provide such mailing or delivery will not:
 - 1. Extend the Coverage Part cancellation or non-renewal date;
 - 2. Negate the cancellation or non-renewal; or
 - 3. Provide any additional insurance that would not have been provided in the absence of this endorsement.
- D.** We are not responsible for the accuracy, integrity, timeliness and validity of information contained in the list provided to us as described in Paragraphs **A.** and **B.** of this endorsement.

All other terms and conditions of this policy remain unchanged.

RESOLUTION NO. _____ – 2024

A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE THE ENGINEERING SERVICES AGREEMENT (AWARDED PURSUANT TO RFP NO. 1-2024) WITH TETRA TECH, INC. FOR THE DEVELOPMENT OF THE COMPREHENSIVE CLIMATE ACTION PLAN FOR THE LEXINGTON-FAYETTE COUNTY METROPOLITAN STATISTICAL AREA, FOR THE DIVISION OF ENVIRONMENTAL SERVICES, AT A COST NOT TO EXCEED \$505,000.00.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized and directed to execute the Engineering Services Agreement (awarded pursuant to RFP No. 1-2024), which is attached hereto and incorporated herein by reference, with Tetra Tech, Inc., for the development of the Comprehensive Climate Action Plan for the Lexington-Fayette County Metropolitan Statistical Area, for the Division of Environmental Services.

Section 2 – That an amount, not to exceed the sum of \$505,000.00, be and hereby is approved for payment to Tetra Tech, Inc., from account # 3170-313201-3094-71299, pursuant to the terms of the Engineering Services Agreement.

Section 3 – This Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF THE URBAN COUNTY COUNCIL

0231-24:EPT_4860-4688-8618, v. 1

RESOLUTION NO. 119 – 2024

A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE THE ENGINEERING SERVICES AGREEMENT (AWARDED PURSUANT TO RFP NO. 1-2024) WITH TETRA TECH, INC. FOR THE DEVELOPMENT OF THE COMPREHENSIVE CLIMATE ACTION PLAN FOR THE LEXINGTON-FAYETTE COUNTY METROPOLITAN STATISTICAL AREA, FOR THE DIVISION OF ENVIRONMENTAL SERVICES, AT A COST NOT TO EXCEED \$505,000.00.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized and directed to execute the Engineering Services Agreement (awarded pursuant to RFP No. 1-2024), which is attached hereto and incorporated herein by reference, with Tetra Tech, Inc., for the development of the Comprehensive Climate Action Plan for the Lexington-Fayette County Metropolitan Statistical Area, for the Division of Environmental Services.

Section 2 – That an amount, not to exceed the sum of \$505,000.00, be and hereby is approved for payment to Tetra Tech, Inc., from account # 3170-313201-3094-71299, pursuant to the terms of the Engineering Services Agreement.

Section 3 – This Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: March 21, 2024

Linda Gorton

MAYOR

ATTEST:

[Signature]

CLERK OF THE URBAN COUNTY COUNCIL

ENGINEERING SERVICES AGREEMENT

THIS IS AN AGREEMENT made as of March 22, 2024, between the LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT (**OWNER**) and Tetra Tech, Inc., 424 Lewis Hargett Circle, Suite 110, Lexington, Kentucky 40503 (**CONSULTANT**). **OWNER** intends to proceed with the Climate Pollution Reduction Planning (Comprehensive Climate Action Plan) Consulting Services as described in the attached Exhibit A, "RFP #1-2024."

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, environmental, structural, mechanical, electrical, and sanitary engineering services incidental thereto.

1.2. Project Phase

After written authorization to proceed, **CONSULTANT** shall:

- 1.2.1. Notify the **OWNER** in writing of its authorized representative who shall act as Project Engineer and liaison representative between the **CONSULTANT** and the **OWNER**.
- 1.2.2. The **CONSULTANT** must perform all duties necessary to fully complete the deliverables described in attached Exhibit A "Consultant for Climate Pollution Reduction Planning RFP #1-2024", and attached Exhibit C the "Proposal of Engineering Services and Related Matters" (the **CONSULTANT'S** response to RFP #1-2024).

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 B**, then **EXHIBIT A**, and then **EXHIBIT C**.

- 1.2.3 The **CONSULTANT** shall provide written documentation of all meetings and be responsible for incorporating all comments and changes resulting therefrom in final work product.
- 1.2.4. The **CONSULTANT** shall post all initial draft work products on the project document management portal. If the project document management portal is not

functional on the draft posting date, the CONSULTANT shall submit five (5) copies (hardcover) of all initial draft final work products for this **PROJECT**. 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**.

1.2.5. 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 post all draft final work products on the project document management portal. If the project document management portal is not functional on the draft posting date, the **CONSULTANT** shall five (5) copies (hardcover). 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.

1.2.6 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 render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of **CONSULTANT**.

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 Contractor(s).
- 3.6. Furnish or direct **CONSULTANT** to provide, necessary 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. See attached **EXHIBIT C** "Proposal of Engineering Services and Related Matters" for the 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 ninety (90) 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 and any related fees.
 - 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** 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 reasonably attempt to resolve the delay. If the parties cannot mutually agree to an extension of time or an adjustment, Section 6.5 under "DISPUTES" of this Agreement shall apply. If the above type of delay would prevent complete performance of the **PROJECT**/Final Task Order within ninety (90) 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 and any related fees.

SECTION 5 - PAYMENTS TO CONSULTANT

5.1. Methods of Payment for Services of CONSULTANT.

5.1.1. For Basic Services

OWNER shall issue a purchase order for in the amount of \$505,000 for work performed under this Agreement by **CONSULTANT** or its sub-consultant/s per **EXHIBIT C**.

5.2. Times of Payment

5.2.1. CONSULTANT shall submit 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 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 himself with and shall at all times comply with 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.
- 6.3.4. The **CONSULTANT** understands that this Agreement is being paid in whole or in part by a federal grant (02D55923) awarded to the **OWNER** by the Environmental Protection Agency. The Grant Agreement is attached hereto and incorporated herein by reference as **EXHIBIT B**.

6.4. Successors and Assigns

- 6.4.1. **CONSULTANT** binds itself and his partners, successors, executors, administrators, assigns and legal representatives to this Agreement in respect to all covenants, agreements, and obligations of this Agreement. **CONSULTANT** shall not assign any interest, obligation or benefit in this Agreement. **CONSULTANT** shall not assign any interest, obligation or benefit in this Agreement nor transfer any interest in the same, whether by assignment or novation, without prior written consent of **OWNER**.
- 6.4.2. The **CONSULTANT** shall not subcontract more than fifty percent (50%) of the work, based upon dollar value of the work. The **CONSULTANT** shall obtain written approval prior to subletting or assigning any services contained in this Agreement, and consent to sublet or assign any part of this Agreement shall not be construed to relieve the **CONSULTANT** of any responsibility for compliance with the provisions of this Agreement.
- 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 & Public Works, 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

The **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.

The **CONSULTANT** shall be responsible for the accuracy of all work, even though raw data, reports, Drawings and Specifications have been accepted by the **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 the **OWNER**, the **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 the **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 except the **OWNER** without prior approval of the **OWNER** unless required by law

6.8. Access to Records

The **CONSULTANT** and his 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 five (5) 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 five(5) years after the date of final payment may be grounds for the **OWNER** to disqualify the **CONSULTANT** from consideration for future consultant engineering Agreements, and **CONSULTANT** agrees to indemnify **OWNER**, as provided in Section 6.9.2. due to **CONSULTANT**'s failure to maintain records as required by this Section.

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

- a. It is understood and agreed by the parties that **CONSULTANT** hereby assumes the entire responsibility and liability for any and all damages to persons or property caused by or resulting from or arising out of any act or omission on the part of **CONSULTANT** or its employees, agents, servants, owners, principals, licensees, assigns or subcontractors of any tier (hereinafter "**CONSULTANT**") under or in connection with this agreement and/or the provision of goods or services and the performance or failure to perform any work required thereby.
- b. **CONSULTANT** shall indemnify, save, hold harmless and defend the Lexington-Fayette Urban County Government and its elected and appointed officials, employees, agents, volunteers, and successors in interest (hereinafter "**OWNER**") from and against all liability, damages, and losses, including but not limited to, demands, claims, obligations, causes of action, judgments, penalties, fines, liens, costs, expenses, interest, 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 performance or breach of the agreement and/or the provision of goods or services provided that: (a) it 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 the negligent acts, errors or omissions or willful misconduct of the **CONSULTANT**; and (b) not caused solely by the active negligence or willful misconduct of **OWNER**.
- c. Notwithstanding, the foregoing, with respect to any professional services performed by **CONSULTANT** hereunder (and to the fullest extent permitted by law), **CONSULTANT** shall indemnify, save, hold harmless and defend **OWNER** from and against any and all liability, damages and losses, including but not limited to, demands, claims, obligations, causes of action, judgments, penalties, fines, liens, costs, expenses, interest, defense costs and reasonable attorney's fees, for any damage due to death or injury to any person or injury to any property (including the loss of use resulting therefrom) to the extent arising out of, pertaining to or relating to the negligence, recklessness or willful misconduct of **CONSULTANT** in the performance of this agreement.
- d. 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 reasonable 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.

- e. These provisions shall in no way be limited by any financial responsibility or insurance requirements, and shall survive the termination of this agreement.
- f. **OWNER** is a political subdivision of the Commonwealth of Kentucky. **CONSULTANT** acknowledges and agrees that **OWNER** is unable to provide indemnity or otherwise save, hold harmless, or defend the **CONSULTANT** in any manner.

6.9.3. 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.

6.9.4. INSURANCE REQUIREMENTS

6.9.4.1. 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 Contractor shall carry Builders Risk coverage at a level sufficient to cover the replacement cost of any equipment or machinery used at the work site, if applicable.
- 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), which shall include Business interruption coverage and this policy or endorsement shall include Environmental Casualty coverage for any services performed pursuant to the contract, and/or a separate Professional Liability Policy shall be obtained unless it is deemed not to apply by **OWNER**. (**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.

6.9.4.2. 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.

6.9.4.3. 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.

6.9.4.4. Verification of Coverage

CONSULTANT agrees to furnish **OWNER** with all applicable Certificates of Insurance signed by a person authorized by the insurer to bind coverage on its behalf prior to final award, and if requested, shall provide **OWNER** copies of all insurance policies, including endorsements.

6.9.5. 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**.

6.9.6. DEFINITION OF DEFAULT

CONSULTANT understands and agrees that the failure to comply with any of these 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.

7.2.1. 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 Jennifer Carey, P.E., Director of the Division of Environmental Services (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, and C 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:
Tetra Tech Inc

BY: Linda Gorton
LINDA GORTON, MAYOR

BY: [Signature]

ATTEST:

EXHIBIT A
REQUEST FOR PROPOSALS FOR
CONSULTANT FOR CLIMATE POLLUTION REDUCTION PLANNING
RFP #1-2024

GRANT AGREEMENT

EXHIBIT B

EXHIBIT C
PROPOSAL OF ENGINEERING SERVICES
AND RELATED MATTERS



Lexington-Fayette Urban County Government

Master

200 E. Main St
Lexington, KY 40507

File Number: 0232-24

File ID: 0232-24

Type: Resolution

Status: Approved

Version: 1

Contract #: 085-2024

In Control: Urban County Council

File Created: 02/26/2024

File Name: MOU-Goodwill Rent Assistance 2.26.24

Final Action: 03/07/2024

Title: A Resolution authorizing the Mayor to execute an Agreement, the final form of which shall be subject to approval of the Dept. of Law, with Goodwill Industries of Ky., Inc., at a cost not to exceed \$400,000 (\$150,000 in FY 24), for the provision of housing stabilization services and payment of rent and security deposit assistance on behalf of eligible families referred by the McKinney Vento Homeless Office of Fayette County Public Schools, and further authorizing the Mayor to execute any other needed Amendments or Agreements related to the use of these funds. [Dept. of Housing Advocacy and Community Development, Lanter]

Notes: Stamped and filed in the CCO. Returned to Dina Melvin 4/25/2024. MS

Sponsors:

Enactment Date: 03/07/2024

Attachments: Bluesheet_Goodwill_Rent_Assistance 2.26.24 (002), MOA (Goodwill) 4881-6204-3299 v.1 4866-5264-2725 v.1 (002), 232-24 Agreement with Goodwill 4867-8199-3641 v.1.docx, Contract #085-2024, R-095-2024

Enactment Number: R-095-2024

Deed #:

Hearing Date:

Drafter: Dina Melvin

Effective Date:

History of Legislative File

| Ver- sion: | Acting Body: | Date: | Action: | Sent To: | Due Date: | Return Date: | Result: |
|---------------|-----------------------------------|------------|------------------------------------|----------------------|------------|-----------------|---------|
| 1 | Urban County Council Work Session | 03/05/2024 | Approved and Referred to Docket | Urban County Council | 03/07/2024 | | Pass |
| 1 | Urban County Council | 03/07/2024 | Received First Reading | Urban County Council | 03/07/2024 | | |
| 1 | Urban County Council | 03/07/2024 | Suspended Rules for Second Reading | | | | Pass |
| 1 | Urban County Council | 03/07/2024 | Approved | | | | Pass |

Text of Legislative File 0232-24

Title

A Resolution authorizing the Mayor to execute an Agreement, the final form of which shall be subject to approval of the Dept. of Law, with Goodwill Industries of Ky., Inc., at a cost not to exceed \$400,000 (\$150,000 in FY 24), for the provision of housing stabilization services and payment of rent and security deposit assistance on behalf of eligible families referred by the McKinney Vento Homeless Office of Fayette County Public Schools, and further authorizing the Mayor to execute any other needed Amendments or Agreements related to the use of these funds. [Dept. of Housing Advocacy and Community Development, Lanter]

Summary

Authorization to execute a Memorandum of Agreement with Goodwill Industries of Kentucky, Inc. and allocate funds not to exceed \$400,000 to provide housing stability services and pay rent assistance on behalf of eligible families referred by the McKinney Vento Homeless Office of Fayette County Public Schools for the period of March 1, 2024, through June 30, 2025. Budget Amendment in process for \$150,000 for FY 2024. Additional funds to be Budgeted in FY 2025. (L0232-24) (Lanter)

Budgetary Implications [select]: Yes

Advance Document Review:

Law: Yes, Completed by [Brittany Smith, 02-23-2024]

Risk Management: Yes/No, Completed by [Official, Date]}

Fully Budgeted [select]: Yes

Account Number: 1145-900331-0001-71101

This Fiscal Year Impact: \$400,000 (\$150,000 in FY 2024)

Annual Impact: \$150,000.00

Project:

Activity:

Budget Reference:

Current Balance:



TO: LINDA GORTON, MAYOR
URBAN COUNTY COUNCIL

FROM: CHARLIE LANTER, COMMISSIONER
HOUSING ADVOCACY & COMMUNITY DEVELOPMENT

DATE: February 26, 2023

SUBJECT: Authorization to execute a Memorandum of Agreement with Goodwill Industries of Kentucky, Inc. to provide housing stability services and pay rent assistance on behalf of eligible families referred by the McKinney Vento Homeless Office of Fayette County Public Schools

Request: Council authorization to execute a Memorandum of Agreement with Goodwill Industries of Kentucky, Inc. (Goodwill) and allocate funds not to exceed \$400,000.00 for the provision of housing stability services and payment of rent and security deposit assistance on behalf of eligible families referred to Goodwill by the McKinney Vento Homeless Office of Fayette County Public Schools.

Purpose of Request: The Department of Housing Advocacy and Community Development seeks to invest in sustainable housing stability services to help the most vulnerable residents of Lexington, who are homeless or at risk of homelessness, find long-term housing stability. At Council's request, the Department has negotiated a partnership with Goodwill to provide for payment of security deposits and first months' rent on behalf of homeless families with children enrolled in Fayette County Public Schools. Subject to Council's approval, this new program will be funded by interest earned from the Housing Stabilization Program's federal Emergency Rental Assistance grant.

The agreement with Goodwill will be for a fixed term, beginning on March 1, 2024, and ending on June 30, 2025.

What is the cost in this budget year and future budget years? The allocation not to exceed \$400,000.00 in the proposed agreement with Goodwill anticipates utilizing interest earned from the Housing Stabilization Program's federal Emergency Rental assistance grant. Upon Council's approval, an initial allocation of \$150,000.00 will be made to Goodwill for FY24, with a further allocation anticipated in FY25, subject to Council's approval at that time.

Are the funds budgeted? A budget amendment is in progress.

File Number: 0232-24

Director/Commissioner: Wright/Lanter

MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT ("Agreement"), made and entered into on the _____ day of _____ 2024, by and between the **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, an urban county government of the COMMONWEALTH OF KENTUCKY created pursuant to KRS Chapter 67A ("LFUCG"), 200 East Main Street, Lexington, Kentucky 40507, and **GOODWILL INDUSTRIES OF KENTUCKY, INC.** ("Organization"), whose post office address is 2820 West Broadway, Louisville, Kentucky 40211.

WITNESSETH

WHEREAS, LFUCG seeks to invest in sustainable Housing Stability Services to help the most vulnerable residents of Lexington, who are homeless or at risk of homelessness, find long-term housing stability;

WHEREAS, the Organization, in partnership with Fayette County Public Schools, proposes to pay benefits to all eligible families, who are referred to them by the McKinney Vento Homeless Office of Fayette County Public Schools, to help secure stable housing;

WHEREAS, LFUCG believes that payment of funds to the Organization for this proposal fulfills a public purpose in helping the most vulnerable residents of Lexington, homeless families with children, find long-term housing stability.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the receipt and sufficiency of which are acknowledged, the parties hereby agree as follows:

- 1. EFFECTIVE DATE; TERM.** This Agreement shall commence on March 1, 2024 and shall last until June 30, 2025, unless terminated by LFUCG at an earlier time.
- 2. ELIGIBILITY CRITERIA.** Eligible families shall be all those: 1) who are referred to the Organization by the McKinney Vento Homeless Office of Fayette County Public Schools; and, 2) who have provided documentation that is reasonably sufficient to determine that the family has been approved for a piece of rental property and that payment of benefits, as specified herein, will allow the family to move in to that rental property ("Eligible Family").
- 3. SCOPE OF SERVICES.** Organization shall perform the following services in a timely, workmanlike and professional manner (the "Services"):
 - a. Determine eligibility of all families by reviewing and retaining copies of:
 - 1) leases (signed or unsigned);
 - 2) approved rental applications;
 - 3) letters from prospective landlords; or,

- 4) similar documentation demonstrating the family's eligibility as defined in numbered paragraph 2;
- b. Pay to all Eligible Families an amount equal to:
 - 1) the first month's rent, the total amount of which shall include all recurring fees and charges due under the lease but which may not exceed fifty (50) percent of the Eligible Family's gross monthly income; plus
 - 2) the security deposit, but the amount paid shall not exceed the monthly rent due under the lease;
- c. Provide ongoing housing stability services to all Eligible Families, which shall include those services that enable households to maintain or obtain housing, which may include any combination of the following:
 - 1) housing counseling;
 - 2) fair housing counseling;
 - 3) housing navigators that help households access other assistance programs or find housing;
 - 4) case management related to housing stability;
 - 5) housing-related services for survivors of domestic abuse or human trafficking; and/or,
 - 6) specialized services for individuals with disabilities or seniors that support their ability to access or maintain housing.

4. PAYMENT. LFUCG shall pay Organization a total amount not to exceed Four Hundred Thousand dollars (\$400,000.00)("Total Funds") during the term of the Agreement for the performance of the Services. Further, an amount not to exceed One Hundred Fifty Thousand dollars (\$150,000.00) ("FY 24 Award"), which shall be deducted from the Total Funds, shall be available as payment for the Services starting March 1, 2024. No amounts, for which the total cost incurred exceed the FY 24 Award (i.e., \$150,000.00), shall be paid to the Organization prior to July 1, 2024. Further, the parties agree that payment of any amounts that exceed the FY 24 Award is contingent upon appropriation by the Lexington-Fayette Urban County Council in Fiscal Year 2025. In the event that the Fiscal Year 2025 funding is reduced or eliminated in LFUCG's final adopted budget, LFUCG shall notify Organization as soon as feasible and will take steps to modify or terminate the remainder of this Agreement.

- a. If Organization fails to expend at least fifty (50) percent of the FY 24 Award before June 30, 2024, Organization understands and agrees that LFUCG may: (1) require a performance improvement plan before payment of the balance of the Total Funds; and/or (2) reduce the amount of the Total Funds under this Agreement, in proportion to the amount of the FY 24 Award that Organization failed to expend.
- b. Payments shall be made quarterly for expenditures the Organization actually incurred, only after receipt of quarterly invoices. Uses of the Total Funds are limited to the services provided herein and may not be spent by the Organization for any other purpose without the prior written consent of LFUCG. Absent any additional

written agreement stating otherwise, any travel or other expenses are included in the above payment.

- c. LFUCG shall make payment under this Agreement upon timely submission of approved invoice(s) from Organization specifying the documentation and information required by this Agreement, accompanied by data satisfactory to LFUCG to document entitlement to payment for the Services performed to date. LFUCG shall have thirty (30) days from the date of receipt of an approved invoice to pay the invoice amount. LFUCG reserves the right to refuse payment if it is determined by LFUCG that the Services performed or materials provided for the Services are inadequate or defective.
- d. LFUCG also reserves the right to reject any invoice submitted for services rendered in previous quarters. Termination of the Agreement and reallocation of unspent funds may occur for failure to submit an invoice, at the discretion of the LFUCG.

5. UNABLE TO COMPLETE; RETURN OF FUNDS. If it becomes apparent to Organization that it will be unable to complete the Services either in the manner or for the amount described in this Agreement, then the Organization shall immediately provide written notice to LFUCG with a complete and detailed written explanation of its inability to comply with the terms of the Agreement, any proposed changes, and the reasons for those changes. If the Organization fails to use any amount of funds provided under this Agreement within the term provided above, then the Organization agrees to return the balance of the funds to the LFUCG within thirty (30) days of the termination of this Agreement. The Organization also understands and agrees that this provision shall survive termination of this Agreement.

6. TERMINATION. LFUCG, through the Mayor or the Mayor's designee, may terminate this Agreement for any reason whatsoever by providing Organization with at least thirty (30) days advance written notice. Organization shall be entitled for payment of all work performed up to that period of time, calculated on a reasonable basis.

- a. In the event of a termination based upon a material condition of non-performance or default by Organization, LFUCG shall provide Organization advance written notice and a reasonable period of time to cure the breach.
- b. Organization may only terminate this Agreement based upon LFUCG's failure to timely pay for properly invoiced and accepted work. Organization shall provide LFUCG with at least thirty (30) days advance written notice and an opportunity to cure prior to termination.
- c. Organization acknowledges that LFUCG is a governmental entity, and that the validity of this Agreement is based upon the availability of appropriated funding. In the event that such funding is not appropriated in a future fiscal year, LFUCG's obligations under this Agreement shall automatically expire without penalty to the LFUCG thirty (30) days after written notice to

Organization. LFUCG shall exercise any application of this provision in good faith.

7. REPORTING. By the Tenth of each month, Organization shall provide LFUCG with an activity report summarizing all Services performed during the previous month. Specifically, monthly reports shall provide information on the number of individuals served by the Organization and other such information as required by LFUCG. Reports and updates related to the provisions of the Services shall be in the form and manner reasonably specified by LFUCG.

8. PRIVACY. The Organization agrees to establish data privacy and security requirements, to the extent applicable. The Organization must develop and implement written procedures to ensure:

- a. All records containing personally identifying information (as defined in the U.S. Department of Housing and Urban Development's standards for participation, data collection, and reporting) of any individual or family who applies for and/or receives rental assistance will be kept secure and confidential;
- b. The address or location of any domestic violence, dating violence, sexual assault, or stalking shelter project assisted under this Agreement will not be made public, except with written authorization of the person responsible for the operation of the shelter; and
- c. The address or location of any housing of a program participant will not be made public, except as provided under a preexisting privacy policy of LFUCG and/or the Organization, and consistent with state and local laws regarding privacy and obligations of confidentiality.

The confidentiality procedures of Organization must be in writing and must be maintained in accordance with this section. The Organization understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of LFUCG's responsibilities with respect to services provided under this Agreement, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

9. REGISTRATION; COMPLIANCE; AUTHORITY TO SIGN. Organization shall be lawfully registered or authorized to do business in the Commonwealth of Kentucky and Lexington-Fayette County and shall at all times comply with any and all applicable federal, state, and local laws, ordinances, and regulations. LFUCG may request proof that Organization has timely filed federal, state, or local tax forms which shall be provided by Organization on a timely basis. The person signing this Agreement on behalf of Organization is fully authorized to do so.

10. INSURANCE; INDEMNITY.

- a. At all times relevant to the performance of this Agreement, Organization shall maintain insurance coverages in at least the following amounts, which shall be properly filed and approved by the Kentucky Department of Insurance. Evidence of such coverage shall be made available to LFUCG upon request. General Liability (\$1 million per occurrence, \$2 million aggregate or \$2 million combined single limit); Commercial Automobile Liability (combined single, \$1 million per occurrence); (if applicable) Professional Liability (\$1 million per occurrence, \$2 million aggregate); Worker's Compensation (Statutory); and Employer's Liability (\$1 million).
- b. Organization shall indemnify, defend and hold harmless LFUCG and its elected and appointed officials, employees, agents, volunteers, and successors in interest, from and against any and all liability, damages, and losses, including but not limited to: demands, claims, liens, suits, notices of violation from governmental agencies, obligations, causes of action, judgments, penalties, fines, liens, costs, expenses, interest, 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 Organization's performance of, or breach of this Agreement and/or the provision of goods or services, provided that (a) it 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 the negligent acts, errors or omissions or willful misconduct of Organization or its officials, employees, or agents; and (b) not caused solely by willful misconduct of LFUCG.
- c. Organization understands and agrees that its obligation to defend LFUCG includes the obligation to investigate, handle, respond to, resist, provide a defense for, and defend claims, at Organization's expense, using attorneys approved in writing by the LFUCG, which approval shall not be unreasonably withheld.
- d. Organization further understands and agrees that its obligation to indemnify includes, but is not limited to: attorney fees and expenses, costs of litigation, court and administrative costs, expert witness fees and expenses, judgments, fines, penalties, interest, all environmental cleanups and remediation costs of whatever kind, and any liability arising from death, injury, or damage of any kind, to any person, including employees and agents of Organization and LFUCG, and damage to, or destruction of, any property, including the property of LFUCG.
- e. This provision shall in no way be limited by any financial responsibility or insurance requirements, and shall survive the termination of this Agreement.
- f. Organization understands that LFUCG is a political subdivision of the Commonwealth of Kentucky and acknowledges and agrees that LFUCG is unable

to provide indemnity or otherwise save, hold harmless, or defend the Organization in any manner.

11. RECORDS. Organization shall keep and make available to LFUCG any records related to this Agreement as are necessary to support its performance of the services for a period of at least five (5) years following the expiration or termination of this Agreement, or as otherwise required depending upon the source of funds. Books of accounts shall be kept by Organization and entries shall be made therein of all money, goods, effects, debts, sales, purchases, receipts, payments and any other transactions of Organization related to this Agreement and shall be made available to LFUCG upon request.

a. LFUCG shall be the owner of all final documents, data, studies, plans, reports, and information prepared by Organization under this Agreement.

b. Organization understands and agrees that this Agreement and any related documents may be subject to disclosure under the Kentucky Open Records Act and will comply with any reasonable request by LFUCG to provide assistance with such a request.

12. ACCESS. Organization shall allow LFUCG any necessary reasonable access to monitor its performance under this Agreement.

13. CONTRACTUAL RELATIONSHIP ONLY. In no event shall the parties be construed, held or become in any way for any purpose the employee of the other party, or partners, associates or joint ventures in the conduct of their respective endeavors or otherwise.

14. EQUAL OPPORTUNITY; FAIRNESS ORDINANCE. Organization shall provide equal opportunity in employment for all qualified persons, and shall (a) prohibit discrimination in employment because of race, color, creed, national origin, sex, age, sexual orientation, gender identity, or handicap, (b) promote equal employment through a positive, continuing program of equal employment, and (c) cause any subcontractor or agency receiving funds provided pursuant to this Agreement to do so. This program of equal employment opportunity shall apply to every aspect of its employment policies and practices. Organization agrees to comply with LFUCG's Fairness Ordinance (Ordinance No. 201-99) and all sources of applicable law, including those specified in any Exhibit attached to this Agreement and incorporated herein by reference.

15. SEXUAL HARASSMENT. Organization must adopt or have adopted a written sexual harassment policy, which shall, at a minimum, contain a statement of current law; a list of prohibited behaviors; a complaint process; and a procedure which provides for a confidential investigation of all complaints. The policy shall be given to all employees and clients and shall be posted at all locations where Organization conducts business. The policy shall be made available to LFUCG upon request.

16. ANNUAL AUDIT. Organization agrees that all revenue and expenditures related to this Agreement shall be audited at least annually by independent certified public accountants who shall express an opinion as to whether or not revenue and expenditures during the year audited have conformed to state and local law and regulation. A copy of this audit, or clean audit opinion letter from an independent certified public accountant, shall be submitted to LFUCG each year of the Agreement.

17. INVESTMENT. Any investment of the funds received pursuant to this Agreement must fully comply with any restrictions imposed by law.

18. NO ASSIGNMENT. Organization may not assign any of its rights and duties under this Agreement without the prior written consent of LFUCG.

19. 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 Organization or LFUCG.

20. KENTUCKY LAW AND VENUE. This Agreement shall be governed in all respects by the laws of the Commonwealth of Kentucky and venue for all actions shall lie in the Circuit Court of Fayette County, Kentucky.

21. AMENDMENTS. By mutual agreement, the parties to this Agreement may, from time to time, make written changes to any provision hereof. Organization acknowledges that LFUCG may make such changes only upon approval of its legislative authority, the Lexington-Fayette Urban County Council, and the signature of its Mayor.

22. NOTICE. Any written notice required by the Agreement shall be delivered by certified mail, return receipt requested, to the following:

For Organization:

For Government:

Lexington-Fayette Urban County Government
200 East Main Street
Lexington, Kentucky 40507
Attn: Jonathan Wright

23. WAIVER. The waiver by either party of any breach of any provision of this Agreement shall not constitute a continuing waiver or waiver of any subsequent breach by either party of either the same or another provision.

Notary Public, State At Large, Kentucky

My Commission Expires: _____

Commission Number: _____

4866-5264-2725, v. 1

DRAFT

RESOLUTION NO. _____-2024

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT, THE FINAL FORM OF WHICH SHALL BE SUBJECT TO APPROVAL OF THE DEPARTMENT OF LAW, WITH GOODWILL INDUSTRIES OF KENTUCKY, INC., AT A COST NOT TO EXCEED \$400,000.00 (\$150,000.00 IN FY 24), FOR THE PROVISION OF HOUSING STABILIZATION SERVICES AND PAYMENT OF RENT AND SECURITY DEPOSIT ASSISTANCE ON BEHALF OF ELIGIBLE FAMILIES REFERRED BY THE MCKINNEY VENTO HOMELESS OFFICE OF FAYETTE COUNTY PUBLIC SCHOOLS, AND FURTHER AUTHORIZING THE MAYOR TO EXECUTE ANY OTHER NEEDED AMENDMENTS OR AGREEMENTS RELATED TO THE USE OF THESE FUNDS.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized and directed to execute an Agreement, the final form of which is subject to approval by the Department of Law, with Goodwill Industries of Kentucky, Inc. ("Goodwill"), at a cost not to exceed \$400,000.00 (\$150,000.00 in FY 24), for the provision of housing stabilization services and payment of rent and security deposit assistance on behalf of eligible families referred by the McKinney Vento Homeless Office of Fayette County Public Schools.

Section 2 -- That the Mayor, on behalf of the Lexington-Fayette Urban County Government, is further authorized to execute any necessary agreements or amendments with Goodwill related to these funds.

Section 3 - That an amount, not to exceed the sum of \$400,000.00, be and hereby is authorized for payment to Goodwill from account # 1145-900331-71101, pursuant to the terms of the Agreement and pending approval of all necessary budget amendments.

Section 4 - That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL

MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT (“Agreement”), made and entered into on the 23rd day of April 2024, by and between the **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, an urban county government of the COMMONWEALTH OF KENTUCKY created pursuant to KRS Chapter 67A (“LFUCG”), 200 East Main Street, Lexington, Kentucky 40507, and **GOODWILL INDUSTRIES OF KENTUCKY, INC.** (“Organization”), whose post office address is 2820 West Broadway, Louisville, Kentucky 40211.

WITNESSETH

WHEREAS, LFUCG seeks to invest in sustainable Housing Stability Services to help the most vulnerable residents of Lexington, who are homeless or at risk of homelessness, find long-term housing stability;

WHEREAS, the Organization, in partnership with Fayette County Public Schools, proposes to pay benefits to all eligible families, who are referred to them by the McKinney Vento Homeless Office of Fayette County Public Schools, to help secure stable housing;

WHEREAS, LFUCG believes that payment of funds to the Organization for this proposal fulfills a public purpose in helping the most vulnerable residents of Lexington, homeless families with children, find long-term housing stability.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the receipt and sufficiency of which are acknowledged, the parties hereby agree as follows:

1. **EFFECTIVE DATE; TERM.** This Agreement shall commence on April 1, 2024, and shall last until June 30, 2025, unless terminated by LFUCG at an earlier time.
2. **ELIGIBILITY CRITERIA.** Eligible families shall be all those: 1) who are referred to the Organization by the McKinney Vento Homeless Office of Fayette County Public Schools; and, 2) who have provided documentation that is reasonably sufficient to determine that the family has been approved for a piece of rental property and that payment of benefits, as specified herein, will allow the family to move in to that rental property (“Eligible Family”).
3. **SCOPE OF SERVICES.** Organization shall perform the following services in a timely, workmanlike, and professional manner (the “Services”):
 - a. Determine eligibility of all families by reviewing and retaining copies of:
 - 1) leases (signed or unsigned),
 - 2) approved rental applications,
 - 3) letters from prospective landlords, or

- 4) similar documentation demonstrating the family's eligibility as defined in numbered paragraph two (2).
- b. Pay to each Eligible Family's landlord an amount equal to:
 - 1) the first month's rent, the total amount of which shall include all recurring fees and charges due under the lease but which may not exceed fifty (50) percent of the Eligible Family's gross monthly income, plus
 - 2) the security deposit, the total amount of which shall not exceed the monthly rent due under the lease.
 - c. Provide ongoing housing stability services to all Eligible Families, which may include any combination of the following and other similar services typically provided by the Organization that enable households to obtain or maintain stable housing:
 - 1) housing counseling,
 - 2) fair housing counseling,
 - 3) housing navigators that help households access other assistance programs or find housing,
 - 4) case management related to housing stability,
 - 5) housing-related services for survivors of domestic abuse or human trafficking, and/or
 - 6) specialized services for individuals with disabilities or seniors that support their ability to access or maintain housing.
4. **PAYMENT.** LFUCG shall pay Organization a total amount not to exceed Four Hundred Thousand dollars (\$400,000.00) ("Total Funds") during the term of the Agreement for the performance of the Services. Further, an amount not to exceed One Hundred Fifty Thousand dollars (\$150,000.00) ("FY 24 Award"), which shall be deducted from the Total Funds, shall be available as payment for the Services starting April 1, 2024. No amounts which exceed the FY 24 Award (i.e., \$150,000.00) shall be paid to the Organization prior to July 1, 2024. Further, the parties agree that payment of any amounts that exceed the FY 24 Award is contingent upon appropriation by the Lexington-Fayette Urban County Council in Fiscal Year 2025. In the event that the Fiscal Year 2025 funding is reduced or eliminated in LFUCG's final adopted budget, LFUCG shall notify Organization as soon as feasible and will take steps to modify or terminate the remainder of this Agreement.
- a. If Organization fails to expend at least fifty (50) percent of the FY 24 Award before June 30, 2024, Organization understands and agrees that LFUCG may: (1) require a performance improvement plan before payment of the balance of the Total Funds; and/or (2) reduce the amount of the Total Funds under this Agreement, in proportion to the amount of the FY 24 Award that Organization failed to expend.

- b. Uses of the Total Funds are limited to the services provided herein and may not be spent by the Organization for any other purpose without the prior written consent of LFUCG. Absent any additional written agreement stating otherwise, any travel or other expenses are included in the above payment.
5. **UNABLE TO COMPLETE; RETURN OF FUNDS.** If it becomes apparent to Organization that it will be unable to complete the Services either in the manner or for the amount described in this Agreement, then the Organization shall immediately provide written notice to LFUCG with a complete and detailed written explanation of its inability to comply with the terms of the Agreement, any proposed changes, and the reasons for those changes. If the Organization fails to use any amount of funds provided under this Agreement within the term provided above, then the Organization agrees to return the balance of the funds to the LFUCG within thirty (30) days of the termination of this Agreement. The Organization also understands and agrees that this provision shall survive termination of this Agreement.
6. **TERMINATION.** Either party may terminate this Agreement for any reason whatsoever by providing at least thirty (30) days advance written notice to the other party. Organization shall be entitled for payment of all expenses actually incurred prior to termination, in an amount which shall be calculated on a reasonable basis. The balance of any funds already paid to Organization shall be returned to LFUCG within thirty (30) days of the termination.
- a. In the event of a termination based upon a material condition of non-performance or default by Organization, LFUCG shall provide Organization advance written notice and a reasonable period of time to cure the breach.
- b. Organization acknowledges that LFUCG is a governmental entity, and that the validity of this Agreement is based upon the availability of appropriated funding. In the event that such funding is not appropriated in a future fiscal year, LFUCG's obligations under this Agreement shall automatically expire without penalty to the LFUCG thirty (30) days after written notice to Organization. LFUCG shall exercise any application of this provision in good faith.
7. **REPORTING.** By the Tenth of each month, Organization shall provide LFUCG with an activity report summarizing all Services performed during the previous month. Specifically, monthly reports shall provide information on the number of individuals served by the Organization, a reconciliation of costs paid and the remaining balance of the Total Funds, and other such information as required by LFUCG. Reports and updates related to the provisions of the Services shall be in the form and manner reasonably specified by LFUCG.
8. **PRIVACY.** The Organization agrees to establish data privacy and security requirements, to the extent applicable. The Organization must develop and implement written procedures to ensure:

- a. All records containing personally identifying information (as defined in the U.S. Department of Housing and Urban Development's standards for participation, data collection, and reporting) of any individual or family who applies for and/or receives rental assistance will be kept secure and confidential;
- b. The address or location of any domestic violence, dating violence, sexual assault, or stalking shelter project assisted under this Agreement will not be made public, except with written authorization of the person responsible for the operation of the shelter; and
- c. The address or location of any housing of a program participant will not be made public, except as provided under a preexisting privacy policy of LFUCG and/or the Organization, and consistent with state and local laws regarding privacy and obligations of confidentiality.

The confidentiality procedures of Organization must be in writing and must be maintained in accordance with this section. The Organization understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of LFUCG's responsibilities with respect to services provided under this Agreement, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

9. **REGISTRATION; COMPLIANCE; AUTHORITY TO SIGN.** Organization shall be lawfully registered or authorized to do business in the Commonwealth of Kentucky and Lexington-Fayette County and shall at all times comply with any and all applicable federal, state, and local laws, ordinances, and regulations. LFUCG may request proof that Organization has timely filed federal, state, or local tax forms which shall be provided by Organization on a timely basis. The person signing this Agreement on behalf of Organization is fully authorized to do so.

10. **INSURANCE; INDEMNITY.**

- a. At all times relevant to the performance of this Agreement, Organization shall maintain insurance coverages in at least the following amounts, which shall be properly filed and approved by the Kentucky Department of Insurance. Evidence of such coverage shall be made available to LFUCG upon request. General Liability (\$1 million per occurrence, \$2 million aggregate or \$2 million combined single limit); Commercial Automobile Liability (combined single, \$1 million per occurrence); (if applicable) Professional Liability (\$1 million per occurrence, \$2 million aggregate); Worker's Compensation (Statutory); and Employer's Liability (\$1 million).
- b. Organization shall indemnify, defend and hold harmless LFUCG and its elected and appointed officials, employees, agents, volunteers, and successors in

interest, from and against any and all liability, damages, and losses, including but not limited to: demands, claims, liens, suits, notices of violation from governmental agencies, obligations, causes of action, judgments, penalties, fines, liens, costs, expenses, interest, 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 Organization's performance of, or breach of this Agreement and/or the provision of goods or services, provided that (a) it 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 the negligent acts, errors or omissions or willful misconduct of Organization or its officials, employees, or agents; and (b) not caused solely by willful misconduct of LFUCG.

- c. Organization understands and agrees that its obligation to defend LFUCG includes the obligation to investigate, handle, respond to, resist, provide a defense for, and defend claims, at Organization's expense, using attorneys approved in writing by the LFUCG, which approval shall not be unreasonably withheld.
 - d. Organization further understands and agrees that its obligation to indemnify includes, but is not limited to: attorney fees and expenses, costs of litigation, court and administrative costs, expert witness fees and expenses, judgments, fines, penalties, interest, all environmental cleanups and remediation costs of whatever kind, and any liability arising from death, injury, or damage of any kind, to any person, including employees and agents of Organization and LFUCG, and damage to, or destruction of, any property, including the property of LFUCG.
 - e. This provision shall in no way be limited by any financial responsibility or insurance requirements, and shall survive the termination of this Agreement.
 - f. Organization understands that LFUCG is a political subdivision of the Commonwealth of Kentucky and acknowledges and agrees that LFUCG is unable to provide indemnity or otherwise save, hold harmless, or defend the Organization in any manner.
11. **RECORDS.** Organization shall keep and make available to LFUCG any records related to this Agreement as are necessary to support its performance of the services for a period of at least five (5) years following the expiration or termination of this Agreement, or as otherwise required depending upon the source of funds. Books of accounts shall be kept by Organization and entries shall be made therein of all money, goods, effects, debts, sales, purchases, receipts, payments and any other transactions of Organization related to this Agreement and shall be made available to LFUCG upon request.
- a. LFUCG shall be the owner of all final documents, data, studies, plans, reports, and information prepared by Organization under this Agreement.

- b. Organization understands and agrees that this Agreement and any related documents may be subject to disclosure under the Kentucky Open Records Act and will comply with any reasonable request by LFUCG to provide assistance with such a request.
12. **ACCESS.** Organization shall allow LFUCG any necessary reasonable access to monitor its performance under this Agreement.
13. **CONTRACTUAL RELATIONSHIP ONLY.** In no event shall the parties be construed, held or become in any way for any purpose the employee of the other party, or partners, associates or joint ventures in the conduct of their respective endeavors or otherwise.
14. **EQUAL OPPORTUNITY; FAIRNESS ORDINANCE.** Organization shall provide equal opportunity in employment for all qualified persons, and shall (a) prohibit discrimination in employment because of race, color, creed, national origin, sex, age, sexual orientation, gender identity, or handicap, (b) promote equal employment through a positive, continuing program of equal employment, and (c) cause any subcontractor or agency receiving funds provided pursuant to this Agreement to do so. This program of equal employment opportunity shall apply to every aspect of its employment policies and practices. Organization agrees to comply with LFUCG's Fairness Ordinance (Ordinance No. 201-99) and all sources of applicable law, including those specified in any Exhibit attached to this Agreement and incorporated herein by reference.
15. **SEXUAL HARASSMENT.** Organization must adopt or have adopted a written sexual harassment policy, which shall, at a minimum, contain a statement of current law; a list of prohibited behaviors; a complaint process; and a procedure which provides for a confidential investigation of all complaints. The policy shall be given to all employees and clients and shall be posted at all locations where Organization conducts business. The policy shall be made available to LFUCG upon request.
16. **ANNUAL AUDIT.** Organization agrees that all revenue and expenditures related to this Agreement shall be included in an annual audit of the Organization's financial statements. This audit shall be performed by independent certified public accountants who shall express an opinion as to whether or not revenue and expenditures during the year audited have conformed to state and local law and regulation. A copy of this audit, or clean audit opinion letter from an independent certified public accountant, shall be submitted to LFUCG each year of the Agreement.
17. **INVESTMENT.** Any investment of the funds received pursuant to this Agreement must fully comply with any restrictions imposed by law.
18. **NO ASSIGNMENT.** Organization may not assign any of its rights and duties under this Agreement without the prior written consent of LFUCG.
19. **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 Organization or LFUCG.

20. **KENTUCKY LAW AND VENUE.** This Agreement shall be governed in all respects by the laws of the Commonwealth of Kentucky and venue for all actions shall lie in the Circuit Court of Fayette County, Kentucky.

21. **AMENDMENTS.** By mutual agreement, the parties to this Agreement may, from time to time, make written changes to any provision hereof. Organization acknowledges that LFUCG may make such changes only upon approval of its legislative authority, the Lexington-Fayette Urban County Council, and the signature of its Mayor.

22. **NOTICE.** Any written notice required by the Agreement shall be delivered by certified mail, return receipt requested, to the following:
For Organization:

Goodwill Industries of Kentucky
Lexington Opportunity Center
130 W. New Circle Rd, Suite 110
Lexington, KY 40509
Attn: Jennifer Bergman

For Government:

Lexington-Fayette Urban County Government
200 East Main Street
Lexington, Kentucky 40507
Attn: Jonathan Wright

23. **WAIVER.** The waiver by either party of any breach of any provision of this Agreement shall not constitute a continuing waiver or waiver of any subsequent breach by either party of either the same or another provision.

24. **LOGO.** LFUCG and Organization both agree that each party's name, likeness, and logo shall be discussed and reviewed together, prior to use. Permission to use the party's logo, name, and likeness must be clearly defined and approved by authorized representatives of each party.

25. **ENTIRE AGREEMENT.** This Agreement shall constitute the entire agreement between the parties and no representations, inducements, promises or agreements, oral or otherwise, which are not embodied herein shall be effective for any purpose. This Agreement shall replace any previous agreement between the parties on the same subject matter. Notwithstanding the above, this Agreement shall not replace those parts of previous agreements pertaining to the same subject matter which cover previous terms.

RESOLUTION NO. 095-2024

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT, THE FINAL FORM OF WHICH SHALL BE SUBJECT TO APPROVAL OF THE DEPARTMENT OF LAW, WITH GOODWILL INDUSTRIES OF KENTUCKY, INC., AT A COST NOT TO EXCEED \$400,000.00 (\$150,000.00 IN FY 24), FOR THE PROVISION OF HOUSING STABILIZATION SERVICES AND PAYMENT OF RENT AND SECURITY DEPOSIT ASSISTANCE ON BEHALF OF ELIGIBLE FAMILIES REFERRED BY THE MCKINNEY VENTO HOMELESS OFFICE OF FAYETTE COUNTY PUBLIC SCHOOLS, AND FURTHER AUTHORIZING THE MAYOR TO EXECUTE ANY OTHER NEEDED AMENDMENTS OR AGREEMENTS RELATED TO THE USE OF THESE FUNDS.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized and directed to execute an Agreement, the final form of which is subject to approval by the Department of Law, with Goodwill Industries of Kentucky, Inc. ("Goodwill"), at a cost not to exceed \$400,000.00 (\$150,000.00 in FY 24), for the provision of housing stabilization services and payment of rent and security deposit assistance on behalf of eligible families referred by the McKinney Vento Homeless Office of Fayette County Public Schools.

Section 2 -- That the Mayor, on behalf of the Lexington-Fayette Urban County Government, is further authorized to execute any necessary agreements or amendments with Goodwill related to these funds.

Section 3 - That an amount, not to exceed the sum of \$400,000.00, be and hereby is authorized for payment to Goodwill from account # 1145-900331-71101, pursuant to the terms of the Agreement and pending approval of all necessary budget amendments.

Section 4 - That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: March 7, 2024

Linda Gorton
MAYOR

ATTEST:
[Signature]
CLERK OF URBAN COUNTY COUNCIL



Lexington-Fayette Urban County Government

Master

200 E. Main St
Lexington, KY 40507

File Number: 0233-24

File ID: 0233-24

Type: Resolution

Status: Approved

Version: 2

Contract #: 057-2024

In Control: Urban County Council

File Created: 02/26/2024

File Name: Request Council authorization to execute agreement and accept federal funds in the amount of \$426,648 from Kentucky Transportation Cabinet (KYTC) for Innovation Drive (CS 1185) and Georgetown Road (US 25) Improvement project. Commerce Lexington will contr

Final Action: 03/21/2024

Title: A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement with the Ky. Transportation Cabinet, for the acceptance of \$426,648 in State Reimbursable Funding (FD04), for the Innovation Dr. and Georgetown Rd. Improvement Project, the acceptance of which obligates the Urban County Government to the expenditure of \$200,000 as a local match, with such local match subject to reimbursement by Commerce Lexington, Inc., and authorizing the Mayor to transfer unencumbered funds within the Grant Budget. [Dept. of Environmental Quality and Public Works, Albright]

Notes: In office/purple folder to go down to Mayor 3/21/2024. MS

Signed and CILOO filed in the CCO. Returned to Sandra and Celia 3/26/2024. MS

Sponsors:

Enactment Date: 03/21/2024

Attachments: 24-Blue Sheet Memo Innovation Dr, BA 12834, KYTC Agreement for Mayor Signature, 0233-24 4880-5678-6089 v.1.docx, R-120-2024, Contract #057-2024

Enactment Number: R-120-2024

Deed #:

Hearing Date:

Drafter: Katrina James

Effective Date:

History of Legislative File

| Ver- sion: | Acting Body: | Date: | Action: | Sent To: | Due Date: | Return Date: | Result: |
|---------------|-----------------------------------|------------|---------------------------------|----------------------|------------|-----------------|---------|
| 2 | Urban County Council Work Session | 03/05/2024 | Approved and Referred to Docket | Urban County Council | 03/07/2024 | | Pass |
| 2 | Urban County Council | 03/07/2024 | Received First Reading | Urban County Council | 03/21/2024 | | |
| 2 | Urban County Council | 03/21/2024 | Approved | | | | Pass |

Text of Legislative File 0233-24

Title

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement with the Ky. Transportation Cabinet, for the acceptance of \$426,648 in State Reimbursable Funding (FD04), for the Innovation Dr. and Georgetown Rd. Improvement Project, the acceptance of which obligates the Urban County Government to the expenditure of \$200,000 as a local match, with such local match subject to reimbursement by Commerce Lexington, Inc., and authorizing the Mayor to transfer unencumbered funds within the Grant Budget. [Dept. of Environmental Quality and Public Works, Albright]

Summary

Authorization to execute an Agreement and accept Federal funds in the amount of \$426,648 from the Kentucky Transportation Cabinet (KYTC) for Innovation Drive (CS 1185) and Georgetown Road (US 25) Improvement project. Commerce Lexington will contribute required matching funds in the amount of \$200,000, for a total project cost of \$626,648. In addition, Commerce Lexington, Inc will pay any additional project expenses that exceed \$626,648. (L0233-24) (Albright)

Budgetary Implications: Yes

Advance Document Review:

Law: Yes, Completed by Gabriel Thatcher, 1/11/2024

Risk Management: N/A

Fully Budgeted: Budget amendment is in process.

Account Number:

This Fiscal Year Impact: \$626,648

Annual Impact: \$0

Project: INNOVATION_2024

Activity: FED_GRANT

Budget Reference: 2024

Current Balance: BA in process



**TO: LINDA GORTON, MAYOR
URBAN COUNTY COUNCIL**

**FROM: THERESA REYNOLDS, DIRECTOR
DIVISION OF GRANTS AND SPECIAL PROGRAMS**

DATE: FEBRUARY 26, 2024

**SUBJECT: KYTC Agreement for Innovation Drive (CS 1185) and Georgetown Road
(US 25) Improvement Project**

Request: Council authorization to execute agreement and accept federal funds in the amount of \$426,648 from Kentucky Transportation Cabinet (KYTC) for Innovation Drive (CS 1185) and Georgetown Road (US 25) Improvement project. Commerce Lexington will contribute required \$200,000 in matching funds for a total project cost of \$626, 648. In addition, Commerce Lexington, Inc will pay any additional project expenses that exceed \$626,648.

Purpose of the Request: Commerce Lexington, Inc. desires to convert an existing segment of Innovation Drive (the last 550' before Georgetown Rd) from a temporary private street to a permanent public street. Also, KYTC desires to make improvements to Georgetown Rd (US25) by adding a right turn lane onto this segment of Innovation Drive. KYTC is providing reimbursable funding to a Local Public Agency (LPA), therefore LFUCG must serve as the LPA to receive the funds and construct the roadway. KYTC funding will be available for reimbursement once LFUCG expends \$200,000 of matching funds on the project. Commerce Lexington, Inc. will be providing the \$200,000 of match funding and any additional project expenses that exceed \$626,648.00. An agreement between LFUCG and Commerce Lexington, Inc. is currently being drafted and will be presented to the Urban County Council for approval. At the completion of this project, KYTC will own the improvements to Georgetown Road (US 25) that are in KYTC right-of-way, and LFUCG will own Innovation Drive in its entirety. This permanent connection will provide improved access to the Bluegrass Business Park as well as provide congestion relief at the intersection of Georgetown Rd and Citation Blvd. There will be no direct cost to LFUCG for this project.

The cost in this budget year and future budget years: The total cost in this budget year is \$626,648 (\$426,648 federal funds and \$200,000 match from Commerce Lexington). Future years funding is dependent upon availability of grant funding.

Are the funds budgeted? Budget amendment is in process.

File Number: 0233-24

Director/Commissioner: Knapp/Albright

LFUCG Budget Amendment Request Form

Requester: Moore,Celia E Date: 02/26/2024 Status: Pending Approval Amend Nbr: 12834

Business Unit: LFUCG Journal Date: 02/26/2024 Budget Period: 2024 Bid: Admin Review:

| ▼ Personnel, Operating & Capital Accounts | | | | | | | | | |
|---|--------|---------|---------|--------------------------------|------------|----------|------------|------------|--|
| Fund | Dept | Section | Account | Description | Amount | Division | Department | Journal ID | |
| 1 3160 | 303202 | 3251 | 91715 | Construction-Street | 426,648.00 | 035224 | 055143 | | |
| 2 3160 | 900101 | 0001 | 82301 | Other Grant Match - Intangible | 200,000.00 | ELIZABET | ELIZABET | | |

| ▼ Revenue Accounts | | | | | | | | | |
|--------------------|--------|---------|---------|--------------------------------|------------|----------|------------|------------|--|
| Fund | Dept | Section | Account | Description | Amount | Division | Department | Journal ID | |
| 1 3160 | 303202 | 3251 | 44010 | Intergovernmental - Federal | 426,648.00 | 035224 | 055143 | | |
| 2 3160 | 900101 | 0001 | 45931 | Other Grant Match - Intangible | 200,000.00 | ELIZABET | ELIZABET | | |

▶ Project/Grant Revenue

▶ Project/Grant Expenditures

Comments:

To establish grant budget for INNOVATION_2024.

Net Amend Amt: 0.00

Submit for Approval

Save

Add

FAYETTE COUNTY
INNOVATION DRIVE
GEORGETOWN ROAD
ITEM NO. 7-80253
\$426,648 – FD04 FUNDS

**AGREEMENT BETWEEN
COMMONWEALTH OF KENTUCKY
TRANSPORTATION CABINET
DEPARTMENT OF HIGHWAYS
AND LEXINGTON-FAYETTE
URBAN COUNTY GOVERNMENT**

THIS AGREEMENT, entered into by and between the Commonwealth of Kentucky, Transportation Cabinet, Department of Highways, hereinafter referred to as the “**Department**,” and the Lexington-Fayette Urban County Government, 200 East Main Street, Lexington, KY 40507, hereinafter referred to as the “**LPA**.”

WITNESSETH:

WHEREAS, the parties hereto desire to complete improvements to the intersection of Innovation Drive (CS 1185) and Georgetown Road (US 25) in the city of Lexington, which shall hereinafter be referred to as the “**Project**;”

WHEREAS, the **LPA** desires to be the lead agency and perform this **Project**;

WHEREAS, the **LPA** shall refer to the applicable state requirements listed in the Project Development Guide for Local Public Agencies and any future revisions for assistance in complying with this Agreement;

WHEREAS, the **LPA** has asked the **Department** for funding assistance for costs incurred during this **Project**;

WHEREAS, the **Department** agrees this is a worthwhile **Project** and is willing to reimburse the **LPA** up to \$426,648 in state reimbursable funding (FD04) for the completion of this **Project**; and

FAYETTE COUNTY
INNOVATION DRIVE
GEORGETOWN ROAD
ITEM NO. 7-80253
\$426,648 – FD04 FUNDS

WHEREAS, any cost in excess of the reimbursement funding (\$426,648) for this **Project** will be the responsibility of the **LPA**.

NOW, THEREFORE, in consideration of these premises and the mutual covenants contained herein, the parties hereby agree as follows:

1. The **Department** agrees to reimburse the **LPA** up to \$426,648 for completion of work by the **LPA**, or consultants, contractors, or subcontractors hired by the **LPA** for all Phases, under the obligations of this Agreement to complete safety improvements to the intersection of Innovation Drive (CS 1185) and Georgetown Road (US 25) in the city of Lexington. This project is listed in the current Highway Plan as Item no. 7-80253.
2. The **Department** has authorized up to \$426,648 in state reimbursable funding (FD04) for all eligible expenses for this **Project**. *This funding shall be made available for reimbursement following the expenditure of \$200,000 of local funds by the LPA for the Project.* This state reimbursable funding (FD04) shall be made available for reimbursement to the **LPA** for all eligible expenses to the **Project**. The **LPA** shall be responsible for all eligible costs above the \$426,648 as well as any costs deemed ineligible for reimbursement from this **Project**. Any additional funding obligated for the completion of this **Project** shall be evidenced in writing by both parties with a Supplemental Agreement.
3. This Agreement is contingent upon the continued availability of appropriated funding. If the funding appropriated for the **Project** becomes unavailable for any reason including: the Kentucky General Assembly's failure to appropriate the funding, by operation of law or as the result of a reduction in funding, further reimbursement of **Project** expenditures may be denied, the **Project** may be cancelled, the timeline extended or the scope amended by the **Department** either in whole or in part without penalty. Denial of further reimbursement, **Project** cancellation, extension or amendment because of an interruption in the appropriated funding

FAYETTE COUNTY
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ITEM NO. 7-80253
\$426,648 – FD04 FUNDS

is not a default or breach of this Agreement by the **Department** nor may such denial, cancellation, extension or amendment give rise to any claim against the **Department**.

4. The effective date of this Agreement is the date of signature by the Secretary of the Transportation Cabinet. The Term of Eligible Reimbursement under this Agreement shall be three (3) years from the date of its execution unless extended or amended by written Agreement in accordance with the provisions of KRS 45A. Any and all funding obligated for any phase of this **Project** shall be available to reimburse the **LPA** for eligible work activities completed and costs incurred prior to expiration.
5. The **LPA** shall follow state specifications for each necessary phase of this **Project**. The **LPA** shall adhere to all state regulations, including KRS 45A, KRS 176, KRS 177, and all terms of this Agreement for activities related to this **Project** as lead agency. The **LPA** will obtain any required permits, licenses or easements required to initiate, perform, and complete work and provide documentation to the **Department's** District 7 Office in Lexington. In addition, the **LPA** is responsible to meet all other requirements and adhere to all regulations necessary to qualify for the receipt of these state funds. Concurrence must be obtained by the **LPA** through the **Department's** District 7 Chief District Engineer in Lexington prior to the awarding of any contract for work or materials to be used on this **Project**.
6. Should the **Project** require any design services, the **LPA** agrees to use only licensed consultants who are pre-qualified to do work for the **Department** or to use a licensed Professional Engineer registered in the Commonwealth of Kentucky that demonstrates sufficient experience and knowledge in the type of work and receives the approval of the **Department's** District 7 Chief District Engineer in Lexington. The **LPA** shall be responsible for all **Project** design activities, which may be completed either by the **LPA's** staff or a consultant that is to be selected based on qualifications. All design work to be contracted must comply with all legal advertisement and selection requirements including, but not limited to, the Model Procurement Code provisions of KRS 45A and KRS 424. The **LPA** shall submit

FAYETTE COUNTY
INNOVATION DRIVE
GEORGETOWN ROAD
ITEM NO. 7-80253
\$426,648 – FD04 FUNDS

and obtain concurrences to the **Department's** District 7 Chief District Engineer in Lexington final design plans, specifications, and a total estimate prior to any construction. When applicable, the **LPA** must obtain any necessary permits or easements to allow for work to be accomplished on this **Project** and adhere to the Uniform Relocation Assistance (URA) and Real Property Acquisitions Policies Act.

7. Should the **Project** require the acquisition of any interest in real property by the **LPA**, the **LPA** shall ensure that all real property acquisition, relocation assistance, and property management are completed in a fair, equitable and approved manner consistent with all state laws and regulations governing the acquisition of real property for public use using highway funding. In all real property acquisitions, concurrence must be obtained through the **Department's** Division of Right of Way and Utilities and shall be subject to review and approval by the **Department**.
8. The **LPA** must obtain encroachment permits to allow for work to be accomplished on state owned right-of-way from the **Department's** District 7 Office in Lexington. The **LPA** acknowledges that the **Department** will require the placement of a restrictive easement approved by and in favor of the **Department** in the chain of title of any real property acquired or improved pursuant to the **Project**. If the owner of any real property acquired or improved pursuant to the **Project** is not the **Department** or the **LPA**, the owner shall sign and be made a party to this Agreement and the owner hereby acknowledges, covenants and consents to the placement of a restrictive easement for perpetual maintenance of the property acquired or improved pursuant to the **Project** in the chain of title in favor of the **Department** prior to final reimbursement by the **Department**.
9. The **LPA** shall either adopt in writing the **Department's** written Policies and Procedures for Right of Way Acquisition and Relocation Assistance or present its own written Policies and Procedures for approval by the **Department's** Division of Right of Way and Utilities. The **LPA** shall conduct all appraisals and appraisal reviews using personnel meeting the

FAYETTE COUNTY
INNOVATION DRIVE
GEORGETOWN ROAD
ITEM NO. 7-80253
\$426,648 – FD04 FUNDS

Department's minimum qualifications and listed on the **Department's** pre-qualified appraiser and reviewer list. If the **LPA** chooses to use an acquisition consultant on all or any portion of the **Project**, the selection of the consultant shall be in accordance with the **Department's** Division of Right of Way Guidance Manual. All appraisals must be reviewed and approved by the **Department's** Central Office review appraisers, failure to do so will result in the **Project** being ineligible for funding reimbursement. The **LPA** shall provide property management in accordance with approved procedures and be responsible for the abatement of any asbestos containing materials and removal of contaminated soils pursuant to applicable state laws and regulations. The **LPA** shall provide the **Department** necessary assurance that all real property has been acquired and all displaced individuals, businesses, non-profit organizations and farms have been offered relocation assistance according to applicable state laws and regulations. The **LPA** shall provide the **Department** necessary documentation for review and approval at various stages of the acquisition process, as described in the **Department's** Right of Way Guidance Manual.

10. When conducting a utility relocation, KRS 177.035 and KRS 179.265 determine the necessity of payment for utility companies. Identification of utility or railroad facilities in conflict with the **Project**, the execution of a remedy for said conflict and oversight of the execution, and all work related to the **Project** shall be done in accordance with the Cabinet's Standards, Specifications, Standard Drawings, and Utilities and Rails Manual. Utility relocations shall be designed by the utility company and shown on the **Project's** survey and general plan sheets. The impacted utility company, with its regular construction or maintenance personnel, and/or with an approved contractor or subcontractor, will furnish all engineering, administration, labor, and materials to make and complete all necessary adjustments of its facilities to accommodate the **Project**. Correspondence pertaining to utility or railroad coordination must be provided to both contracted parties. If a conflict of interest arises between the obligated party and a utility company, the unobligated party shall intercede to provide the utility coordination. The completed relocation shall be inspected to document the proper installation of the facilities. Upon full execution of the utility relocation for the **Project**, three (3) sets of

FAYETTE COUNTY
INNOVATION DRIVE
GEORGETOWN ROAD
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as-built plans for each utility company that completes facility relocation on the project prior to the construction letting, a utility impact note defining the utilities identified in the **Project**, relocations that have been performed, incomplete relocations, and completion schedules for the incomplete work must be provided.

11. State construction criteria for the type of work shall be followed, including but not limited to the **Department's** Highway Design Manual, the **Department's** Standard Drawings, the **Department's** Standard Specifications for Road and Bridge Construction, the **Department's** Drainage Manual, the **Department's** Structural Design Manual, the American Association of State Highway Transportation Officials' (AASHTO) "Policy on Geometric Design of Highways and Streets", and the FHWA Manual on Uniform Traffic Control Devices (MUTCD). All work performed shall be in accordance with the **Department's** Standard Specifications for Road and Bridge Construction, edition 2019, and as provided in Subsection 105.01 of said Specifications. All materials furnished shall be in accordance with Subsection 106 of said Specifications to include all **Department** List of Approved Materials. These standards, specifications, and criteria are incorporated in this Agreement by this reference.

12. The **LPA** agrees to use only licensed contractors and subcontractors who are pre-qualified to do work for the **Department** for any necessary construction services. The **LPA** shall be responsible for all **Project** construction activities, which may be completed either by the **LPA's** staff or through the advertisement, opening of bids, selection, and contracting for contractor services in accordance with the Model Procurement Code provisions of KRS 45A and KRS 424. Specific requirements defined within KRS 45A require that the award be made to the lowest responsive bidder meeting the criteria of responsibility established by the **Department**. The contractor affirms that it is properly authorized under the laws of the Commonwealth of Kentucky to conduct business in this state and will remain in good standing to do business in the Commonwealth of Kentucky for the duration of any contract awarded. The contractor shall maintain certification of authority to conduct business in the Commonwealth of Kentucky during the term of this contract. Such registration is obtained

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from the Secretary of State, who will also provide the certification thereof. The **LPA** must receive **Department** approval for all change orders and shall have approval of the appropriate governing authority, but shall not increase the funding obligated to the **LPA** as a result of this Agreement.

13. Discrimination (because of race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability) is prohibited. During the performance of this contract, the **LPA** agrees as follows:

a. The **LPA** will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity, or age. The **LPA** further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The **LPA** agrees to provide, upon request, needed reasonable accommodations. The **LPA** will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability. 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 compensations; and selection for training, including apprenticeship. The **LPA** agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

b. The **LPA** will, in all solicitations or advertisements for employees placed by or on behalf of the **LPA**; state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability.

c. The **LPA** will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the **LPA**'s commitments under this section, and shall

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post copies of the notice in conspicuous places available to employees and applicants for employment. The **LPA** will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

d. The **LPA** will comply with all provisions of Executive Order No. 11246 of September 24, 1965 as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.

e. The **LPA** will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

f. In the event of the **LPA's** noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be cancelled, terminated or suspended in whole or in part and the **LPA** may be declared ineligible for further government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.

g. The **LPA** will include the provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor, issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each sub-contractor or vendor. The **LPA** will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance.

14. The **LPA** shall be responsible for all aspects of administration, measuring, testing, and inspections to ensure the materials and work meets the **Department's** specifications of the construction contract. This includes providing daily, on-site inspection of the contractor's

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work activities and processing all of the paper work associated with the construction contract, including any change orders. The **Department** shall have access to the **Project** area and may conduct field reviews of the **Project** at any time. These field reviews are intended to verify status of the **Project**, performance of the contractor, adequacy of the **LPA** oversight, conformance with all laws, regulations, and policies and provide assistance to the **LPA** as may be necessary.

15. The **LPA** may submit to the **Department's** District 7 Office in Lexington current billings reflecting the actual cost of work incurred during any given work period, which will be paid within a reasonable time after receipt by the **Department**; however, in no event is the **LPA** to submit billings for work performed for less than a thirty (30) day period. All charges to the **Project** shall be supported by properly executed invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of the charge. The **Department** may require additional documentation at their discretion.

16. The **LPA** is responsible for ensuring that all **Project** construction activities have been completed and are responsible for providing all of the necessary paperwork as required by the construction contract. The **LPA** will conduct a field inspection to verify completion of the work in conformance with the Agreement. This documentation must be provided to the **Department's** District 7 Chief District Engineer in Lexington prior to final payment of the **Project**. When both the **LPA** and the **Department** accept the field work as complete, the **LPA's** project manager shall certify the **Project** was constructed in accordance with the plans and specifications and that all funding authorized on this **Project** has been used to reimburse for materials, equipment, or labor as intended and at the location agreed herein by both parties. Upon receipt of the **Department's** Final Acceptance Report, the **LPA** will issue the final payment to the contractor with an official Release of Contractor form for signature. Within 30 days, the **LPA** shall provide the **Department** with a copy of the official Release of Contractor form, as well as proof of payment, which includes cancelled checks.

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17. This Agreement and the maintenance responsibilities herein shall survive in perpetuity the cancellation or termination of all or any portion of the **Project**, and shall survive the completion of and acceptance of the **Project**. To protect the public interest and maintain the original intent, the **LPA** agrees to maintain in an acceptable condition all facilities improved by the **Project** to the condition existing at the time of the Final Acceptance Report in perpetuity. In the event that the **Project** improvements are not maintained as a public facility, the **LPA** shall reimburse the **Department** for all costs incurred and for all funding expended pursuant to the **Project**, including any applicable interest.
18. The **LPA** shall maintain for a period of three (3) years all records of materials, equipment, and labor costs involved in the performance of work of said **Project**. In order to obtain reimbursement from the **Department** for constructing said **Project**, the **LPA** shall submit to the **Department's** District 7 Office in Lexington documented invoices of materials, equipment, and labor used on the **Project**, including certification that the work was accomplished on a publicly maintained facility.
19. No member, officer, or employee of the **Department** or the **LPA** during his tenure or for one (1) year thereafter shall have any financial interest, direct or indirect, in this Agreement or the proceeds thereof as identified in KRS 45A.340. The **Department** and the **LPA** shall comply with the requirements of the Executive Branch Code of Ethics KRS Chapter 11A. The **LPA** warrants that no person, elected official, selling agency or other organization has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee. No member, officer, or employee of the **Department** or **LPA** shall collude or lobby on behalf of this **Project** without penalty, including but not limited to suspension or debarment.
20. To the extent permitted by law, the **LPA** shall indemnify and hold harmless the **Department** and all of its officers, agents, and employees from all suits, actions, or claims of any character arising from any injuries, payments or damages received or claimed by any person, persons,

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or property resulting from implementation of any phase of the **Project** or occurring on or near the **Project** site.

21. Either party may cancel the contract at any time for cause or may cancel without cause on 30 days written notice.
 - a. The **Department** reserves the right to cancel all reimbursements under this Agreement at any time deemed to be in the best interest of the **Department** by giving thirty (30) days written notice of such cancellation to the **LPA**. If reimbursement under this Agreement is canceled under this section by reason other than violation of this Agreement or any applicable law by the **LPA**, its agents, employees and contractors, the **Department** shall reimburse the **LPA** according to the terms hereof for all expenses incurred under this Agreement to the date of such cancellation of reimbursement.
 - b. The **LPA** may seek to cancel its obligations under this Agreement at any time deemed to be in the best interest of the **LPA** by giving thirty (30) days written notice of such request to the **Department**. If the **Department** agrees to allow the **LPA** to cancel the Project or cancel its obligations under this Agreement, the **LPA** shall reimburse the **Department** for all funding reimbursements made under this Agreement.
 - c. Any dispute concerning a question of fact in connection with the work not disposed of by Agreement between the **LPA** and the **Department** shall be referred to the Secretary of the Transportation Cabinet of the Commonwealth of Kentucky, or his duly authorized representative, whose decision shall be final. Any proposed change or extension to this Agreement shall be at the mutual consent of the **LPA** and the **Department** and be evidenced in writing.

22. The Kentucky General Assembly may allow for a reduction in a contract worker hours in conjunction with a budget balancing measure for some professional and non-professional service contracts. If under such authority the agency is required by Executive Order or otherwise to reduce contract hours, the contract will be reduced by the amount specified in that document.

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23. The **Department** certifies that it is in compliance with the provisions of KRS 45A.695. “Access to contractor's books, documents, papers, records, or other evidence directly pertinent to the contract.” The **LPA** hereby acknowledges it is responsible to inform any entity it intends to hire or use as a contractor, as defined in KRS 45A.030(9), that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this contract for the purpose of financial audit or program review. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the contract and shall be exempt from disclosure as provided in KRS 61.878(1)(c). The contractor also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884.
24. KRS 45A.485 requires the **LPA** to certify that all contractors shall reveal to the **Department**, any final determination of a violation by the contractor within the previous five (5) year period of the provisions of KRS chapters 136, 139, 141, 337, 338, 341, and 342. These statutes relate to the state sales and use tax, corporate and utility tax, income tax, wages and hours laws, occupational safety and health laws, unemployment insurance laws, and workers compensation insurance laws, respectively.

The **LPA** shall certify that all contractors agree to be in continuous compliance with the provisions of those statutes which apply to the contractor's operations. Failure to reveal a final determination or failure to comply with the above statutes for the duration of the contract, shall be grounds for the **LPA's** cancellation of the contract and the contractor's disqualification from eligibility for future state contracts for a period of two (2) years.

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25. It is understood and agreed by these parties that if any part of this contract is held by the courts to be illegal or in conflict with any law of the Commonwealth of Kentucky, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular part, term, or provision held to be invalid.
26. The **LPA** will pass a resolution authorizing the Mayor to sign this Agreement on behalf of the **LPA**. An acceptable Resolution shall contain the project name, description, amount of funds being provided and an acknowledgement that the **LPA** agrees to ratify and adopt all statements, representations, warranties, covenants, and agreements contained in the Agreement. Furthermore, by accepting the funds the **LPA** agrees to all terms and conditions stated in the Agreement. A copy of that resolution shall be attached to and made a part of this Agreement.

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IN WITNESS WHEREOF, the parties have caused these presents to be executed by their officers thereunto duly authorized.

LEXINGTON-FAYETTE COUNTY
URBAN COUNTY GOVERNMENT

COMMONWEALTH OF KENTUCKY
TRANSPORTATION CABINET

Linda Gorton
Mayor

Jim Gray
Secretary

DATE: _____

DATE: _____

APPROVED AS TO FORM & LEGALITY

DocuSigned by:
Todd Shipp
68A0A3EBA82646E...

Todd Shipp
Office of Legal Services

DATE: 10/25/2023

RESOLUTION NO. _____ - 2024

A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE AN AGREEMENT WITH THE KENTUCKY TRANSPORTATION CABINET, FOR THE ACCEPTANCE OF \$426,648.00 IN STATE REIMBURSABLE FUNDING (FD04), FOR THE INNOVATION DRIVE AND GEORGETOWN ROAD IMPROVEMENT PROJECT, THE ACCEPTANCE OF WHICH OBLIGATES THE URBAN COUNTY GOVERNMENT TO THE EXPENDITURE OF \$200,000.00 AS A LOCAL MATCH, WITH SUCH LOCAL MATCH SUBJECT TO REIMBURSEMENT BY COMMERCE LEXINGTON, INC., AND AUTHORIZING THE MAYOR TO TRANSFER UNENCUMBERED FUNDS WITHIN THE GRANT BUDGET.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized and directed to execute an agreement, which is attached hereto and incorporated herein by reference, with the Kentucky Transportation Cabinet, for the acceptance of \$426,648.00 in state reimbursable funding (FD04) for the Innovation Drive and Georgetown Road Improvement Project, the acceptance of which obligates the Lexington-Fayette Urban County Government to the expenditure of \$200,000.00 as a local match, with such local match subject to reimbursement by Commerce Lexington, Inc.

Section 2 – That subject to the provisions of Section 7-48 of the Lexington-Fayette Urban County Government Code of Ordinances, the Mayor is hereby authorized, in her discretion as Chief Executive Officer of the Urban County Government, to transfer the unencumbered balance of any operating or capital account appropriation to another operating or capital account appropriation within the Grant budget established for this Grant.

Section 3 – That this Resolution shall become effective on the date of its passage.

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL

0233-24:GET:4880-5678-6089, v. 1

RESOLUTION NO. 120 - 2024

A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE AN AGREEMENT WITH THE KENTUCKY TRANSPORTATION CABINET, FOR THE ACCEPTANCE OF \$426,648.00 IN STATE REIMBURSABLE FUNDING (FD04), FOR THE INNOVATION DRIVE AND GEORGETOWN ROAD IMPROVEMENT PROJECT, THE ACCEPTANCE OF WHICH OBLIGATES THE URBAN COUNTY GOVERNMENT TO THE EXPENDITURE OF \$200,000.00 AS A LOCAL MATCH, WITH SUCH LOCAL MATCH SUBJECT TO REIMBURSEMENT BY COMMERCE LEXINGTON, INC., AND AUTHORIZING THE MAYOR TO TRANSFER UNENCUMBERED FUNDS WITHIN THE GRANT BUDGET.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized and directed to execute an agreement, which is attached hereto and incorporated herein by reference, with the Kentucky Transportation Cabinet, for the acceptance of \$426,648.00 in state reimbursable funding (FD04) for the Innovation Drive and Georgetown Road Improvement Project, the acceptance of which obligates the Lexington-Fayette Urban County Government to the expenditure of \$200,000.00 as a local match, with such local match subject to reimbursement by Commerce Lexington, Inc.

Section 2 – That subject to the provisions of Section 7-48 of the Lexington-Fayette Urban County Government Code of Ordinances, the Mayor is hereby authorized, in her discretion as Chief Executive Officer of the Urban County Government, to transfer the unencumbered balance of any operating or capital account appropriation to another operating or capital account appropriation within the Grant budget established for this Grant.

Section 3 – That this Resolution shall become effective on the date of its passage.



MAYOR

ATTEST:


CLERK OF URBAN COUNTY COUNCIL

Copy in lieu of original

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AGREEMENT BETWEEN COMMONWEALTH OF KENTUCKY TRANSPORTATION CABINET DEPARTMENT OF HIGHWAYS AND LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

THIS AGREEMENT, entered into by and between the Commonwealth of Kentucky, Transportation Cabinet, Department of Highways, hereinafter referred to as the “**Department**,” and the Lexington-Fayette Urban County Government, 200 East Main Street, Lexington, KY 40507, hereinafter referred to as the “**LPA**.”

WITNESSETH:

WHEREAS, the parties hereto desire to complete improvements to the intersection of Innovation Drive (CS 1185) and Georgetown Road (US 25) in the city of Lexington, which shall hereinafter be referred to as the “**Project**,”

WHEREAS, the **LPA** desires to be the lead agency and perform this **Project**;

WHEREAS, the **LPA** shall refer to the applicable state requirements listed in the Project Development Guide for Local Public Agencies and any future revisions for assistance in complying with this Agreement;

WHEREAS, the **LPA** has asked the **Department** for funding assistance for costs incurred during this **Project**;

WHEREAS, the **Department** agrees this is a worthwhile **Project** and is willing to reimburse the **LPA** up to \$426,648 in state reimbursable funding (FD04) for the completion of this **Project**; and

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WHEREAS, any cost in excess of the reimbursement funding (\$426,648) for this **Project** will be the responsibility of the **LPA**.

NOW, THEREFORE, in consideration of these premises and the mutual covenants contained herein, the parties hereby agree as follows:

1. The **Department** agrees to reimburse the **LPA** up to \$426,648 for completion of work by the **LPA**, or consultants, contractors, or subcontractors hired by the **LPA** for all Phases, under the obligations of this Agreement to complete safety improvements to the intersection of Innovation Drive (CS 1185) and Georgetown Road (US 25) in the city of Lexington. This project is listed in the current Highway Plan as Item no. 7-80253.
2. The **Department** has authorized up to \$426,648 in state reimbursable funding (FD04) for all eligible expenses for this **Project**. *This funding shall be made available for reimbursement following the expenditure of \$200,000 of local funds by the LPA for the Project.* This state reimbursable funding (FD04) shall be made available for reimbursement to the **LPA** for all eligible expenses to the **Project**. The **LPA** shall be responsible for all eligible costs above the \$426,648 as well as any costs deemed ineligible for reimbursement from this **Project**. Any additional funding obligated for the completion of this **Project** shall be evidenced in writing by both parties with a Supplemental Agreement.
3. This Agreement is contingent upon the continued availability of appropriated funding. If the funding appropriated for the **Project** becomes unavailable for any reason including: the Kentucky General Assembly's failure to appropriate the funding, by operation of law or as the result of a reduction in funding, further reimbursement of **Project** expenditures may be denied, the **Project** may be cancelled, the timeline extended or the scope amended by the **Department** either in whole or in part without penalty. Denial of further reimbursement, **Project** cancellation, extension or amendment because of an interruption in the appropriated funding

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is not a default or breach of this Agreement by the **Department** nor may such denial, cancellation, extension or amendment give rise to any claim against the **Department**.

4. The effective date of this Agreement is the date of signature by the Secretary of the Transportation Cabinet. The Term of Eligible Reimbursement under this Agreement shall be three (3) years from the date of its execution unless extended or amended by written Agreement in accordance with the provisions of KRS 45A. Any and all funding obligated for any phase of this **Project** shall be available to reimburse the **LPA** for eligible work activities completed and costs incurred prior to expiration.
5. The **LPA** shall follow state specifications for each necessary phase of this **Project**. The **LPA** shall adhere to all state regulations, including KRS 45A, KRS 176, KRS 177, and all terms of this Agreement for activities related to this **Project** as lead agency. The **LPA** will obtain any required permits, licenses or easements required to initiate, perform, and complete work and provide documentation to the **Department's** District 7 Office in Lexington. In addition, the **LPA** is responsible to meet all other requirements and adhere to all regulations necessary to qualify for the receipt of these state funds. Concurrence must be obtained by the **LPA** through the **Department's** District 7 Chief District Engineer in Lexington prior to the awarding of any contract for work or materials to be used on this **Project**.
6. Should the **Project** require any design services, the **LPA** agrees to use only licensed consultants who are pre-qualified to do work for the **Department** or to use a licensed Professional Engineer registered in the Commonwealth of Kentucky that demonstrates sufficient experience and knowledge in the type of work and receives the approval of the **Department's** District 7 Chief District Engineer in Lexington. The **LPA** shall be responsible for all **Project** design activities, which may be completed either by the **LPA's** staff or a consultant that is to be selected based on qualifications. All design work to be contracted must comply with all legal advertisement and selection requirements including, but not limited to, the Model Procurement Code provisions of KRS 45A and KRS 424. The **LPA** shall submit

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and obtain concurrences to the **Department's** District 7 Chief District Engineer in Lexington final design plans, specifications, and a total estimate prior to any construction. When applicable, the **LPA** must obtain any necessary permits or easements to allow for work to be accomplished on this **Project** and adhere to the Uniform Relocation Assistance (URA) and Real Property Acquisitions Policies Act.

7. Should the **Project** require the acquisition of any interest in real property by the **LPA**, the **LPA** shall ensure that all real property acquisition, relocation assistance, and property management are completed in a fair, equitable and approved manner consistent with all state laws and regulations governing the acquisition of real property for public use using highway funding. In all real property acquisitions, concurrence must be obtained through the **Department's** Division of Right of Way and Utilities and shall be subject to review and approval by the **Department**.
8. The **LPA** must obtain encroachment permits to allow for work to be accomplished on state owned right-of-way from the **Department's** District 7 Office in Lexington. The **LPA** acknowledges that the **Department** will require the placement of a restrictive easement approved by and in favor of the **Department** in the chain of title of any real property acquired or improved pursuant to the **Project**. If the owner of any real property acquired or improved pursuant to the **Project** is not the **Department** or the **LPA**, the owner shall sign and be made a party to this Agreement and the owner hereby acknowledges, covenants and consents to the placement of a restrictive easement for perpetual maintenance of the property acquired or improved pursuant to the **Project** in the chain of title in favor of the **Department** prior to final reimbursement by the **Department**.
9. The **LPA** shall either adopt in writing the **Department's** written Policies and Procedures for Right of Way Acquisition and Relocation Assistance or present its own written Policies and Procedures for approval by the **Department's** Division of Right of Way and Utilities. The **LPA** shall conduct all appraisals and appraisal reviews using personnel meeting the

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Department's minimum qualifications and listed on the **Department's** pre-qualified appraiser and reviewer list. If the **LPA** chooses to use an acquisition consultant on all or any portion of the **Project**, the selection of the consultant shall be in accordance with the **Department's** Division of Right of Way Guidance Manual. All appraisals must be reviewed and approved by the **Department's** Central Office review appraisers, failure to do so will result in the **Project** being ineligible for funding reimbursement. The **LPA** shall provide property management in accordance with approved procedures and be responsible for the abatement of any asbestos containing materials and removal of contaminated soils pursuant to applicable state laws and regulations. The **LPA** shall provide the **Department** necessary assurance that all real property has been acquired and all displaced individuals, businesses, non-profit organizations and farms have been offered relocation assistance according to applicable state laws and regulations. The **LPA** shall provide the **Department** necessary documentation for review and approval at various stages of the acquisition process, as described in the **Department's** Right of Way Guidance Manual.

10. When conducting a utility relocation, KRS 177.035 and KRS 179.265 determine the necessity of payment for utility companies. Identification of utility or railroad facilities in conflict with the **Project**, the execution of a remedy for said conflict and oversight of the execution, and all work related to the **Project** shall be done in accordance with the Cabinet's Standards, Specifications, Standard Drawings, and Utilities and Rails Manual. Utility relocations shall be designed by the utility company and shown on the **Project's** survey and general plan sheets. The impacted utility company, with its regular construction or maintenance personnel, and/or with an approved contractor or subcontractor, will furnish all engineering, administration, labor, and materials to make and complete all necessary adjustments of its facilities to accommodate the **Project**. Correspondence pertaining to utility or railroad coordination must be provided to both contracted parties. If a conflict of interest arises between the obligated party and a utility company, the unobligated party shall intercede to provide the utility coordination. The completed relocation shall be inspected to document the proper installation of the facilities. Upon full execution of the utility relocation for the **Project**, three (3) sets of

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as-built plans for each utility company that completes facility relocation on the project prior to the construction letting, a utility impact note defining the utilities identified in the **Project**, relocations that have been performed, incomplete relocations, and completion schedules for the incomplete work must be provided.

11. State construction criteria for the type of work shall be followed, including but not limited to the **Department's** Highway Design Manual, the **Department's** Standard Drawings, the **Department's** Standard Specifications for Road and Bridge Construction, the **Department's** Drainage Manual, the **Department's** Structural Design Manual, the American Association of State Highway Transportation Officials' (AASHTO) "Policy on Geometric Design of Highways and Streets", and the FHWA Manual on Uniform Traffic Control Devices (MUTCD). All work performed shall be in accordance with the **Department's** Standard Specifications for Road and Bridge Construction, edition 2019, and as provided in Subsection 105.01 of said Specifications. All materials furnished shall be in accordance with Subsection 106 of said Specifications to include all **Department** List of Approved Materials. These standards, specifications, and criteria are incorporated in this Agreement by this reference.

12. The **LPA** agrees to use only licensed contractors and subcontractors who are pre-qualified to do work for the **Department** for any necessary construction services. The **LPA** shall be responsible for all **Project** construction activities, which may be completed either by the **LPA's** staff or through the advertisement, opening of bids, selection, and contracting for contractor services in accordance with the Model Procurement Code provisions of KRS 45A and KRS 424. Specific requirements defined within KRS 45A require that the award be made to the lowest responsive bidder meeting the criteria of responsibility established by the **Department**. The contractor affirms that it is properly authorized under the laws of the Commonwealth of Kentucky to conduct business in this state and will remain in good standing to do business in the Commonwealth of Kentucky for the duration of any contract awarded. The contractor shall maintain certification of authority to conduct business in the Commonwealth of Kentucky during the term of this contract. Such registration is obtained

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from the Secretary of State, who will also provide the certification thereof. The **LPA** must receive **Department** approval for all change orders and shall have approval of the appropriate governing authority, but shall not increase the funding obligated to the **LPA** as a result of this Agreement.

13. Discrimination (because of race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability) is prohibited. During the performance of this contract, the **LPA** agrees as follows:
- a. The **LPA** will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity, or age. The **LPA** further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The **LPA** agrees to provide, upon request, needed reasonable accommodations. The **LPA** will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability. 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 compensations; and selection for training, including apprenticeship. The **LPA** agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
 - b. The **LPA** will, in all solicitations or advertisements for employees placed by or on behalf of the **LPA**; state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability.
 - c. The **LPA** will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the **LPA**'s commitments under this section, and shall

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post copies of the notice in conspicuous places available to employees and applicants for employment. The **LPA** will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

d. The **LPA** will comply with all provisions of Executive Order No. 11246 of September 24, 1965 as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.

e. The **LPA** will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

f. In the event of the **LPA's** noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be cancelled, terminated or suspended in whole or in part and the **LPA** may be declared ineligible for further government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.

g. The **LPA** will include the provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor, issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each sub-contractor or vendor. The **LPA** will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance.

14. The **LPA** shall be responsible for all aspects of administration, measuring, testing, and inspections to ensure the materials and work meets the **Department's** specifications of the construction contract. This includes providing daily, on-site inspection of the contractor's

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work activities and processing all of the paper work associated with the construction contract, including any change orders. The **Department** shall have access to the **Project** area and may conduct field reviews of the **Project** at any time. These field reviews are intended to verify status of the **Project**, performance of the contractor, adequacy of the **LPA** oversight, conformance with all laws, regulations, and policies and provide assistance to the **LPA** as may be necessary.

15. The **LPA** may submit to the **Department's** District 7 Office in Lexington current billings reflecting the actual cost of work incurred during any given work period, which will be paid within a reasonable time after receipt by the **Department**; however, in no event is the **LPA** to submit billings for work performed for less than a thirty (30) day period. All charges to the **Project** shall be supported by properly executed invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of the charge. The **Department** may require additional documentation at their discretion.

16. The **LPA** is responsible for ensuring that all **Project** construction activities have been completed and are responsible for providing all of the necessary paperwork as required by the construction contract. The **LPA** will conduct a field inspection to verify completion of the work in conformance with the Agreement. This documentation must be provided to the **Department's** District 7 Chief District Engineer in Lexington prior to final payment of the **Project**. When both the **LPA** and the **Department** accept the field work as complete, the **LPA's** project manager shall certify the **Project** was constructed in accordance with the plans and specifications and that all funding authorized on this **Project** has been used to reimburse for materials, equipment, or labor as intended and at the location agreed herein by both parties. Upon receipt of the **Department's** Final Acceptance Report, the **LPA** will issue the final payment to the contractor with an official Release of Contractor form for signature. Within 30 days, the **LPA** shall provide the **Department** with a copy of the official Release of Contractor form, as well as proof of payment, which includes cancelled checks.

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17. This Agreement and the maintenance responsibilities herein shall survive in perpetuity the cancellation or termination of all or any portion of the **Project**, and shall survive the completion of and acceptance of the **Project**. To protect the public interest and maintain the original intent, the **LPA** agrees to maintain in an acceptable condition all facilities improved by the **Project** to the condition existing at the time of the Final Acceptance Report in perpetuity. In the event that the **Project** improvements are not maintained as a public facility, the **LPA** shall reimburse the **Department** for all costs incurred and for all funding expended pursuant to the **Project**, including any applicable interest.

18. The **LPA** shall maintain for a period of three (3) years all records of materials, equipment, and labor costs involved in the performance of work of said **Project**. In order to obtain reimbursement from the **Department** for constructing said **Project**, the **LPA** shall submit to the **Department's** District 7 Office in Lexington documented invoices of materials, equipment, and labor used on the **Project**, including certification that the work was accomplished on a publicly maintained facility.

19. No member, officer, or employee of the **Department** or the **LPA** during his tenure or for one (1) year thereafter shall have any financial interest, direct or indirect, in this Agreement or the proceeds thereof as identified in KRS 45A.340. The **Department** and the **LPA** shall comply with the requirements of the Executive Branch Code of Ethics KRS Chapter 11A. The **LPA** warrants that no person, elected official, selling agency or other organization has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee. No member, officer, or employee of the **Department** or **LPA** shall collude or lobby on behalf of this **Project** without penalty, including but not limited to suspension or debarment.

20. To the extent permitted by law, the **LPA** shall indemnify and hold harmless the **Department** and all of its officers, agents, and employees from all suits, actions, or claims of any character arising from any injuries, payments or damages received or claimed by any person, persons,

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or property resulting from implementation of any phase of the **Project** or occurring on or near the **Project** site.

21. Either party may cancel the contract at any time for cause or may cancel without cause on 30 days written notice.
 - a. The **Department** reserves the right to cancel all reimbursements under this Agreement at any time deemed to be in the best interest of the **Department** by giving thirty (30) days written notice of such cancellation to the **LPA**. If reimbursement under this Agreement is canceled under this section by reason other than violation of this Agreement or any applicable law by the **LPA**, its agents, employees and contractors, the **Department** shall reimburse the **LPA** according to the terms hereof for all expenses incurred under this Agreement to the date of such cancellation of reimbursement.
 - b. The **LPA** may seek to cancel its obligations under this Agreement at any time deemed to be in the best interest of the **LPA** by giving thirty (30) days written notice of such request to the **Department**. If the **Department** agrees to allow the **LPA** to cancel the Project or cancel its obligations under this Agreement, the **LPA** shall reimburse the **Department** for all funding reimbursements made under this Agreement.
 - c. Any dispute concerning a question of fact in connection with the work not disposed of by Agreement between the **LPA** and the **Department** shall be referred to the Secretary of the Transportation Cabinet of the Commonwealth of Kentucky, or his duly authorized representative, whose decision shall be final. Any proposed change or extension to this Agreement shall be at the mutual consent of the **LPA** and the **Department** and be evidenced in writing.

22. The Kentucky General Assembly may allow for a reduction in a contract worker hours in conjunction with a budget balancing measure for some professional and non-professional service contracts. If under such authority the agency is required by Executive Order or otherwise to reduce contract hours, the contract will be reduced by the amount specified in that document.

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23. The **Department** certifies that it is in compliance with the provisions of KRS 45A.695. “Access to contractor's books, documents, papers, records, or other evidence directly pertinent to the contract.” The **LPA** hereby acknowledges it is responsible to inform any entity it intends to hire or use as a contractor, as defined in KRS 45A.030(9), that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this contract for the purpose of financial audit or program review. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the contract and shall be exempt from disclosure as provided in KRS 61.878(1)(c). The contractor also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884.
24. KRS 45A.485 requires the **LPA** to certify that all contractors shall reveal to the **Department**, any final determination of a violation by the contractor within the previous five (5) year period of the provisions of KRS chapters 136, 139, 141, 337, 338, 341, and 342. These statutes relate to the state sales and use tax, corporate and utility tax, income tax, wages and hours laws, occupational safety and health laws, unemployment insurance laws, and workers compensation insurance laws, respectively.

The **LPA** shall certify that all contractors agree to be in continuous compliance with the provisions of those statutes which apply to the contractor’s operations. Failure to reveal a final determination or failure to comply with the above statutes for the duration of the contract, shall be grounds for the **LPA**’s cancellation of the contract and the contractor’s disqualification from eligibility for future state contracts for a period of two (2) years.

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25. It is understood and agreed by these parties that if any part of this contract is held by the courts to be illegal or in conflict with any law of the Commonwealth of Kentucky, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular part, term, or provision held to be invalid.
26. The **LPA** will pass a resolution authorizing the Mayor to sign this Agreement on behalf of the **LPA**. An acceptable Resolution shall contain the project name, description, amount of funds being provided and an acknowledgement that the **LPA** agrees to ratify and adopt all statements, representations, warranties, covenants, and agreements contained in the Agreement. Furthermore, by accepting the funds the **LPA** agrees to all terms and conditions stated in the Agreement. A copy of that resolution shall be attached to and made a part of this Agreement.

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IN WITNESS WHEREOF, the parties have caused these presents to be executed by their officers thereunto duly authorized.

LEXINGTON-FAYETTE COUNTY
URBAN COUNTY GOVERNMENT

COMMONWEALTH OF KENTUCKY
TRANSPORTATION CABINET

Linda Gorton
Linda Gorton
Mayor

Jim Gray
Secretary

DATE: 3/26/2024

DATE: _____

APPROVED AS TO FORM & LEGALITY

DocuSigned by:
Todd Shipp
60A0A3E2A8264E...

Todd Shipp
Office of Legal Services

DATE: 10/25/2023



Lexington-Fayette Urban County Government

Master

200 E. Main St
Lexington, KY 40507

File Number: 0234-24

File ID: 0234-24

Type: Resolution

Status: Approved

Version: 2

Contract #: 036-2024

In Control: Urban County Council

File Created: 02/26/2024

File Name: MOA with Solar Energy Solutions for the 2024 Solarize Lexington Program

Final Action: 03/07/2024

Title: A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Memorandum of Agreement (awarded pursuant to RFP No. 4-2024) with Solar Energy Solutions, LLC, for its participation as installer in the Solarize Lexington Program, at a cost not to exceed \$1,088,733.30 for Grants awarded pursuant to the Solarize Lexington Program. [Div. of Environmental Services, Carey]

Notes: In office 3/1/2024. MS

Stamped and filed in the CCO. Returned to Crystal Williams Goodwin 3/8/2024. MS

Sponsors:

Enactment Date: 03/07/2024

Attachments: bluesheet memo SES Solarize Lex Program MOA, MOA - Solarize Lexington with Installer SES w exhibits and signed by SES, 0234-24- MOU with Solarize Lex 4853-5377-9882 v.1.doc, R-096-2024, Conract #036-2024

Enactment Number: R-096-2024

Deed #:

Hearing Date:

Drafter: Crystal Williams Goodwin

Effective Date:

History of Legislative File

| Ver- sion: | Acting Body: | Date: | Action: | Sent To: | Due Date: | Return Date: | Result: |
|---------------|-----------------------------------|------------|------------------------------------|----------------------|------------|-----------------|---------|
| 2 | Urban County Council Work Session | 03/05/2024 | Approved and Referred to Docket | Urban County Council | 03/07/2024 | | Pass |
| 2 | Urban County Council | 03/07/2024 | Received First Reading | Urban County Council | 03/07/2024 | | |
| 2 | Urban County Council | 03/07/2024 | Suspended Rules for Second Reading | | | | Pass |
| 2 | Urban County Council | 03/07/2024 | Approved | | | | Pass |

Text of Legislative File 0234-24

Title

A Resolution authorizing and directing the Mayor, on behalf of the Urban County

Government, to execute a Memorandum of Agreement (awarded pursuant to RFP No. 4-2024) with Solar Energy Solutions, LLC, for its participation as installer in the Solarize Lexington Program, at a cost not to exceed \$1,088,733.30 for Grants awarded pursuant to the Solarize Lexington Program. [Div. of Environmental Services, Carey]

Summary

Authorization to execute a Memorandum of Agreement (MOA) between LFUCG and Solar Energy Solutions, pursuant to RFP 4-2024 for the 2024 Solarize Lexington Program at a cost of \$1,088,733.30, an ARPA-funded project. Funds are Budgeted. (L0234-24) (Carey/Albright)

Budgetary Implications [select]: Yes/No

Advance Document Review:

Law: { Select Yes Evan Thompson 2/26/2024

Risk Management: {Select Yes/No, Completed by [Official, Date]}

Fully Budgeted [select]: Yes

Account Number: 3230-313201-3094-78112

This Fiscal Year Impact: \$ \$1,088,733.30 in FY24.

Annual Impact: \$

Project: AR_SOLAR_2024

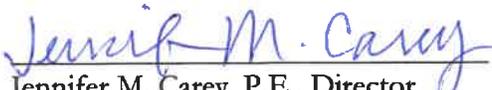
Activity:

Budget Reference:

Current Balance: \$1,088,733.30



TO: Mayor Linda Gorton
Urban County Council

FROM: 
Jennifer M. Carey, P.E., Director
Division of Environmental Services

DATE: February 26, 2024

SUBJECT: MOA with Solar Energy Solutions for the 2024 Solarize Lexington Program

Request

The purpose of this memorandum is to request authorization of a Memorandum of Agreement (MOA) between LFUCG and Solar Energy Solutions for the 2024 Solarize Lexington Program.

Why are you requesting?

The Solarize Lexington Program is an initiative to promote and encourage the use of photovoltaic arrays (PV) on residential and non-residential properties. It is a group-buying program designed to deliver cost-competitive solar installations. Solar Energy Solutions (SES) was one of six respondents to RFP No. 4-2024, and received the highest score from the selection committee for the 2024 Solarize Lexington Program.

As part of this MOA, SES will also provide the installations for qualified low- to moderate-income homeowners. Funds for the low- to moderate-income grant recipients were allocated as part of the 2023 fund balance, and were then re-allocated as an ARPA-funded project in early 2024.

What is the cost in this budget year and future budget years?

\$1,088,733.30 in FY24. No cost anticipated in future budget years.

Are the funds budgeted?

Yes, funds are budgeted in 3230-313201-3094-78112 2024 AR_SOLAR_2024 FED_GRANT

File Number: 0234-24

Director / Commissioner: Carey / Albright



MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT (hereinafter “MOA”) is made and entered into as of the ____ day of _____, 2024, by and between the **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT (LFUCG)**, an urban county government of the Commonwealth of Kentucky pursuant to Chapter 67A of the Kentucky Revised Statutes, 200 East Main Street, Lexington, Kentucky 40507 (hereinafter “LFUCG”) acting by and through the Division of Environmental Services, and **SOLAR ENERGY SOLUTIONS (SES)**, whose office is located at 1038 Brentwood Court, Suite B, Lexington, KY 40511 (hereinafter referred to as "Installer") with regard to the specific roles and responsibilities of the **Solarize Lexington Program**.

WITNESSETH:

WHEREAS, LFUCG recognizes that becoming more energy efficient is key to Lexington-Fayette County becoming a more resilient and sustainable community; and

WHEREAS, LFUCG becoming more energy efficient will benefit our community by saving our citizens money, keeping money in our local economy, creating jobs, reducing emission and air pollution, improving public health and protecting the environment; and

WHEREAS, LFUCG recognizes the importance of programs to enhance sustainability of Lexington-Fayette County per Council Resolution 220-2012; and

WHEREAS, the Solarize Lexington Program is designed to promote and encourage the use of photovoltaic arrays (PV) on residential and non-residential properties; and

WHEREAS, the Installer will install PV on properties of property owners who sign-up through and qualify to participate in the Program;

NOW, THEREFORE, it is mutually agreed by and between the LFUCG and SES hereto as follows:

I. LFUCG’S SERVICES AND RESPONSIBILITIES:

LFUCG hereby agrees to:

- A. Designate the Sustainability Program Manager Senior as primary contact for Solarize Lexington;
- B. Arrange weekly check in meetings with Installer;
- C. Pre-screen Program applicants and forward qualifying applicants’ information to the Installer;
- D. Assist in communicating with Program participants;
- E. Continually recruit participants to join the Program until the sign-up deadline;

- F. Installer acknowledges and agrees that LFUCG, KY Solar Energy Society and the Solarize Lexington Team are not parties to and have no obligations under the contracts between the Installer and the Program participants.

II. INSTALLER'S SERVICES AND RESPONSIBILITIES:

Installer hereby agrees to:

- A. Installer Proposal and Installation Services:** Installer agrees to
1. Honor the terms of the accepted Program proposal, including the participant pricing. Refer to Response Form Part 2 (Proposed PV Pricing) for participant pricing provided in the Program proposal. Any changes to the project design (pricing, equipment, service offering, etc.) must be submitted in writing to the Solarize Lexington Team. The Solarize Lexington Team must review and approve said changes.
 2. Call and schedule site visits with each qualifying applicant within one week of receiving participant information.
 3. Prepare individualized proposals for each of the participants based on the specifications (including equipment and warranties) and prices in Installer's approved proposal. It is understood that all proposals and contracts' base price include all elements necessary to design and construct the system including, but not limited to, engineering design, permitting, interconnection requirements, and, if desired by participant, assist with Solar Renewable Energy Credits ("SREC") registration. Each individualized proposal shall include the following:
 - a. The installed system cost and cost per Watt (\$/W);
 - b. Any milestone payments required, and clear indication of when payments are due;
 - c. System size expressed in kW (DC);
 - d. Proposed tilt and azimuth of the solar array(s);
 - e. Estimated annual production of the proposed solar array(s) and the resulting percentage of annual electricity consumption the system is expected to offset;
 - f. List of any applicable adders and description of reason/purpose for adder. Breakdown of available state and federal incentives; and
 - g. Who the system owner is.
 4. Provide a preliminary proposal to Program participants within one week of contact and schedule Installer's site visit for interested participants.
 5. Email the Solarize Lexington Team copies of the first three (3) proposals issued to Program participants and agree to share any other Program proposals or information that may be requested in the future for the duration of the Program.
 6. Respond to Program participants' questions and concerns in a reasonable timeframe;
 7. Prepare individualized contracts for Program participants.
 8. Implement the Project within the deadlines outlined in Section III of this

Agreement;

9. Obtain and maintain insurance coverage in amounts equal to or higher than what is required per the Program's requirements.
10. Complete all permits, registrations, interconnection agreements, and SREC registrations (if desired by participant) for each Program participant and assist the Program participant with acquiring the approved and final documentation for all inspections and interconnection;
11. Installer hereby consents to the disclosure, by each Program participant, to the Solarize Lexington Team of any and all contracts and/or communications between such Program participant and the Installer; and Solarize Lexington Team may communicate with the Installer about the status, progress, and/or implementation at each Program participant site. The Solarize Lexington Team may choose to conduct a third-party quality control assessment on one or more completed and interconnected installations chosen at random. Inspections would include a visual assessment of components and workmanship and be performed by an experienced inspection contractor selected independently by the Solarize Lexington Team. Any inspection costs would be at LFUCG's expense. The Solarize Lexington Team can provide assessment criteria to Installer upon request.

B. Information Sharing and Reporting: Installer agrees to

1. Designate a primary contact;
2. Participate in weekly check-in meetings organized by the Solarize Lexington Team;
3. Provide the Solarize Lexington Team with weekly summary reports of participant sign-ups and progress information including, but not limited to participant name, address, installation schedule, system size, contract amount, estimated annual production in kilowatt hours (kWh), and photographs of completed installations in advance of the weekly check-in calls.
4. Submit a full report to the Solarize Lexington Team at the close of the Program that clearly details the status and outcomes of the leads generated through the Program.

C. Marketing and Outreach: Installer agrees to assist the Solarize Lexington Team to drive community adoption of PV projects. Installer agrees to:

1. Work directly with the Solarize Lexington Team in the execution of outreach and marketing efforts used to increase attendance at educational workshops and participation in the Program;
2. Request approval from the Solarize Lexington Team for all marketing materials developed to promote the Solarize Lexington Program in advance of distribution. This includes, but is not limited to, flyers, blog posts, website content, social media posts, door hangers, press releases, the use of the Solarize Lexington's logo, or any other communications

related to the Program;

3. Notify the Solarize Lexington Team in advance and collaborate on any press releases, events, or news conference concerning the Program. All media produced by the Installer in promotion of the Program is subject to the Solarize Lexington Team approval.

D. Participant Sign-up and Tracking: Both Parties agree that all leads generated by campaign related outreach will be stored in a location accessible by both the Solarize Lexington Team and the Installer.

E. Use of Federal Funds: Installer understands that LFUCG may subsidize the installation of PV on eligible properties pursuant to a grant program utilizing federal funds. As such, Installer agrees to comply with all terms and conditions of RFP #4-2024, attached hereto and incorporated herein by reference, which includes the Certification of Compliance for Expenditures Using Federal Funds, Including the American Rescue Plan Act, and the Installer further acknowledges that by executing this Agreement, it is and will remain compliant with all terms and conditions included therein.

III. DURATION OF AGREEMENT:

A. This Agreement shall cover work performed from March 12, 2024, through March 12, 2025.

B. This Agreement may be terminated by submitting thirty (30) days' written notice to the non-terminating party of such intent to terminate. Should either Party terminate this Agreement, Installer's access to the Solarize Lexington Program participant sign-up information and leads shall be immediately revoked.

IV. RELATED DOCUMENTS. This Agreement shall consist of the terms herein as well as the following additional documents, which are attached hereto as exhibits and incorporated herein by reference as if fully stated:

A. Exhibit "A" – RFP #4-2024

B. Exhibit "B" – Installer's Response to RFP #4-2024

To the extent that there is any conflict between or among any of these documents, the terms and provisions of this Agreement shall prevail, followed by terms and provisions of Exhibit "A", and "B" in that order.

V. GOVERNING LAW:

This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky. In the event of any proceedings regarding this

Agreement, the Parties agree that the venue shall be the state courts of Kentucky 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 Agreement or any rights or obligations arising thereunder. Service of process may be accomplished by following the procedures prescribed by law.

VI. ENTIRE AGREEMENT:

This Agreement constitutes the entire agreement and understanding of the Parties with respect to the subject matter set forth herein and this Agreement supersedes any and all prior and contemporaneous oral or written agreements or understandings between the Parties relative thereto. No representation, promise, inducement, or statement of intention has been made by the Parties that are not embodied in this Agreement.

VII. MISCELLANEOUS PROVISIONS:

- A. Installer shall familiarize itself with and shall at all times comply with all federal, state, and local laws, ordinances, and regulations that in any manner affect the services of this agreement.
- B. Installer agrees to indemnify, defend, and hold harmless LFUCG for all claims and liabilities of whatever nature directly or indirectly arising out of, caused by, or attributable to the performance of this MOA by Installer, its employees, agents, representatives, and volunteers.
- C. This MOA shall not create a contractual relationship with or right of action in favor of any third party against either LFUCG or Installer.
- D. If any term or provision of this MOA shall be found illegal or unenforceable by a court of competent jurisdiction, such term or provision shall be deemed stricken and this MOA shall remain in full force.
- E. The failure of either Party to enforce any right reserved to it in this MOA shall not be a waiver of any such right to which the party is entitled, and a waiver by either Party of any breach of any provision of this MOA shall not constitute a continuing waiver or waiver of any subsequent breach by either Party of either the same or another provision of this MOA.

EXHIBIT A
REQUEST FOR PROPOSALS FOR
SOLARIZE LEXINGTON PROGRAM
RFP #4-2024



Lexington-Fayette Urban County Government

Request for Proposals

The Lexington-Fayette Urban County Government hereby requests proposals for **RFP #4-2024 Solarize Lexington Program** to be provided in accordance with terms, conditions and specifications established herein.

Sealed proposals will be received through Ion Wave until **2:00 PM**, prevailing local time, on **January 25, 2024**. All forms and information requested in RFP must be included and attached in Response Attachments tab in Ion Wave.

Proposals received after the date and time set for opening proposals will not be accepted. It is the sole responsibility of the Proposer to assure that his/her proposal is submitted in Ion Wave before the date and time set for opening proposals.

Proposals, once submitted, may not be withdrawn for a period of ninety (90) calendar days.

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 LFUCG 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.

A pre-proposal meeting will be held via Zoom, January 22, 2024, 2:00 pm.

Join Zoom Meeting

<https://us02web.zoom.us/j/83477387464>

Meeting ID: 834 7738 7464

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, religion, sex (including pregnancy, sexual orientation or gender identity), national origin, disability, age, genetic information, political affiliation, or veteran status, and to promote equal employment through a positive, continuing program from itself and each of its sub-contracting 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.

LFUCG Non-Appropriation Clause

Contractor acknowledges that the LFUCG is a governmental entity, and the contract validity is based upon the availability of public funding under the authority of its statutory mandate.

In the event that public funds are unavailable and not appropriated for the performance of the LFUCG's obligations under this contract, then this contract shall automatically expire without penalty to the LFUCG thirty (30) days after written notice to Contractor of the unavailability and non-appropriation of public funds. It is expressly agreed that the LFUCG shall not activate this non-appropriation provision for its convenience or to circumvent the requirements of this contract, but only as an emergency fiscal measure during a substantial fiscal crisis, which affects generally its governmental operations.

In the event of a change in the LFUCG's statutory authority, mandate and mandated functions, by state and federal legislative or regulatory action, which adversely affects the LFUCG's authority to continue its obligations under this contract, then this contract shall automatically terminate without penalty to the LFUCG upon written notice to Contractor of such limitation or change in the LFUCG's legal authority.

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 Procurement 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 Procurement or (2) submitting a written request for a meeting with the Director of Procurement 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 Procurement 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 Procurement 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 Procurement or (2) submitting a written request for a meeting with the Director of Procurement 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 Procurement shall in writing, affirm or withdraw the recommendation.

AMERICAN RESCUE PLAN ACT

AMENDMENT 1 — CERTIFICATION OF COMPLIANCE FOR EXPENDITURES USING FEDERAL FUNDS, INCLUDING THE AMERICAN RESCUE PLAN ACT

The Lexington-Fayette Urban County Government (“LFUCG”) may use Federal funding to pay for the goods and/or services that are the subject matter of this bid. That Federal funding may include funds received by LFUCG under the American Rescue Plan Act of 2021. Expenditures using Federal funds require evidence of the contractor’s compliance with Federal law. Therefore, by the signature below of an authorized company representative, you certify that the information below is understood, agreed, and correct. 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.

The bidder (hereafter “bidder,” or “contractor”) agrees and understands that in addition to all conditions stated within the attached bid documents, the following conditions will also apply to any Agreement entered between bidder and LFUCG, if LFUCG uses Federal funds, including but not limited to funding received by LFUCG under the American Rescue Plan Act (“ARPA”), toward payment of goods and/or services referenced in this bid. The bidder also agrees and understands that if there is a conflict between the terms included elsewhere in this Request for Proposal and the terms of this Amendment 1, then the terms of Amendment 1 shall control. The bidder further certifies that it can and will comply with these conditions, if this bid is accepted and an Agreement is executed:

1. Any Agreement executed as a result of acceptance of this bid may be governed in accordance with 2 CFR Part 200 and all other applicable Federal law and regulations and guidance issued by the U.S. Department of the Treasury.
2. Pursuant to 24 CFR § 85.43, any Agreement executed as a result of acceptance of this bid can be terminated if the contractor fails to comply with any term of the award. This Agreement may be terminated for convenience in accordance with 24 CFR § 85.44 upon written notice by LFUCG. Either party may terminate this Agreement with thirty (30) days written notice to the other party, in which case the Agreement shall terminate on the thirtieth day. In the event of termination, the contractor shall be entitled to that portion of total compensation due under this Agreement as the services rendered bears to the services required. However, if LFUCG suspects a breach of the terms of the Agreement and/or that the contractor is violating the terms of any applicable law governing the use of Federal funds, LFUCG may suspend the contractor’s ability to receive payment by giving thirty (30) days’ advance written notice. Further, either party may terminate this Agreement for cause shown with thirty (30) days written notice, which shall explain the party’s cause for the termination. If the parties do not reach a settlement before the end of the 30 days, then the Agreement shall terminate on the thirtieth day. In the event of a breach, LFUCG reserves the right to pursue any and all applicable legal, equitable, and/or administrative remedies against the contractor.
3. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:
 - (1) 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 apprenticeship. The contractor agrees to post in conspicuous places, available to employees and

applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- (4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part, and the contractor may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

Provided, however, that in the event a contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

4. If fulfillment of the contract requires the contractor to employ mechanic's or laborers, the contractor further agrees that it can and will comply with the following:

- (1) *Overtime requirements: No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such a workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such a workweek.*

- (2) *Violation: liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.*
- (3) *Withholding for unpaid wages and liquidated damages. LFUCG shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.*
- (4) *Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower-tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.*

5. *The contractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.*

6. *The contractor shall report each violation to LFUCG and understands and agrees that LFUCG will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency Regional Office.*

7. *The contractor shall include these requirements in numerical paragraphs 5 and 6 in each subcontract exceeding \$100,000 financed in whole or in part with Federal funding.*

8. *The contractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.*

9. *The contractor shall report each violation to LFUCG and understands and agrees that LFUCG will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency Regional Office.*

10. *The contractor shall include these requirements in numerical paragraphs 8 and 9 in each subcontract exceeding \$100,000 financed in whole or in part with Federal funds.*

11. *The contractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.*

12. *The contractor shall report each violation to LFUCG and understands and agrees that LFUCG will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency regional office.*

13. *The contractor shall include these requirements in numerical paragraphs 11 and 12 in each subcontract exceeding \$100,000 financed in whole or in part with American Rescue Plan Act funds.*

14. The contractor shall include this language in any subcontract it executes to fulfill the terms of this bid: “the sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury’s Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with ‘Limited English Proficiency’ in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury’s Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.”

15. *Contractors who apply or bid for an award of \$100,000 or more shall file the required certification that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier, up to the recipient. The required certification is included here:*

- a. The undersigned certifies, to the best of his or her knowledge and belief, that:
 - (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.
 - (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
- b. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

16. The contractor acknowledges and certifies that it has not been debarred or suspended and further acknowledges and agrees that it must comply with regulations regarding debarred or suspended entities in accordance with 24 CFR § 570.489(1). Funds may not be provided to excluded or disqualified persons.

17. The contractor agrees and certifies that to the greatest extent practicable, it will prefer the purchase, acquisition, and use of all applicable goods, products or materials produced in the United States, in

conformity with 2 CFR 200.322 and/or section 70914 of Public Law No. 117-58, §§ 70901-52, also known as the Infrastructure Investment and Jobs Act, whichever is applicable.

18. The contractor agrees and certifies that all activities performed pursuant to any Agreement entered as a result of the contractor's bid, and all goods and services procured under that Agreement, shall comply with 2 C.F.R. § 200.216 (Prohibition on certain telecommunications and video surveillance services and equipment) and 2 C.F.R. 200 § 200..323 (Procurement of recovered materials), to the extent either section is applicable.

19. If this bid involves construction work for a project totaling \$10 million or more, then the contractor further agrees that all laborers and mechanics, etc., employed in the construction of the public facility project assisted with funds provided under this Agreement, whether employed by contractor, or contractor's contractors, or subcontractors, shall be paid wages complying with the Davis-Bacon Act (40 U.S.C. 3141-3144). Contractor agrees that all of contractor's contractors and subcontractors will pay laborers and mechanics the prevailing wage as determined by the Secretary of Labor and that said laborers and mechanics will be paid not less than once a week. The contractor agrees to comply with the Copeland Anti- Kick Back Act (18 U.S.C. § 874) and its implementing regulations of the U.S. Department of Labor at 29 CFR part 3 and part 5. The contractor further agrees to comply with the applicable provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. Section 327-333), and the applicable provisions of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. et seq.). Contractor further agrees that it will report all suspected or reported violations of any of the laws identified in this paragraph to LFUCG.

Signature

Date

SELECTION CRITERIA:

Selection Criteria.

| | |
|--|----|
| Installer's Credentials and Experience (Response Form Part 1) | 25 |
| Proposal Cost Effectiveness (Response Form Parts 2 and 3) | 40 |
| Proposed Quality of Hardware, Warranty, and Service (Response Form Parts 4 and 5) | 30 |
| Installer's Community Benefits and Additional Offerings (Response Form Parts 6 and 7) | 5 |

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 submitted via IonWave at: <https://lexingtonky.ionwave.net>

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.

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 Procurement 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 _____, 20__.

My Commission expires: _____

NOTARY PUBLIC, STATE AT LARGE

EQUAL OPPORTUNITY AGREEMENT

Standard Title VI Assurance

The Lexington Fayette-Urban County Government, (hereinafter referred to as the "Recipient") hereby agrees that as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78Stat.252, 42 U.S.C. 2000d-4 (hereinafter referred to as the "Act"), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, (49 CFR, Part 21) Nondiscrimination in Federally Assisted Program of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the "Regulations") and other pertinent directives, no person in the United States shall, on the grounds of race, color, national origin, sex, age (over 40), religion, sexual orientation, gender identity, veteran status, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance from the U.S. Department of Transportation, including the Federal Highway Administration, and hereby gives assurance that will promptly take any necessary measures to effectuate this agreement. This assurance is required by subsection 21.7(a) (1) of the Regulations.

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: _____

| Categories | Total | White (Not Hispanic or Latino) | | Hispanic or Latino | | Black or African- American (Not Hispanic or Latino) | | Native Hawaiian and Other Pacific Islander (Not Hispanic or Latino) | | Asian (Not Hispanic or Latino) | | American Indian or Alaskan Native (not Hispanic or Latino) | | Two or more races (Not Hispanic or Latino) | | Total | |
|------------------|-------|--------------------------------------|---|-----------------------|---|--|---|---|---|---|---|--|---|--|---|-------|---|
| | | M | F | M | F | M | F | M | F | M | F | M | F | M | F | M | F |
| Administrators | | | | | | | | | | | | | | | | | |
| Professionals | | | | | | | | | | | | | | | | | |
| Superintendents | | | | | | | | | | | | | | | | | |
| Supervisors | | | | | | | | | | | | | | | | | |
| Foremen | | | | | | | | | | | | | | | | | |
| Technicians | | | | | | | | | | | | | | | | | |
| Protective | | | | | | | | | | | | | | | | | |
| Para- | | | | | | | | | | | | | | | | | |
| Office/Clerical | | | | | | | | | | | | | | | | | |
| Skilled Craft | | | | | | | | | | | | | | | | | |
| Service/Maintena | | | | | | | | | | | | | | | | | |
| Total: | | | | | | | | | | | | | | | | | |

Prepared by: _____ Date: ____/____/____

(Name and Title)

Revised 2015-Dec-15

**DIRECTOR, DIVISION OF PROCUREMENT
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

Notice of requirement for Affirmative Action to ensure Equal Employment Opportunities and Disadvantaged Business Enterprises (DBE) Contract participation. Disadvantaged Business Enterprises (DBE) consists of Minority-Owned Business Enterprises (MBE) and Woman-Owned Business Enterprises (WBE).

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 Disadvantaged Business Enterprises, which is made up of MBEs and WBEs. The Lexington Fayette Urban County Government also has set a goal that not less than three percent (3%) of the total value of this Contract be subcontracted to Veteran-owned Small Businesses. The goal for the utilization of Disadvantaged Business Enterprises as well Veteran –owned Small Businesses as subcontractors is a recommended goal. Contractor(s) who fail to meet such goal will be expected to provide written explanations to the Director of the Division of Purchasing of efforts they have made to accomplish the recommended goal, and the extent to which they are successful in accomplishing the recommended goal will be a consideration in the procurement process. Depending on the funding source, other DBE goals may apply.

For assistance in locating Disadvantaged Business Enterprises Subcontractors contact:

Sherita Miller, MPA, Division of Procurement
Lexington-Fayette Urban County Government
200 East Main Street, 3rd Floor, Room 338
Lexington, Kentucky 40507
smiller@lexingtonky.gov

Lexington-Fayette Urban County Government
MWDBE PARTICIPATION GOALS

A. GENERAL

- 1) The LFUCG request all potential contractors to make a concerted effort to include Minority-Owned (MBE), Woman-Owned (WBE), Disadvantaged (DBE) Business Enterprises and Veteran-Owned Small Businesses (VOSB) as subcontractors or suppliers in their bids.
- 2) Toward that end, the LFUCG has established 10% of total procurement costs as a Goal for participation of Minority-Owned, Woman-Owned and Disadvantaged Businesses on this contract.
- 3) **It is therefore a request of each Bidder to include in its bid, the same goal (10%) for MWDBE participation and other requirements as outlined in this section.**
- 4) The LFUCG has also established a 3% of total procurement costs as a Goal for participation for of Veteran-Owned Businesses.
- 5) **It is therefore a request of each Bidder to include in its bid, the same goal (3%) for Veteran-Owned participation and other requirements as outlined in this section.**

B. PROCEDURES

- 1) The successful bidder will be required to report to the LFUCG, the dollar amounts of all payments submitted to Minority-Owned, Woman-Owned or Veteran-Owned subcontractors and suppliers for work done or materials purchased for this contract. (See Subcontractor Monthly Payment Report)
- 2) Replacement of a Minority-Owned, Woman-Owned or Veteran-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 MWDBE Firm; this is subject to approval by the LFUCG. (See LFUCG MWDBE Substitution Form)
- 3) For assistance in identifying qualified, certified businesses to solicit for potential contracting opportunities, bidders may contact:
 - a) The Lexington-Fayette Urban County Government, Division of Procurement (859-258-3320)
- 4) The LFUCG will make every effort to notify interested MWDBE and Veteran-Owned subcontractors and suppliers of each Bid Package, including information on the scope of work, the pre-bid meeting time and location, the bid date, and all other pertinent information regarding the project.

C. DEFINITIONS

- 1) A Minority-Owned Business Enterprise (MBE) is defined as a business which is certified as being at least 51% owned, managed and controlled by persons of African American, Hispanic, Asian, Pacific Islander, American Indian or Alaskan Native Heritage.
- 2) A Woman-Owned Business Enterprise (WBE) is defined as a business which is certified as being at least 51% owned, managed and controlled by one or more women.

- 3) A Disadvantaged Business (DBE) is defined as a business which is certified as being at least 51% owned, managed and controlled by a person(s) that are economically and socially disadvantaged.
- 4) A Veteran-Owned Small Business (VOSB) is defined as a business which is certified as being at least 51% owned, managed and controlled by a veteran and/or a service disabled veteran.
- 5) Good Faith Efforts are efforts that, given all relevant circumstances, a bidder or proposer actively and aggressively seeking to meet the goals, can reasonably be expected to make. In evaluating good faith efforts made toward achieving the goals, whether the bidder or proposer has performed the efforts outlined in the Obligations of Bidder for Good Faith Efforts outlined in this document will be considered, along with any other relevant factors.

D. OBLIGATION OF BIDDER FOR GOOD FAITH EFFORTS

- 1) **The bidder shall make a Good Faith Effort to achieve the Participation Goal for MWDBE and Veteran-Owned 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.**
- 2) Award of Contract shall be conditioned upon satisfaction of the requirements set forth herein.
- 3) The Form of Proposal includes a section entitled “MWDBE Participation Form”. The applicable information must be completed and submitted as outlined below.
- 4) **Failure to submit this information as requested may be cause for rejection of bid or delay in contract award.**

E. DOCUMENTATION REQUIRED FOR GOOD FAITH EFFORTS

- 1) Bidders reaching the Goal are required to submit only the MWDBE Participation Form.” The form must be fully completed including names and telephone number of participating MWDBE firm(s); type of work to be performed; estimated value of the contract and value expressed as a percentage of the total Lump Sum Bid Price. The form must be signed and dated, and is to be submitted with the bid.
- 2) Bidders not reaching the Goal must submit the “MWDBE Participation Form”, the “Quote Summary Form” and a written statement documenting their Good Faith Effort to do so. If bid includes no MWDBE and/or Veteran participation, bidder shall enter “None” on the subcontractor / supplier form). In addition, the bidder must submit written proof of their Good Faith Efforts to meet the Participation Goal:
 - a. Advertised opportunities to participate in the contract in at least two (2) publications of general circulation media; trade and professional association publications; small and minority business or trade publications; and publications or trades targeting minority, women and disadvantaged businesses not less than fifteen (15) days prior to the deadline for submission of bids to allow MWDBE firms and Veteran-Owned businesses to participate.
 - b. Included documentation of advertising in the above publications with the bidders good faith efforts package

- c. Attended LFUCG Procurement Economic Inclusion Outreach event
- d. Attended pre-bid meetings that were scheduled by LFUCG to inform MWDBEs and/or Veteran-Owned businesses of subcontracting opportunities
- e. Sponsored Economic Inclusion event to provide networking opportunities for prime contractors and MWDBE firms and Veteran-Owned businesses.
- f. Requested a list of MWDBE and/or Veteran subcontractors or suppliers from LFUCG and showed evidence of contacting the companies on the list(s).
- g. Contacted organizations that work with MWDBE companies for assistance in finding certified MWDBE firms and Veteran-Owned businesses to work on this project. Those contacted and their responses should be a part of the bidder's good faith efforts documentation.
- d. Sent written notices, by certified mail, email or facsimile, to qualified, certified MWDBEs and/or Veteran-Owned businesses soliciting their participation in the contract not less than seven (7) days prior to the deadline for submission of bids to allow them to participate effectively.
- e. Followed up initial solicitations by contacting MWDBEs and Veteran-Owned Businesses to determine their level of interest.
- j. Provided the interested MWDBE firm and/or Veteran-Owned business with adequate and timely information about the plans, specifications, and requirements of the contract.
- k. Selected portions of the work to be performed by MWDBE firms and/or Veteran-Owned businesses in order to increase the likelihood of meeting the contract goals. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate MWDBE and Veteran participation, even when the prime contractor may otherwise perform these work items with its own workforce
- l. Negotiated in good faith with interested MWDBE firms and Veteran-Owned businesses not rejecting them as unqualified without sound reasons based on a thorough investigation of their capabilities. Any rejection should be so noted in writing with a description as to why an agreement could not be reached.
- m. Included documentation of quotations received from interested MWDBE firms and Veteran-Owned businesses which were not used due to uncompetitive pricing or were rejected as unacceptable and/or copies of responses from firms indicating that they would not be submitting a bid.
- n. Bidder has to submit sound reasons why the quotations were considered unacceptable. The fact that the bidder has the ability and/or desire to perform the contract work with its own forces will not be considered a sound reason for rejecting a MWDBE and/or Veteran-Owned business's quote. Nothing in this provision shall be construed to require the bidder to accept unreasonable quotes in order to satisfy MWDBE and Veteran goals.

o. Made an effort to offer assistance to or refer interested MWDBE firms and Veteran-Owned businesses to obtain the necessary equipment, supplies, materials, insurance and/or bonding to satisfy the work requirements of the bid proposal

p. Made efforts to expand the search for MWBE firms and Veteran-Owned businesses beyond the usual geographic boundaries.

q. Other--any other evidence that the bidder submits which may show that the bidder has made reasonable good faith efforts to include MWDBE and Veteran participation.

Note: Failure to submit any of the documentation requested in this section may be cause for rejection of bid. Bidders may include any other documentation deemed relevant to this requirement which is subject to review by the MBE Liaison. Documentation of Good Faith Efforts must be submitted with the Bid, if the participation Goal is not met.



MINORITY BUSINESS ENTERPRISE PROGRAM

Sherita Miller, MPA
Minority Business Enterprise Liaison
Division of Procurement
Lexington-Fayette Urban County Government
200 East Main Street
Lexington, KY 40507
smiller@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 484-2017 – A Certified Minority, Women and Disadvantaged Business Enterprise ten percent (10%) minimum goal and a three (3%) minimum goal for Certified Veteran-Owned Small Businesses and Certified Service Disabled Veteran – Owned Businesses for government contracts.

The resolution states the following definitions shall be used for the purposes of reaching these goals (a full copy is available in Procurement):

Certified Disadvantaged Business Enterprise (DBE) – a business in which at least fifty-one percent (51%) is owned, managed and controlled by a person(s) who is socially and economically disadvantaged as defined by 49 CFR subpart 26.

Certified Minority Business Enterprise (MBE) – a business in which at least fifty-one percent (51%) is owned, managed and controlled by an ethnic minority (i.e. African American, Asian American/Pacific Islander, Hispanic Islander, Native American/Native Alaskan Indian) as defined in federal law or regulation as it may be amended from time-to-time.

Certified Women Business Enterprise (WBE) – a business in which at least fifty-one percent (51%) is owned, managed and controlled by a woman.

Certified Veteran-Owned Small Business (VOSB) – a business in which at least fifty-one percent (51%) is owned, managed and controlled by a veteran who served on active duty with the U.S. Army, Air Force, Navy, Marines or Coast Guard.

Certified Service Disabled Veteran Owned Small Business (SDVOSB) – a business in which at least fifty-one percent (51%) is owned, managed and controlled by a disabled veteran who served on active duty with the U.S. Army, Air Force, Navy, Marines or Coast Guard.

The term “Certified” shall mean the business is appropriately certified, licensed, verified, or validated by an organization or entity recognized by the Division of Purchasing as having the appropriate credentials to make a determination as to the status of the business.

We have compiled the list below to help you locate certified MBE, WBE and DBE certified businesses. Below is a listing of contacts for LFUCG Certified MWDBEs and Veteran-Owned Small Businesses in (<https://lexingtonky.ionwave.net>)

| Business | Contact | Email Address | Phone |
|---|--|--|--------------|
| LFUCG | Sherita Miller | smiller@lexingtonky.gov | 859-258-3323 |
| Commerce Lexington – Minority Business Development | Tyrone Tyra | ttyra@commercelexington.com | 859-226-1625 |
| Tri-State Minority Supplier Diversity Council | Susan Marston | smarston@tsmsdc.com | 502-365-9762 |
| Small Business Development Council | Shawn Rogers UK SBDC | shawn.rogers@uky.edu | 859-257-7666 |
| Community Ventures Corporation | Phyllis Alcorn | palcorn@cvky.org | 859-231-0054 |
| KY Transportation Cabinet (KYTC) | Melvin Bynes | Melvin.bynes2@ky.gov | 502-564-3601 |
| KYTC Pre-Qualification | Shella Eagle | Shella.Eagle@ky.gov | 502-782-4815 |
| Ohio River Valley Women’s Business Council (WBENC) | Sheila Mixon | smixon@orvwbc.org | 513-487-6537 |
| Kentucky MWBE Certification Program | Yvette Smith, Kentucky Finance Cabinet | Yvette.Smith@ky.gov | 502-564-8099 |
| National Women Business Owner’s Council (NWBOC) | Janet Harris-Lange | janet@nwvoc.org | 800-675-5066 |
| Small Business Administration | Robert Coffey | robertcoffey@sba.gov | 502-582-5971 |
| LaVoz de Kentucky | Andres Cruz | lavozdeky@yahoo.com | 859-621-2106 |
| The Key News Journal | Patrice Muhammad | production@keynewsjournal.com | 859-685-8488 |



LFUCG MWDBE PARTICIPATION FORM

Bid/RFP/Quote Reference # _____

The MWDBE and/or veteran 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 Procurement for approval immediately. **Failure to submit a completed form may cause rejection of the bid.**

| MWDBE Company, Name, Address, Phone, Email | MBE WBE or DBE | 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 MWDBE 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

Company Representative

Date

Title



LFUCG MWDBE SUBSTITUTION FORM

Bid/RFP/Quote Reference # _____

The substituted MWDBE and/or veteran 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 Procurement 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 MWDBE Company Name, Address, Phone, Email | MWDBE 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

Company Representative

Date

Title



MWDBE QUOTE SUMMARY FORM

Bid/RFP/Quote Reference # _____

The undersigned acknowledges that the minority and/or veteran subcontractors listed on this form did submit a quote to participate on this project. Failure to submit this form may cause rejection of the bid.

| | |
|---------------------|------------------------|
| Company Name | Contact Person |
| Address/Phone/Email | Bid Package / Bid Date |

| MWDBE 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 | Veteran |
|-----------------------|----------------|---|----------------|--------------------------|---|--|---|---------|
| | | | | | | | | |
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| | | | | | | | | |

(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. The LFUCG also has a 3% goal plan adopted by cited council to increase the participation of veteran owned businesses in the procurement process. In order to measure that goal LFUCG will track spending with MWDBE and Veteran contractors 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 Procurement/ 200 East Main Street / Room 338 / Lexington, KY 40507.

Bid/RFP/Quote # _____

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

Bid/RFP/Quote # _____

By the signature below of an authorized company representative, we certify that we have utilized the following Good Faith Efforts to obtain the maximum participation by MWDBE and Veteran-Owned business enterprises on the project and can supply the appropriate documentation.

_____ Advertised opportunities to participate in the contract in at least two (2) publications of general circulation media; trade and professional association publications; small and minority business or trade publications; and publications or trades targeting minority, women and disadvantaged businesses not less than fifteen (15) days prior to the deadline for submission of bids to allow MWDBE firms and Veteran-Owned businesses to participate.

_____ Included documentation of advertising in the above publications with the bidders good faith efforts package

_____ Attended LFUCG Procurement Economic Inclusion Outreach event

_____ Attended pre-bid meetings that were scheduled by LFUCG to inform MWDBEs and/or Veteran-Owned Businesses of subcontracting opportunities

_____ Sponsored Economic Inclusion event to provide networking opportunities for prime contractors and MWDBE firms and Veteran-Owned businesses

_____ Requested a list of MWDBE and/or Veteran subcontractors or suppliers from LFUCG and showed evidence of contacting the companies on the list(s).

_____ Contacted organizations that work with MWDBE companies for assistance in finding certified MWDBE firms and Veteran-Owned businesses to work on this project. Those contacted and their responses should be a part of the bidder's good faith efforts documentation.

_____ Sent written notices, by certified mail, email or facsimile, to qualified, certified MWDBEs soliciting their participation in the contract not less than seven (7) days prior to the deadline for submission of bids to allow them to participate effectively.

_____ Followed up initial solicitations by contacting MWDBEs and Veteran-Owned businesses to determine their level of interest.

_____ Provided the interested MWDBE firm and/or Veteran-Owned business with adequate and timely information about the plans, specifications, and requirements of the contract.

_____ Selected portions of the work to be performed by MWDBE firms and/or Veteran-Owned businesses in order to increase the likelihood of meeting the contract goals. This includes, where appropriate, breaking out contract work items

into economically feasible units to facilitate MWDBE and Veteran participation, even when the prime contractor may otherwise perform these work items with its own workforce

_____ Negotiated in good faith with interested MWDBE firms and Veteran-Owned businesses not rejecting them as unqualified without sound reasons based on a thorough investigation of their capabilities. Any rejection should be so noted in writing with a description as to why an agreement could not be reached.

_____ Included documentation of quotations received from interested MWDBE firms and Veteran-Owned businesses which were not used due to uncompetitive pricing or were rejected as unacceptable and/or copies of responses from firms indicating that they would not be submitting a bid.

_____ Bidder has to submit sound reasons why the quotations were considered unacceptable. The fact that the bidder has the ability and/or desire to perform the contract work with its own forces will not be considered a sound reason for rejecting a MWDBE and/or Veteran-Owned business's quote. Nothing in this provision shall be construed to require the bidder to accept unreasonable quotes in order to satisfy MWDBE and Veteran goals.

_____ Made an effort to offer assistance to or refer interested MWDBE firms and Veteran-Owned businesses to obtain the necessary equipment, supplies, materials, insurance and/or bonding to satisfy the work requirements of the bid proposal

_____ Made efforts to expand the search for MWBE firms and Veteran-Owned businesses beyond the usual geographic boundaries.

_____ Other--any other evidence that the bidder submits which may show that the bidder has made reasonable good faith efforts to include MWDBE and Veteran participation.

NOTE: Failure to submit any of the documentation requested in this section may be cause for rejection of bid. Bidders may include any other documentation deemed relevant to this requirement which is subject to approval by the MBE Liaison. Documentation of Good Faith Efforts must be submitted with the Bid, if the participation Goal is not met.

The undersigned acknowledges that all information is accurate. Any misrepresentations 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

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 and IonWave Q&A, 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.
20. Contractor [or Vendor or Vendor's Employees] will not appropriate or make use of the Lexington-Fayette Urban County Government (LFUCG) name or any of its trade or service marks or property (including but not limited to any logo or seal), in any promotion, endorsement, advertisement, testimonial or similar use without the prior written consent of the government. If such consent is granted LFUCG reserves the unilateral right, in its sole discretion, to immediately terminate and revoke such use for any reason whatsoever. Contractor agrees that it shall cease and desist from any unauthorized use immediately upon being notified by LFUCG.

Signature

Date

**RISK MANAGEMENT PROVISIONS
INSURANCE AND INDEMNIFICATION**

INDEMNIFICATION AND HOLD HARMLESS PROVISION

- (1) It is understood and agreed by the parties that Contractor hereby assumes the entire responsibility and liability for any and all damages to persons or property caused by or resulting from or arising out of any act or omission on the part of Contractor or its employees, agents, servants, owners, principals, licensees, assigns or subcontractors of any tier (hereinafter "CONTRACTOR") under or in connection with this agreement and/or the provision of goods or services and the performance or failure to perform any work required thereby.
- (2) CONTRACTOR shall indemnify, save, hold harmless and defend the Lexington-Fayette Urban County Government and its elected and appointed officials, employees, agents, volunteers, and successors in interest (hereinafter "LFUCG") from and against all liability, damages, and losses, including but not limited to, demands, claims, obligations, causes of action, judgments, penalties, fines, liens, costs, expenses, interest, 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 CONTRACTOR's performance or breach of the agreement and/or the provision of goods or services provided that: (a) it 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 the negligent acts, errors or omissions or willful misconduct of the CONTRACTOR; and (b) not caused solely by the active negligence or willful misconduct of LFUCG.
- (3) In the event LFUCG is alleged to be liable based upon the above, CONTRACTOR shall defend such allegations and shall bear all costs, fees and expenses of such defense, including but not limited to, all reasonable attorneys' fees and expenses, court costs, and expert witness fees and expenses, using attorneys approved in writing by LFUCG, which approval shall not be unreasonably withheld.
- (4) These provisions shall in no way be limited by any financial responsibility or insurance requirements, and shall survive the termination of this agreement.
- (5) LFUCG is a political subdivision of the Commonwealth of Kentucky. CONTRACTOR acknowledges and agrees that LFUCG is unable to provide indemnity or otherwise save, hold harmless, or defend the CONTRACTOR in any manner.
- (6) Notwithstanding, the foregoing with respect to any professional services performed by CONTRACTOR hereunder (and to the fullest extent permitted by law), CONTRACTOR shall indemnify, save, hold harmless and defend LFUCG from and against any and all liability, damages and losses, including but not limited to, demands, claims, obligations, causes of action, judgments, penalties, fines, liens, costs, expenses, interest, defense costs and reasonable attorney's fees, for any damage due to death or injury to any person or injury to any property (including the loss of use resulting therefrom) to the extent arising out of, pertaining to or relating to the negligence, recklessness or willful misconduct of CONTRACTOR in the performance of this agreement.

FINANCIAL RESPONSIBILITY

BIDDER/CONTRACTOR understands and agrees that it shall demonstrate the ability to assure compliance with the above Indemnity provisions and these other risk management provisions prior to final acceptance of its bid and the commencement of any work or provision of goods.

INSURANCE REQUIREMENTS

YOUR ATTENTION IS DIRECTED TO THE INSURANCE REQUIREMENTS BELOW, AND YOU MAY NEED TO CONFER WITH YOUR INSURANCE AGENTS, BROKERS, OR CARRIERS TO DETERMINE IN ADVANCE OF SUBMISSION OF A RESPONSE THE AVAILABILITY OF THE INSURANCE COVERAGES AND ENDORSEMENTS REQUIRED HEREIN. IF YOU FAIL TO COMPLY WITH THE INSURANCE REQUIREMENTS BELOW, YOU MAY BE DISQUALIFIED FROM AWARD OF THE CONTRACT.

Required Insurance Coverage

BIDDER/CONTRACTOR shall procure and maintain for the duration of this contract 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 LFUCG in order to protect LFUCG 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 CONTRACTOR. The cost of such insurance shall be included in any bid:

| <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 |
| Auto Liability | \$1 million per occurrence |
| Worker's Compensation | Statutory |
| Employer's Liability | \$100,000 |
| Excess/Umbrella Liability | \$2 million per occurrence |

The policies above shall contain the following conditions:

- a. All Certificates of Insurance forms used by the insurance carrier shall be properly filed and approved by the Department of Insurance for the Commonwealth of Kentucky (DOI). LFUCG shall be named as an additional insured in the General Liability Policy and Commercial Automobile Liability Policy using the Kentucky DOI approved forms.
- b. The General Liability Policy shall be primary to any insurance or self-insurance retained by LFUCG.
- c. LFUCG 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.
- d. Said coverage shall be written by insurers acceptable to LFUCG and shall be in a form acceptable to LFUCG. 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.

Renewals

After insurance has been approved by LFUCG, evidence of renewal of an expiring policy must be submitted to LFUCG, 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.

Deductibles and Self-Insured Programs

IF YOU INTEND TO SUBMIT A SELF-INSURANCE PLAN IT MUST BE FORWARDED TO LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, DIVISION OF RISK MANAGEMENT, 200 EAST MAIN STREET, LEXINGTON, KENTUCKY 40507 NO LATER THAN A MINIMUM OF FIVE (5) WORKING DAYS PRIOR TO THE RESPONSE DATE. Self-insurance

programs, deductibles, and self-insured retentions in insurance policies are subject to separate approval by Lexington-Fayette Urban County Government's Division of Risk Management, upon review of evidence of BIDDER/CONTRACTOR's financial capacity to respond to claims. Any such programs or retentions must provide LFUCG with at least the same protection from liability and defense of suits as would be afforded by first-dollar insurance coverage

Safety and Loss Control

CONTRACTOR 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 LFUCG.

Verification of Coverage

BIDDER/CONTRACTOR agrees to furnish LFUCG with all applicable Certificates of Insurance signed by a person authorized by the insurer to bind coverage on its behalf prior to final award, and if requested, shall provide LFUCG copies of all insurance policies, including all endorsements.

Right to Review, Audit and Inspect

CONTRACTOR understands and agrees that LFUCG may review, audit and inspect any and all of its records and operations to insure compliance with these Insurance Requirements.

DEFAULT

BIDDER/CONTRACTOR understands and agrees that the failure to comply with any of these insurance, safety, or loss control provisions shall constitute default and that LFUCG may elect at 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 BIDDER/CONTRACTOR for any such insurance premiums purchased, or suspending or terminating the work.



REQUEST FOR PROPOSALS

Group Residential Solar PV Installation Services

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1 Project Overview

1.1 Purpose of RFP

The purpose of this Request for Proposals (RFP) is to solicit business information and pricing proposals from solar photovoltaic (PV) installers (“Installers”) who would like to provide their services to participants of Solarize Lexington, a “solarize” group-buying program for residents in Lexington-Fayette County, to install solar on their property. The Lexington-Fayette Urban County Government (LFUCG) Division of Environmental Services (DES), who is managing the program, and the selection committee will evaluate proposals based on the listed evaluation criteria in order to select a single solar PV Installer or multiple Installers (“Selected Installer(s)”) for Solarize Lexington. The Selected Installer(s) will collaborate with Solarize Lexington on marketing and outreach and will deliver cost-competitive solar installations to this group of homes, institutions, small businesses, and non-profits, which include places of worship, within Lexington-Fayette Co. While it is inclusive of local non-profits and small businesses, the focus of the marketing and outreach efforts will be on residential installations.

1.2 Project Partners

Solarize Lexington is being managed by LFUCG in partnership with Kentucky Solar Energy Society (KYES), and other organizations to be recruited.

1.3 Project Goals and Strategies

Solarize Lexington aims to stimulate and grow residential solar development and bring the benefits of solar to Lexington-Fayette County. The primary goals of the program are to:

- Enable 75 to 100 solar PV installations.
Note: Multiple installers may be selected to complete this.
- Educate the community about the benefits of solar PV.
- Use solar PV to help residents and property owners save money on their energy bills.
- Generate living wage jobs and local economic development.
- Empower community members and organizations to continue to promote solar PV development.
- Build the local Lexington market for solar PV.
- Establish a repeatable annual campaign model which drives significantly increased adoption of solar in the Lexington market.
- Build on the success of previous Solarize programs in the region. In 2023, the Solarize Lexington, Louisville, and Frankfort programs completed nearly 150 homes with LFUCG contributing 76.

Solarize Lexington intends to use the following strategies to achieve these outcomes:

1. Group purchasing of residential solar systems to significantly reduce Selected Installer’s(s’) customer acquisition costs and provide cost savings to residents.

2. Community-specific outreach to educate residents about solar and engage them in a collective process of solar adoption.
3. Streamlined solar adoption process, in which customers can sign up, receive vendor neutral technical assistance, and a standardized quote from the pre-vetted Selected Installer(s).
4. Pre-screening of customers' property to estimate suitability of potential sites, including assessing shade, aspect, and roofing age and type.
5. Inclusive financing options to enable low- and moderate-income households to participate in the campaign.

1.4 Project Details

This section provides an overview of the phases and key components of the Solarize Lexington Program. Detailed descriptions of the responsibilities of the Selected Installer(s) and LFUCG are included in Section 2: Scope of Work.

Installer Selection: Installers should review and return the Notice of Intent (NOI) irrespective of if installer intends to submit proposal. Installers should review this RFP and submit a detailed proposal according to the format specified in Section 3: Proposal Requirements. **Partial submissions will not be considered.** LFUCG and Solarize Lexington will convene a selection committee to review the proposals and select a single Installer or multiple Installers based on the selection criteria listed in Section 4: Proposal Evaluation. LFUCG and Solarize Lexington reserve the right to reject any proposals which may be considered irregular, show serious omission, contain unauthorized alteration of form, or are incomplete. Furthermore, LFUCG and Solarize Lexington reserve the right to accept or reject any or all proposals in whole or in part, with or without cause, to waive technicalities, to implement scoring penalties, or to accept applications or portions thereof which, in the selection committee's judgement, best serve the interests of the Urban County Government and Solarize Lexington. LFUCG and Solarize Lexington reserve the right to request clarification of information submitted and to request additional information (to clarify the information submitted) of any applicant either orally or in writing. Installers may be shortlisted for interviews following an initial selection committee review.

Campaign Outreach: Solarize Lexington will partner with the Selected Installer(s) and community-based organizations (CBOs) to develop a communications strategy and amplify the Solarize Lexington campaign. This outreach will include in-person and/or virtual events and solar house tours, email, social media, and other activities. LFUCG will also create a simple intake process and website for residents to express their interest and receive a free solar assessment of their home from the Selected Installer(s).

Limited Time Sign-Up Window: Participants will have a limited 5-month period, following the planned campaign launch in early March 2024, to sign up for the campaign and receive the competitive discount pricing offered by the Selected Installer(s). During this time, the Selected Installer(s) will provide campaign participants a free site assessment and

individualized quote. Participants can then sign the contract at any point of time during the sign-up window and up to 7 weeks after the sign-up window ends, but no later than September 27, 2024, as noted in Section 1.5: Project Timeline, to receive the Solarize Lexington discounted pricing and support.

Installations: The Selected Installer(s) can begin installations as soon as contracts are signed and must complete all installations, permitting, and interconnection processes by the deadline listed in Section 1.5: Project Timeline.

1.5 Project Timeline

The timeline and deadlines for this RFP and the Solarize Lexington Program are as indicated below and may be modified at the discretion of LFUCG. An addendum will be issued in the event of any scheduling changes.

| Project Milestone | Date |
|---|--------------------------------------|
| RFP Released | January 9, 2024 |
| Notice of Intent Due | January 16, 2024 |
| RFP Question Cutoff Date in Ionwave | January 17, 2024 at 12:00 p.m. |
| Deadline to Submit Proposals | January 25, 2024 at 2:00 p.m. |
| Installer Interviews (if needed) | February 1-2, 2024 |
| Selected Installer(s) Announced | February 2-5, 2024 |
| Council Approval of Selected Installer(s) and Onboarding | February 5-March 7, 2024 |
| Enrollment & Contracts Begin | March 12, 2024 |
| Earth Day Week Marketing Blast | April 15-19, 2024 |
| Mid-term Campaign Performance Evaluation and Pricing Review | May 13, 2024 |
| Any Changes in Selected Installer(s) Announced | June 10, 2024 |
| Customer Enrollment Period Ends | August 9, 2024 |
| Customer Contract Signing Deadline | September 27, 2024 |
| Installation Deadline (energized and utility meter swap) | December 31, 2024 |

1.6 Installer Benefits

Solarize Lexington is explicitly designed to stimulate local residential solar development and, by doing so, support local solar installers. This campaign intends to build awareness of solar in the community and accelerate solar PV adoption in emerging markets, which should benefit all installers in the long term.

Presuming Solarize Lexington is as successful as the 2023 procurement effort, the Selected Installer(s) can expect to see a large volume of customers and higher than average deal-completion rates, resulting in reduced customer acquisition costs. In addition, the Selected Installer(s) will have the opportunity to build relationships with CBOs and residents, which will increase their brand recognition and referral business.

Solarize Lexington 2024 is also unique in having pre-allocated grant money (\$1MM) to fund low- to moderate-income home solar conversion. These projects are contingent only on LFUCG eligibility screening and solar site suitability and will be quickly contracted outside of the normal sales process.

Solarize campaigns significantly increase the lead to contracting ratio, often by a factor of x3, as marketing and publicity efforts present motivated and informed customers to the Selected Installer(s). Conversion rates of up to 30% were recorded in Kentucky cities participating in Solarize campaigns in 2023.

2 Scope of Work

2.1 LFUCG and Partner Responsibilities

LFUCG and KYSES will perform the following project management, marketing, resident recruitment, pre-screening, and permitting and interconnection responsibilities as part of Solarize Lexington in collaboration with the other project partners.

1. LFUCG will lead the necessary project management responsibilities as part of Solarize Lexington. This includes the following:
 - a. LFUCG and partners will coordinate the project, manage campaign partners, and set and adjust the program's timeline.
 - b. LFUCG and partners will support participants and the Selected Installer(s) throughout the process.

2. LFUCG and KYSES will lead the necessary marketing responsibilities as part of Solarize Lexington. This includes the following:
 - a. LFUCG and KYSES will conduct outreach and organize educational events along with other program partners. This will include presentations with CBOs during in-person and/or virtual community events, newsletters, social media, flyers, press releases, and promotional activities undertaken in partnership with other city departments.
 - b. LFUCG and KYSES will create and provide the Selected Installer(s) with logos and marketing language.
 - c. LFUCG and partners will maintain and update common and shared lead data management systems with the Selected Installer(s) via Google Docs or a common-access Customer Relationship Management (CRM) system.
 - d. Upon completion of Solarize Lexington, LFUCG and partners will attempt to organize and host a final event to celebrate the program's success and recognize contributions from all partners, including the Selected Installer(s).

3. LFUCG and KYSES will perform the necessary resident recruitment responsibilities as part of Solarize Lexington. This includes the following:

- a. LFUCG and partners will create a webpage representing the program and manage the sign-up information through this webpage. Sign-up information will include, but not be limited to, address, type of property, roof type and age (if known), home ownership status, and if they may qualify for low- to moderate-income incentives.
 - b. LFUCG and KYSES will respond and answer Solarize Lexington-related questions from residents by phone and/or email within one (1) business day.
4. LFUCG and KYSES will perform the necessary resident pre-screening responsibilities as part of Solarize Lexington. This includes the following:
 - a. LFUCG and KYSES will conduct an initial pre-screening of interested participants based on intake questions as well as roof shading and orientation using digital tools and satellite data before providing their information to the Selected Installer(s).
 - b. LFUCG and KYSES will work with residents to collect LG&E/KU, Bluegrass Energy, and / or Clark Energy Cooperative utility data to give Selected Installer(s) the annual kWh usage to tailor installation designs upon.
 - c. LFUCG and KYSES will conduct inspections of a representative percentage of the Selected Installer's(s') installs to ensure adherence to the executed agreement with LFUCG and solar industry design, technical, and code standards.
5. LFUCG and KYSES will provide residents with financing information as part of Solarize Lexington. This includes the following:
 - a. Selected Installer's(s') financing information and, if necessary, other financing options for residents that do not qualify for the Selected Installer's(s') financing.
 - b. The calculation of rate of financial return should be based on the 25-year average rate of return in Kentucky or warranted life of the system.
6. LFUCG will determine the eligibility of residents to receive financial support if they qualify as a low- to moderate-income household and assist those eligible homeowners through that process.
7. LFUCG and KYSES will support the Selected Installer(s) to attempt to resolve any permitting issues, should they arise.

2.2 Selected Installer(s) Responsibilities

The Selected Installer(s) will coordinate with LFUCG and partners to perform the necessary internal campaign communications, customer outreach and communications, site assessments, proposals and contracts, and installations as part of Solarize Lexington and detailed in the following required responsibilities:

1. The Selected Installer(s) will perform internal campaign communication as part of Solarize Lexington. This includes the following:

- a. The Selected Installer(s) will respond to communications from LFUCG within one (1) business day.
 - b. The Selected Installer(s) will participate in weekly or bi-weekly check-in calls with LFUCG to discuss the status of campaign participants, questions or concerns, and any changes in staffing capacity for the week ahead.
 - c. The Selected Installer(s) will update customer tracking records weekly.
 - d. The Selected Installer(s) must provide their first five (5) Customer Proposals to LFUCG during the campaign to verify compliance.
2. The Selected Installer(s) will perform all necessary customer outreach and communications as part of Solarize Lexington. This includes the following:
 - a. The Selected Installer(s) will present material on residential solar fundamentals and answer questions to educate potential participants and encourage them to sign up during at least two recruitment workshops coordinated by LFUCG.
 - b. The Selected Installer(s) will contact potential customers as soon as possible, and within three (3) business days at the latest, once LFUCG makes pre-screened participant data available to the Selected Installer(s).
3. The Selected Installer(s) will prepare the necessary site assessments for pre-screened campaign participants as part of Solarize Lexington. This includes the following:
 - a. For all pre-screened participants, the Selected Installer(s) will prepare a free remote site assessment using satellite imagery based on shading, size, shape, and orientation of the roof to determine the feasibility of installing solar PV on the participant's rooftop and a recommended system size. This rapid initial assessment should also include a preliminary financial analysis based on the remote assessment and should be included as part of this initial contact. The financial assessment should state the key assumptions, including future utility electricity rate escalation (3%). If a pre-screened participant's roof is deemed unsuitable during this assessment, the participant must be notified accordingly as part of this initial contact.
 - b. For participants that express interest (as determined by the Selected Installer(s)) after the initial contact and remote assessment, the Selected Installer(s) will conduct a site visit within fifteen (15) business days after the resident's interest is determined. Site assessments may be clustered to reduce costs for the Selected Installer(s). This site visit's objective should be to first provide a more thorough site assessment to confirm the necessary information needed to develop an official proposal. Second, this site visit should also include the necessary communications with the homeowner to answer their respective questions. If the customer's roof is deemed unsuitable during this assessment, the customer must be notified, and the reasons and potential remedies explained within three (3) business days after the site visit.
4. The Selected Installer(s) will provide an official proposal and contract for campaign participants deemed qualified and interested after the site visit as part of Solarize

Lexington. All installation contracts will be executed between the property owner and the Selected Installer(s), so neither LFUCG nor partners will be party to the contract. This includes the following:

- a. Selected Installer(s) will provide a detailed, custom proposal within five (5) business days after the site visit. This custom proposal should explain all the services provided in the turnkey price for the project (assessment, system design, permitting, installation, interconnection paperwork, etc.). The proposal must also include a visual representation of the proposed system, the participant's energy profile, and a financial analysis that shows anticipated monthly and annual system output and financial returns. The financial analysis should state the key assumptions, including a 3% future utility electricity rate escalation. The proposal must also detail reasons for any project-specific cost adder in compliance with the RFP Response Form detailed in Section 3.3: Response Form. Individual proposals should include the following:
 - i. An image showing location of the solar array on the property.
 - ii. Array size in number of panels and total rated kilowatt size.
 - iii. Cost per watt, total cost, tax credit, and net cost after tax credit.
 - iv. Estimated annual kWh production.
 - v. Ratio of estimated annual kWh per kilowatt PV, for example: 1200 kWh annually per kilowatt PV installed.
 - vi. Approximate annual energy usage history (received through pre-screening process from customer/LFUCG and partners).
 - vii. Estimated percent reduction of annual energy usage.
 - viii. Specification data sheets for panel, inverter, racking and, if relevant, optimizer and battery.
 - ix. Product warranties, and availability and cost of extended warranties.
 - x. Terms of payment, process, and timeline from initial deposit to final payment.
 - xi. The statement: "This contract is executed between [Installer name] and [name of property owner]. Solarize Lexington, LFUCG, and other campaign partners are not parties to this contract. [Installer name] is solely liable for any claims, losses, or damages arising out of the contract."
- b. The Selected Installer(s) must manage the permitting, interconnection, and applicable incentives.
 - i. Selected Installer(s) should be aware that at least three electric utilities serve the LFUCG area: KU, Bluegrass Energy, and Clark County REMC and they must meet the interconnection requirements specific to each customer's utility.
 - ii. Installer(s) must attend final system AHJ inspections in person to address any code or solar specific queries or misunderstandings.
- c. The Selected Installer(s) must provide each participant who signs a contract with them through the Solarize Lexington Program with the necessary documentation, including, but not limited to, the site assessment, financial

analysis, structural assessment, design and equipment details, financing options, and operations manual.

5. The Selected Installer(s) will provide solar PV installations for all contracted campaign participants as part of Solarize Lexington. This includes the following:
 - a. The Selected Installer(s) may geographically cluster installation work to reduce costs but will be responsible for the timely completion of all work in accordance with Section 1.5: Project Timeline.
 - b. All installations must be performed in conformance with applicable laws and codes, interconnection requirements, and any incentive-related installation requirements, rules, and timelines.
 - c. The Selected Installer(s) should follow the [SEIA Solar Business Code](#) as a determinant of fair, transparent business practices to ensure solar customers are treated in a fair and honest manner. If the Installer is not already a KYSES member or listed as a preferred vendor on the KYSES website, the Installer will be asked to complete the SEIA Solar Business Code as part of the submission process.
 - d. The Selected Installer(s) is(are) highly recommended to be a current member or become a member of the Solar Energy Industries Association (SEIA) or [Kentucky SEIA](#) chapter.

2.3 System Requirements

The proposed PV systems must meet the following requirements.

General system must:

1. All systems shall be code-compliant to NEC 2017 (Kentucky).
2. Kentucky NEC 2017 compliant systems must fully incorporate 690.1 rapid disconnect requirements (as legally mandated).
3. Central inverters shall be transformerless.
4. Unless a feed-in tariff applies, electrical connection shall be on the load side of the meter.
5. Metal conduit shall be used for all aboveground wiring. Rigid metal conduit is strongly preferred.
6. Surface mounted metal conduit is acceptable, except in finished interior areas.
7. Only copper wire shall be used.
8. For roof-mounted systems, PV system components shall minimize roof penetrations.
9. Designs shall comply with local code requirements including access space around the array and conduit surface support requirements.
10. Grid connection shall follow the utility company's design and installation standards.
11. Online performance reporting shall be provided at array or panel level.

PV modules must:

1. Be listed and reviewed on the California Energy Commission list entitled, '[Incentive Eligible Photovoltaic Modules in Compliance with SB1 Guidelines](#)'.
2. Have at least a 25-year power warranty with a specified performance degradation curve showing acceptable levels of performance or replacement and show achievement of a minimum of 80% of the nameplate rated power at Standard Test Conditions (STC) by year 25.
3. Have a product warranty of at least 10 years.
4. Independent of the mounting systems, panels must be rated for snow and wind load in accordance with local permitting requirements.
5. Panels must have efficiencies of no less than 20% at STC for the base price.

Inverters must:

1. Be included in the California Energy Commission list entitled '[List of Eligible Inverters per SB1 Guidelines](#)'.
2. Have a warranty that allows for replacement due to premature failure over the specified warranty time frame and consist of a minimum of 15-year material warranty for micro inverters and 10 years for string inverters. Longer warranties will be viewed favorably.

Mounting equipment must:

1. Be grounded in accordance with manufacturer's specifications.
2. Be used in accordance with its manufacturer's listed purpose and specifications.
3. Be used in accordance with manufacturer specifications for waterproofing penetrations.
4. Be installed in accordance with specific local zoning requirements beyond #2 and #3.
5. Be fitted with manufactured flashing systems for roof penetrations and shall be installed in accordance with manufacturer's and NABCEP recommendations.

Batteries must:

Meet all Kentucky and LFUCG standards for technology, safety, and grid interoperability.

3 Proposal Requirements

3.1 Installer Eligibility Requirements

Installers must meet the following eligibility requirements to submit a bid:

1. Demonstrate experience and proficiency in solar PV installations. The Installer must have installed a minimum of 20 residential solar PV projects in Kentucky.
2. Include on the project team at least one Journeyman or Master Electrician holding a valid and current Kentucky electrical license to perform any electrical work on the solar PV projects, and at least one NABCEP-certified installer.
3. Formal and documented training from the battery system manufacturer, if offering batteries, showing appropriate capability in install and commissioning, or documentation showing registration to attend such training by April 30, 2024.

4. Installer must offer parts and labor warranty for installed arrays of no less than 5 years.
5. The Installer and any sub-contractors must also meet the following insurance requirements:
 - a. General liability: \$1,000,000 per occurrence, \$2,000,000 in aggregate,
 - b. Worker's compensation: \$1,000,000 each accident, each employee, policy limit,
 - c. Automobile liability: bodily injury, death, and property damage combined single limits of at least \$1,000,000 per occurrence covering vehicles owned, hired, or non-owned, and
 - d. Umbrella/Excess Liability Insurance: \$2,000,000 limit per occurrence.

3.2 Proposal Format, Submission, and Deadline

All proposals in response to this RFP must use the *Solarize Lexington RFP Response Form* and include the completed form and required attachments described in the following sections.

3.3 Response Form

All proposers must fill out the *Solarize Lexington RFP Response Form* in Microsoft Excel. After completing the form, it should be saved under a file name that includes the Installer business name (e.g., "Solarize Lexington RFP Response Form for Sunshine Solar"). The following parts are included as separate tabs in the Excel file.

Part 1 (Installer Profile) requests information regarding the Installer's subsidiaries, affiliates, business relationships, employees, experience and qualifications, references, and financial position.

Part 2 (Proposed Pricing) requests proposed pricing for the base proposal (standard and premium panel price KY) and cost adjustments for all participants in Tier 1 (5kW), Tier 2 (10kW), or Tier 3 (20kW).

Part 3 (Financing and Qualifications) requests information about financing solutions that the Installer intends to offer customers and the qualification requirements for financing. Providing financing is not mandatory for proposals but will be viewed favorably and scored as described in Section 4.2: Evaluation Criteria. Inability to provide 3rd-party financing will negatively impact lead to contract conversion rates.

Part 4 (Solar PV System Equipment) requests information regarding the proposed standard and premium options for hardware (i.e., modules, inverters, racking, and flashing) that the respondent intends to offer participants. These hardware descriptions should match the price options described in Part 2. This section also requests labor and workmanship warranties on all installations.

Part 5 (Battery Equipment) requests information regarding the proposed equipment for energy storage. Known brands such as Tesla, LG, SolarEdge, Enphase or SunPower drive significantly greater consumer traction and purchase over other worthy but still unknown vendors.

Part 6 (Services) includes additional questions about the customer and campaign services the Installer will provide.

Part 7 (Additional System Offerings) requests other optional offerings that the Installer can provide alongside the solar PV system. These can include services from sub-contractors and could include electrical services, roof repair, battery storage, or energy efficiency. Providing these services is not mandatory for proposals but will be viewed favorably and scored as described in 4.2: Evaluation Criteria.

Part 8 (Community Benefits) asks a number of questions about the Installer's employment practices and other benefits the Installer can offer to the community and has offered to communities in the past.

Part 9 (Additional Information) provides space for any additional information that is relevant to the bid.

3.4 Required Attachments

Attachment A: Copies of employee licensing certificates and individual employee electrical / NAPCEP licenses. Certifications and licenses must relate to local employees or those who will directly engage in install work or its supervision. Qualifications of HQ or other office locations not directly involved with day-to-day Solarize Lexington work are normally not deemed relevant. If current local licenses are not currently held, please demonstrate that you have the ability to obtain such licenses by **April 30, 2024**.

Attachment B: Specification sheets for all equipment specified in Part 4 and Part 5 of the *Solarize Lexington RFP Response Form*.

Attachment C: A copy of current insurance and liability certificates specified in Section 3.1.

Attachment D: A copy of the standard contract agreement. This could be a redacted version of a recent contract or a contract template.

Attachment E: A copy of the Installer's template sales proposal, if different from the standard contract.

Attachment F: A copy of Installer's standard contract language covering installation and roof penetration warranties, including language around labor warranties and product warranties.

Attachment G: A description of Installer's standard tools or software used to calculate a solar array's potential energy production (PV Watts, HelioScope, PVSyst, Aurora, etc.)

Attachment H: If applicable, a copy of Installer’s standard loan agreement. This could be a redacted version of a recent contract or a contract template.

3.5 Submission Recommendations

1. Although the selection committee will look for aggressive pricing in this RFP, price is not the only factor the committee will consider. We value experience in the marketplace, quality system components, and strong warranties, among other factors.
2. We do not want the Solarize Lexington to be a “race to the bottom” in terms of system price and quality, nor do we want proposers to feel they must sacrifice quality to be selected. See Section 4.2 for further details on the weighting of different evaluation criteria.
3. We recommend that all costs to most homeowners are factored into the base price, and that additional charges, if necessary, are reserved for unique homeowner circumstances. A single inclusive base price for each requested system size with limited or no additional charges is preferable to a lower base price with many additional potential charges. Additional charges should typically be reserved for add-ons such as roof repairs, battery storage, energy efficiency upgrades, etc.
4. Please keep responses as clear and concise as possible.

3.6 Submission Questions

All questions regarding Solarize Lexington, this RFP, or the *Solarize Lexington RFP Response Form* should be sent through Ionwave by the question cutoff deadline.

4 Proposal Evaluation

4.1 Evaluation Process

Proposals in response to this RFP will be evaluated by the selection committee. LFUCG may invite the top-ranked Installers to make a brief oral presentation and be interviewed by the selection committee and may conduct random Quality Assurance Assessments of the Installers’ installations to confirm quality of previous work.

4.2 Evaluation Criteria

Proposals will be scored according to the following criteria. The points associated with each category reflects its relative importance and alignment with the goals of Solarize Lexington.

| Evaluation Category | Associated Points |
|---|-------------------|
| Installer’s Credentials and Experience (Response Form Part 1) | 25 |
| Proposal Cost Effectiveness (Response Form Parts 2 and 3) | 40 |
| Proposed Quality of Hardware, Warranty, and Service (Response Form Parts 4 and 5) | 30 |
| Installer’s Community Benefits and Additional Offerings (Response Form Parts 6 and 7) | 5 |
| Total points | 100 |

4.3 Acceptance and Award Process

LFUCG reserves the right to make multiple awards, one award, or no awards as a result of this solicitation. Upon acceptance of a proposal and intent to award, the Selected Installer(s) will be required to execute and return all required project documents and certificates of insurance within ten (10) days from the Notice of Award. Should the Selected Installer(s) fail or refuse to execute the project documents in this time period, LFUCG can cancel award.

Solarize Lexington

1. Installer Profile

Please fill in all blue cells with the requested information pertaining to the firm. If you need to provide explanatory notes, please use Column E.

Proposer Instructions

Date:

| Proposer Contact Information | | | | Notes |
|---------------------------------------|---|---------|------|-------|
| | Name | | | |
| | Title | | | |
| | Phone Number | | | |
| | Email | | | |
| Firm Information | | | | Notes |
| | Proposing Firm | | | |
| | Headquarters Address | | | |
| | Local Address (where work will be completed for this project) | | | |
| | FEIN | | | |
| | Kentucky License Number | | | |
| Subsidiaries & Affiliates Information | | | | Notes |
| | Name | Address | FEIN | |
| Company #1 | | | | |
| Company #2 | | | | |
| Company #3 | | | | |
| Employee Information | | | | Notes |
| | Number of Full Time Employees | | | |
| | Number of Part Time Employees | | | |
| | Number of Employees in Kentucky | | | |
| | Number of Install Employees Permanently Based In Campaign Area | | | |
| | Number of Sales Employees Permanently Based In Campaign Area | | | |
| | Number of Employees with NAPCEP or UL Certification in Kentucky | | | |
| | Number of Direct Employees with Kentucky Electricians License | | | |
| | Number of Employees with Other Relevant Certifications | | | |
| Firm Experience | | | | Notes |
| | Years of Experience | | | |
| | Firm (total years) | | | |
| | Firm (years in Kentucky) | | | |
| | Project Manager (years) | | | |

| | | | | |
|--|------|----------|-------------------|--------------|
| Lead Installer #1 (years) | | | | |
| Lead Installer #2 (years) | | | | |
| Residential Solar PV Installations | 2021 | 2022 | 2023 | |
| Customer Owned Systems (in US) | | | | |
| Customer Owned Systems (in Kentucky) | | | | |
| Customer Owned Systems (in Lexington) | | | | |
| Residential Energy Storage Installations | 2021 | 2022 | 2023 | |
| Customer Owned Systems (kWh in US) | | | | |
| Customer Owned Systems (kWh in Kentucky) | | | | |
| Customer Owned Systems (kWh in Louisville) | | | | |
| Residential/Small Commercial Ground Mount Installs | 2021 | 2022 | 2023 | |
| Customer Owned Systems (# & kW in US) | | | | |
| Site Evaluations | 2021 | 2022 | 2023 | |
| Estimated Number of Roofs Evaluated for Solar Remotely per Week (in Lexington) | | | | |
| Estimated Number of Site Visits per Week (in Lexington) | | | | |
| Lexington Area Residential Customer References | Name | Phone | Project Size (kW) | |
| Reference #1 | | | | |
| Reference #2 | | | | |
| Reference #3 | | | | |
| Financial Position | | | | Notes |
| Business Revenue & Profits | 2021 | 2022 | 2023 | |
| Annual Gross Revenues | | | | |
| Annual Net Profit | | | | |
| Financing Partners | 2021 | 2022 | 2023 | |
| Firm #1: Name | | | | |
| Firm #1: Financing Product | | | | |
| Firm #1: # Customers That Used Product | | | | |
| Firm #2: Name | | | | |
| Firm #2: Financing Product | | | | |
| Firm #2: # Customers That Used Product | | | | |
| Insurance | | | | Notes |
| | Name | Coverage | Policy # | |
| Firm's Bank | | N/A | N/A | |
| Entity Proving Bonding / Financial Backing | | | | |
| Liability Insurer | | | | |
| Worker's Compensation Insurer | | | | |
| Is this business(local or parent company) or its management involved in any pending lawsuits, regulatory proceedings, or other legal proceedings involving the business? | | | | |
| Does the business conduct criminal background checks before hiring employees? | | | | |

Is the business or any officer of the company involved in
bankruptcy or insolvency proceedings?

Solarize Lexington 2. Residential Solar PV Pricing

Please fill in all blue cells with the requested pricing information. Base pricing proposals should include total installation price, which includes system design, permitting, applicable materials and equipment, transportation, labor, and all equipment and workmanship warranties. The price should be independent of any tax credits or incentives available to the customers. Outline the specific process, electrical, mechanical, structural, equipment, site, or labor features that will result in cost reductions or increases above the Base Pricing Proposal. The Proposer should place \$0 for all applications that will not result in a cost modification and "N/A" if it is not offered.

Proposer Instructions

| Proposing Firm: | 0 | | | | | | |
|--|----------------------------|--------|---------------|--------|---------------|--------|---|
| | Example Array Size (kW DC) | | | | | | Notes |
| Base Proposal | Tier 1: 5 kW | | Tier 2: 10 kW | | Tier 3: 20 kW | | |
| Standard Panel Price KY | | \$/W | | \$/W | | \$/W | Full 'all component' turnkey install of basic 1 surface no adder array |
| Premium Panel Price KY | | \$/W | | \$/W | | \$/W | |
| Standard Panel Price Prior To Solarize Discount | | \$/W | | \$/W | | \$/W | |
| Premium Panel Price Prior To Solarize Discount | | \$/W | | \$/W | | \$/W | |
| Factor or Special Condition | | | | | | | |
| Microinverters | | \$/W | | \$/W | | \$/W | |
| Power Optimizers | | \$/W | | \$/W | | \$/W | |
| Inverter Extended Warranty (each) | | \$ | | \$ | | \$ | Specify total warranty time (Years) |
| Extended Warranty Whole System (e.g.. SolarInsure) | | \$/W | | \$/W | | \$/W | |
| Panels in Non-standard Orientation | | \$/W | | \$/W | | \$/W | |
| Roof Pitch > 7/12 to 12/12 | | \$/W | | \$/W | | \$/W | |
| Roof Pitch > 12/12 | | \$/W | | \$/W | | \$/W | |
| Additional Roof Surfaces (over 2) | | \$ | | \$ | | \$ | |
| Premium Roof Mount (rack free/low profile etc.) | | \$/W | | \$/W | | \$/W | |
| PVC Roof Vent Move | | \$ | | \$ | | \$ | |
| Ground Mount Adder (including 100' Trenching) | | \$/W | | \$/W | | \$/W | |
| Ground Mount Additional Trenching per 100' | | \$ | | \$ | | \$ | |
| Electrical Panel Upgrade (200A) | | \$ | | \$ | | \$ | |
| Critter Guards (\$/ft.) | | \$/ft | | \$/ft | | \$/ft | |
| Other | | \$ | | \$ | | \$ | Specify |
| Other | | \$ | | \$ | | \$ | Specify |
| | Example Battery # | | | | | | Notes |
| Base Storage Proposal | 1 Battery | | 2 Battery | | 3 Battery | | |
| Storage Capacity | | kWh | | kWh | | kWh | Additional of batteries from same manufacturer to increase storage (kWh) size |
| Battery System Price | | \$ | | \$ | | \$ | |
| Battery System Price | | \$/kWh | | \$/kWh | | \$/kWh | Total cost/kWh |
| HVAC Compressor Soft Start Addition (if required) | | \$ | | \$ | | \$ | |
| Other | | | | | | | |
| Other | | | | | | | |
| Note: Battery system pricing must reflect standard full (turnkey) storage system install costs including battery, any required transformer, CT's, control, communication and partial or full load center install component additions. Pricing presumes no abnormal conduit/wiring runs and battery being adjacent to breaker panel Note: Clearly indicate if there are variations in price offering, for example, for financed or cash purchases. | | | | | | | |

Solarize Lexington

3. Financing & Qualifications

Please fill in all blue cells with the requested information pertaining to your available financing products and qualifications. If you need to provide explanatory notes, please use Column D. If another company will be providing financing options, please provide a reference and contact information for a representative at the financing company you partner with and intend to offer to participants. If you propose to work with multiple lenders, please provide the information for each lender. Add more columns as necessary.

Proposer Instructions

| | | | | |
|--|--------------------|--------------------|--------------------|--------------|
| Proposing Firm: | 0 | | | |
| Customer Ownership (Upfront Purchase) | | | | |
| Loan Terms | Offering #1 | Offering #2 | Offering #3 | Notes |
| Lender Company Name | | | | |
| Lender Contact Name | | | | |
| Lender Contact Phone | | | | |
| Lender Contact Email | | | | |
| Product Name | | | | |
| Term Length Range (Years) | | | | Most common |
| Interest Rate Range (%) | | | | Most common |
| Down Payment (\$ or %) | | | | |
| Dealer fees | | | | |
| How many customers have used this product in the past 12 months? | | | | |
| Qualifications | Offering #1 | Offering #2 | Offering #3 | Notes |
| Minimum FICO Score | | | | |
| Maximum Debt-to-Income | | | | |
| If selected, would this lender commit to piloting EnergyScore as an alternative to FICO score? | | | | |

Solarize Lexington

4. Equipment Specifications

Please fill in all blue cells with the requested information pertaining to the Standard PV System offering corresponding to the Base Pricing Proposal and Premium PV System offering corresponding to the Cost Increases in the "Pricing" tab. If you need to provide explanatory notes, please use Column D. If providing more than one type of standard equipment with the base pricing, provide the specifications below in "Additional Standard PV Equipment". Add rows to specify additional equipment, if needed.

Proposer Instructions

| Proposing Firm: | | | |
|--|--|--------------------|--------------|
| PV System Sizing | | Units | Notes |
| Minimum System Size Offered | | kW-DC | |
| Maximum System Size Offered | | kW-DC | |
| | | Units | Notes |
| Standard Panel | | | |
| Brand/Manufacturer | | | |
| Wattage (W) | | | |
| Country of Origin | | Country | |
| Dimensions (H x W x D) | | inches | |
| Efficiency | | % | |
| Performance Warranty/Guarantee | | % at X year | |
| Equipment Warranty/Guarantee | | Years | |
| Output Degradation | | % per year | |
| Premium Panel (higher Efficiency, Warranty Or Brand Quality) | | | |
| Brand/Manufacturer | | | |
| Wattage (W) | | | |
| Country of Origin | | Country | |
| Dimensions (H x W x D) | | inches | |
| Efficiency | | % | |
| Performance Warranty/Guarantee | | % at X year | |
| Equipment Warranty/Guarantee | | Years | |
| Output Degradation | | % per year | |
| Inverter | | | |
| Brand/Manufacturer | | | |
| Country of Origin | | Country | |
| Model | | | |
| CEC Efficiency | | % | |
| Warranty | | Coverage at X year | |
| Inverter | | | |
| Brand/Manufacturer | | | |
| Country of Origin | | Country | |
| Model | | | |
| CEC Efficiency | | % | |
| Warranty | | Coverage at X year | |
| Standard Roof Racking | | | |
| Racking Type/Description | | | |
| Applicability for the Following Roof Types | | | |
| Brand/Manufacturer | | | |
| Warranty | | Years | |
| Country of Origin | | Country | |
| Flashing | | | |
| Flashing Type/Description | | | |
| Brand/Manufacturer | | | |
| Warranty | | Years | |
| Country of Origin | | Country | |
| Premium Roof Racking Or Skirting, If Applicable (Array Skirting If Offered) | | | |
| Racking Type/Description | | | |
| Applicability for the Following Roof Types | | | |
| Brand/Manufacturer | | | |
| Warranty | | Years | |
| Country of Origin | | Country | |
| Ground Mount Racking | | | |
| Racking Type/Description | | | |

| | | | |
|--|--|---------|--|
| Brand/Manufacturer | | | |
| Warranty | | Years | |
| Country of Origin | | Country | |
| Microinverter | | | |
| Brand/Manufacturer | | | |
| Type | | | |
| Efficiency | | % | |
| Warranty | | Years | |
| Country of Origin | | Country | |
| Optimizer | | | |
| Brand/Manufacturer | | | |
| Type | | | |
| Efficiency | | % | |
| Warranty | | Years | |
| Country of Origin | | Country | |
| Labor and Workmanship Warranties | | | |
| Describe the warranty provided for the installer's labor and workmanship? Must be no less than 5-years | | | |
| If provided describe the whole array warranty extension offering? | | | |
| Describe the roof penetration warranty provided. | | | |
| Additional Equipment Offerings | | | |
| Other Standard Equipment Options (Specify): | | | |
| Other Standard Equipment Options (Specify): | | | |
| Other Standard Equipment Options (Specify): | | | |
| Other Standard Equipment Options (Specify): | | | |
| Other Standard Equipment Options (Specify): | | | |

Solarize Lexington

5. Battery Equipment Specifications

Please fill in all blue cells with the requested information pertaining to the complete energy storage system corresponding to the component costs in the "Pricing" tab. If you need to provide explanatory notes, please use Column D. If providing more than one type of standard equipment with the base pricing, provide the specifications below in "Additional Equipment Offerings". Add rows to specify additional equipment, if needed.

Proposer Instructions

| Proposing Firm: | | | |
|--|--|----------------|-------|
| Energy Storage System Equipment Offerings | | Units | Notes |
| Battery System 1 | | | |
| Brand/Manufacturer | | | |
| Storage Capacity Total (kWh) | | | |
| Usable Storage Capacity If Different (kWh) | | | |
| Country of Origin | | Country | |
| AC or DC Coupled | | AC/DC | |
| Operating AC Voltage Options | | 120V/208V/240V | |
| Dimensions (H x W x D) | | inches | |
| Round Trip Efficiency % | | % | |
| Maximum Supported Breaker Sizing | | A | |
| Power Output (Peak kW and Duration) | | | |
| Power Output (Continuous kW) | | | |
| Performance Warranty/Guarantee | | Years/Cycles | |
| Mounting Options | | Wall/Floor | |
| Stackable | | Yes/No | |
| Battery System 2 (2nd Vendor Option If Available) | | | |
| Brand/Manufacturer | | | |
| Storage Capacity Total (kWh) | | | |
| Usable Storage Capacity If Different (kWh) | | | |
| Country of Origin | | Country | |
| AC or DC Coupled | | AC/DC | |
| Operating AC Voltage Options | | 120V/208V/240V | |
| Dimensions (H x W x D) | | inches | |
| Round Trip Efficiency % | | % | |
| Maximum Supported Breaker Sizing | | A | |
| Power Output (Peak kW and Duration) | | kW/Time | |
| Power Output (Continuous kW) | | kW | |
| Performance Warranty/Guarantee | | Years/Cycles | |
| Mounting Options | | Wall/Floor | |
| Stackable | | Yes/No | |
| Additional Equipment Offerings | | | |
| Other Standard Equipment Options (Specify) | | | |
| Other Standard Equipment Options (Specify) | | | |
| Other Standard Equipment Options (Specify) | | | |
| Other Standard Equipment Options (Specify) | | | |
| Other Standard Equipment Options (Specify) | | | |

Solarize Lexington

6. Services Provided

Please include your answers in the blue cells to corresponding questions below pertaining to customer and campaign services.

Proposer Instructions

| | |
|--|---|
| Proposing Firm: | 0 |
| Customer Services Provided | |
| System Operation, Maintenance, and Monitoring | |
| Will the system include monitoring? If so, at what level (system wide or per panel)? If so, please specify the additional cost to the customer and also add this cost in the "Pricing" tab. | |
| If applicable: For upfront purchased systems, describe any ongoing operations and maintenance services you provide and its associated cost. | |
| Health / Safety | |
| Describe your company's practices and policies for ensuring safety for employees on site and customers who may be present on the worksite. | |
| Provide your company's Experience Modification Rate (EMR) for 2023. (Insurer Provided Accident Rate Index) | |
| Provide a summary of your business health and safety protocols for installations and interacting with customers on site during the COVID-19 pandemic. | |
| Roof Related Services | |
| Will you be able to remove and reinstall the original PV installation should a customer need to complete roof repairs at a later date independent of the PV installation? If so, please specify the additional cost to the customer and also add this cost in the "Pricing" tab. | |
| Describe the methodology for weatherproofing all roof attachment points made during the installation. | |
| Are there any roof or ground install types or processes you will not work with? | |

| Proposer Details | |
|--|--|
| Customer Relations | |
| Describe your intake process for customer leads, methods for screening and customer follow up, and any data tracking systems you use for installations. | |
| What languages are your customer relations staff capable of communicating in? | |
| Describe your strategies for a joint marketing strategy with the Lexington-Fayette Urban County Government and partners to expand the number of residential solar installations as part of this program. If applicable, include ideas about community outreach, community partners you would work with, and specific examples of marketing materials you would provide (lawn signs, flyers, mail, etc.). | |
| Please basic bio details of sales and marketing staff who will support this campaign. Include name, position, location and time in solar sales role. | |
| Proposer Capacity | |
| For standard unfiltered residential leads (excluding Solarize campaigns) what is your 2023 total company average lead to contract conversion rate? | Leads in, contracts out ratio for raw uncurated leads (%) from all residential only sales staff combined |
| What is your maximum capacity for number of remote roof evaluations you can conduct per week for this campaign? | |
| What is your maximum capacity for number of in-person site visits you can conduct per week for this campaign? | |
| What is your maximum capacity for number of PV systems you can install per month for this campaign? Does this installation capacity assume new hires, and if so, how many new hires does it assume? | |
| What is the maximum total number of systems you can install as contracted through the campaign? | |
| Describe your ability to handle a large number of leads and projects over a short timeframe. | |
| Describe a contingency plan if workload exceeds your expectations and capacity. | |
| Do you have any boundary limitations for providing service within the program area? | |

Solarize Lexington
7. Additional System Offerings

Proposer Instructions

Please describe the types of additional non-solar PV offerings you or a sub-contractor can provide and the corresponding price in the blue cells.

| | |
|---|--------------------|
| Proposing Firm: | |
| Electrical Services Offered | |
| Service | Description |
| Describe your or your sub-contractor's experience in providing electrical upgrade services. | |
| Roof Repair Services Offered | |
| Service | Description |
| Do you have roofing skills in-house? If yes, please specify roofing types covered | |
| If no, do you have a relationship with an approved roofing contractor? If so please provide name, address and contact point for your approved roofing contractor | |
| Other Equipment | |
| Please describe any other equipment that you might offer customers and the prices you will offer them at. (e.g., snow management systems, squirrel guards insulation etc.). | |
| | |
| | |
| | |
| | |

**Solarize Lexington
8. Community Benefits**

Proposer Instructions

Please include your answers in the blue cells below pertaining to community benefits.

| | |
|--|--|
| Proposing Firm: | |
| Employees / Hiring | |
| Race and Gender Representation | |
| Is your business women or minority owned? | |
| What percentage of your staff are women? | |
| What percentage of your leadership/executive team are women? | |
| What percentage of your staff are people of color? | |
| What percentage of your leadership/executive team are people of color? | |
| Describe any significant efforts to employ women, minorities, residents from underemployed communities, or qualified individuals with criminal records. | |
| Describe any efforts you have made or will make to hire individuals from the local community in Lexington - Fayette County. | |
| Describe any processes you have in place to train and educate your operational and administrative staff on solar specific skills and to reduce employee turnover | |
| Economic Impact | |
| Do you pay a living wage for all employees based on the city or county where you are located? (use http://livingwage.mit.edu/) | |
| Is your staff unionized? | |
| Local Community Impact | |
| Describe your prior/current efforts making solar inclusive to moderate income residents and/or people of color. | |
| Describe any prior community building efforts your business has provided to a local community that you work/worked in. | |
| Describe any community building commitments your firm will make if selected as the chosen installer (e.g., Community service, subsidizing LMI solar costs, donations to non-profits, offering internships or solar job training programs, etc.). | |

Solarize Lexington

9. Additional Information

Proposer Instructions

Please include any other additional information is relevant to your bid (300 word limit).

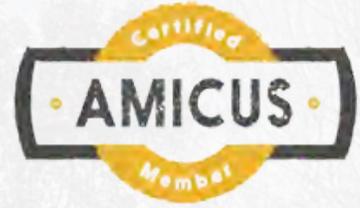
| | |
|---|---|
| Proposing Firm: | 0 |
| Additional Information | |
| Include any other additional information that is relevant to your bid (300 word limit). | |

EXHIBIT B

INSTALLER'S RESPONSE TO RFP #4-2024



SOLAR ENERGY
Solutions



Proposal for the Lexington Solarize Program 2024

Qualifications, Attachments, and
Additional Information

Submitted:
January 25, 2024



Solar Energy Solutions (SES) is the region's largest and most experienced solar design, engineering, and construction company with projects in Indiana, Kentucky, Ohio, and the surrounding states. SES is also the region's leading Tesla Powerwall Certified Installer. Founded in Kentucky in 2006, Solar Energy Solutions has more than 2,750 active photovoltaic and battery storage projects in the residential, commercial, and utility arenas.



PV Installation
Professional

*Certificate holder listed in document



COMPANY SUMMARY



Regional Leader in Solar Energy Development

Solar Energy Solutions, LLC (SES) is dedicated to bringing low-cost renewable energy to the Midwest, helping the environment, establishing energy independence, and educating the public on how to take part in making a healthier, more secure energy future.

SES is Kentucky's preeminent full-time renewable energy installation company. Formed in 2006, **SES has installed over 38 MW of solar in just the last eight years alone.**

The SES staff are specifically trained and solely focused on the engineering & installation of solar photovoltaic and battery storage systems. SES staff carry all relevant licenses and certifications, including (PE licenses, electrical licenses, and seven solar-specific NABCEP certifications). As a result, for solar design and installation, SES has completed around 2,750 projects for governmental, institutional, commercial, and residential customers.



SOLARIZE EXPERIENCE

Solar Energy Solutions merges engineering expertise with electrical acumen to produce superior renewable energy installations.

Experience: 12 Solarize Campaigns

- Solarize Lexington 2019, 2023
- Solar Over Louisville 2022,2023
- SUN Indianapolis 2021, 2023
- SUN Boone & Hamilton Counties (IN) 2021, 2023
- Solarize Southwest Virginia 2021
- Solarize Bloomington 2020, 2017
- Solarize Cincinnati 2017



We look forward to using our experience in past programs for the Lexington Solarize 2024 program





PROJECT MANAGEMENT

In 2024, we are taking Project Management and Operations & Maintenance to a new level as we onboard both the Hubspot and Arrivy platforms to help keep on track through the whole lifecycle of a customer. Everything from incoming leads to scheduling maintenance is now managed through software that works together.

In response to the need to manage the volume of installations we have now and expect to grow considerably, we have expanded our project management team to 4 full-time project managers. Our O&M team comprises a full-time O&M Manager and technician and three other full-time technicians.





WORKFORCE DEVELOPMENT

In 2023, Solar Energy Solutions launched its new Apprenticeship Program in collaboration with the **Kentucky Registered Apprenticeship Program (RAP)**. This initiative is intended not only to build a robust, highly trained workforce but also to make a positive impact on Kentucky's economy.

The **Registered Apprenticeship Program** is an industry-driven, high-quality career pathway where employers like SES actively develop and prepare their future workforce. Individuals participating in this program obtain paid work experience, receive progressive wage increases, benefit from related technical instructions, and attain portable, nationally recognized credentials.

Benefits for Career Seekers in SES's Apprenticeship Program:

- **Earn as you Learn:** Apprentices receive compensation while gaining valuable on-the-job experience.
- **Avoid Student Debt:** This program offers a debt-free alternative to traditional education.
- **Workplace Relevant Skills:** Participants acquire practical skills in the field of their choice.
- **Smooth Transition from School to Career:** SES facilitates a seamless shift from academic studies to a fulfilling career.
- **Jumpstart Your Career:** Apprenticeships at SES provide an accelerated pathway to professional success.





TERRITORY

Solar Energy Solutions was founded in Lexington and has been operating in Kentucky for 17 years. SES's primary warehouse (HQ) is in Lexington; the second warehouse is in Louisville, and there are other warehouses and sales offices in Indianapolis, IN; Cincinnati, OH; Champaign, IL; Evansville, IN; and Richmond, VA.

With six total crews in the region, SES can rotate other crews as needed into the Lexington area as volume demands. The SES Kentucky, Indiana, and Ohio crews are made up of dedicated, local, experienced installers.



Solar Energy Solutions recently expanded to Richmond Virginia.



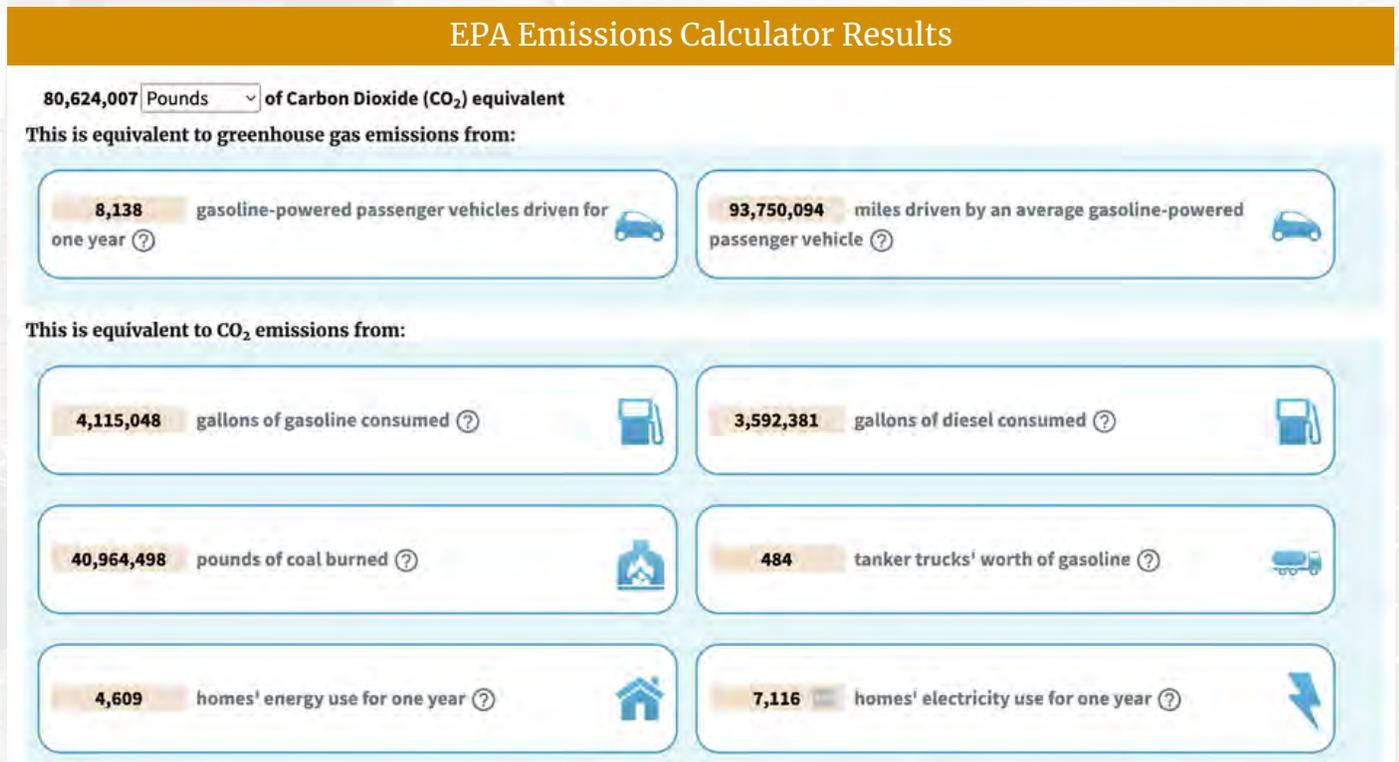
ENVIRONMENTAL BENEFITS

Over Time the Benefits Add up

In the last eight years, Solar Energy Solutions has installed 1686 solar systems and battery storage systems in Kentucky alone. Those installations include over 38 MW of solar. Between 2019 and 2023, SES has also installed over 6,993 kWh hours of backup storage, primarily Tesla Powerwall.

Environmental Benefit: Over 25 years, the environmental benefits of our 38+ MW of installations are enormous. Those systems will produce approximately 51,603,413 kWh of clean energy, calculated with PVWatts.

According to the EPA's Emissions Calculator, these SES installations should have the following benefits for Kentucky:





CERTIFICATIONS & LICENSES (ATTACHMENT A)

The full design/build team responsible for large-scale installations at SES holds numerous professional certifications, listed below, that are reflected in the quality of their work. The table below shows the company-wide certifications

| Certifications | Members |
|----------------------------------|---------|
| PE Licences | 2 |
| NABCEP Certified PV Installers | 7 |
| Journeyman & Master Electricians | 5 |

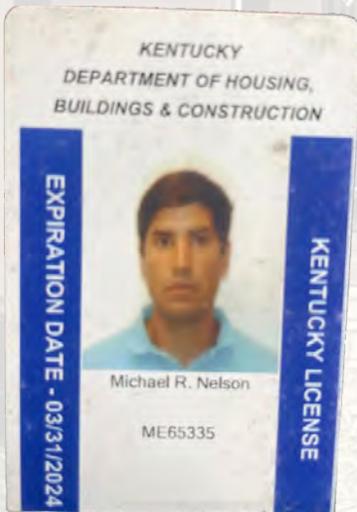
Solar Energy Solutions NABCEP Certifications In KY:





ELECTRICAL LICENSES (ATTACHMENT A)

Solar Energy Solutions Electrical Licenses In KY:





BUSINESS LICENSE (ATTACHMENT A)



Kentucky Secretary of State
Michael G. Adams

- Business Entity Search
- File Annual Report
- Form an LLC
- Business Registration Portal
- Name Availability Search
- Business Forms Library
- Prepaid Account Status
- Current Officer Search
- Founding Officer Search
- Registered Agent Search
- Validate Certificate of Existence/Authorization

SOLAR ENERGY SOLUTIONS LLC

| | |
|------------------------------------|--|
| File Annual Report | File Certificate of Assumed Name (DBA) |
| Change Address or Registered Agent | |
| File Dissolution | File Registered Agent Resignation |
| Printable Forms | Subscribe to changes made to this entity |
| Certificates | |

General Information

Organization Number: 0638456
 Name: SOLAR ENERGY SOLUTIONS LLC
 Profit or Non-Profit: Unknown
 Company Type: KLC - Kentucky Limited Liability Company
 Status: A - Active
 Standing: G - Good
 State: KY
 File Date: 5/10/2006
 Organization Date: 5/10/2006
 Last Annual Report: 5/17/2022
 Principal Office: 1038 BRENTWOOD CT. SUITE B LEXINGTON, KY 40511
 Managed By: Managers
 Registered Agent: MATTHEW PARTYMILLER 1038 BRENTWOOD CT. SUITE B LEXINGTON, KY 40511

Current Officers

Member: Matthew Partymiller
 Member: Frances Lockwood
 Member: Dallyce Erickson

Show Individuals / Entities listed at time Of formation

Organizer: MATTHEW L
 Organizer: PARTYMILLER FRANCES E
 Organizer: LOCKWOOD
 Show Images
 Show Assumed Names
 Show Activities

ContactSite Map

Privacy Security Disclaimer

Accessibility

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Kentucky Unbridled Spirit

The information above is still current. However, the website is currently down and has been experiencing issues- <https://www.sos.ky.gov/bus/business-filings/OnlineServices/Pages/default.aspx>. We will provide an up-to-date document as soon as the issue is resolved.



BATTERY TRAINING

(ATTACHMENT A)

Enrollment List

| Learner | Email | Company | Learner_Region | Training_Type | CertifiedStatus | # Certified | # Learner |
|-----------------------|-------------------|-----------------------------|----------------|---------------|-----------------|-------------|-----------|
| Alex Smith [E] | alex@sesre.com | Solar Energy Solutions, LLC | NA | Home_Charging | Certified | 1 | 1 |
| | | | | Powerwall | Certified | 1 | 1 |
| Ben Jones [E] | ben@sesre.com | Solar Energy Solutions, LLC | NA | Powerwall | Certified | 1 | 1 |
| Bill Slater [E] | bill@sesre.com | Solar Energy Solutions, LLC | NA | Home_Charging | Not Certified | 0 | 1 |
| | | | | Powerwall | Not Certified | 0 | 1 |
| | | | | PW_Sales | Not Certified | 0 | 1 |
| Billy Brindle [E] | billy@sesre.com | Solar Energy Solutions, LLC | NA | Home_Charging | Not Certified | 0 | 1 |
| | | | | Powerwall | Certified | 1 | 1 |
| Caleb Hall [E] | cal@sesre.com | Solar Energy Solutions, LLC | NA | Home_Charging | Not Certified | 0 | 1 |
| | | | | Powerwall | Not Certified | 0 | 1 |
| | | | | PW_Sales | Certified | 1 | 1 |
| Charlie Deardorff [E] | charlie@sesre.com | Solar Energy Solutions, LLC | NA | Powerwall | Certified | 1 | 1 |
| Clayton Salchli [E] | clayton@sesre.com | Solar Energy Solutions, LLC | NA | Home_Charging | Not Certified | 0 | 1 |
| | | | | Powerwall | Certified | 1 | 1 |
| Dain Spurgeon [E] | dain@sesre.com | Solar Energy Solutions, LLC | NA | Home_Charging | Not Certified | 0 | 1 |
| | | | | Powerwall | Certified | 1 | 1 |
| Daniel Ortega [E] | daniel@sesre.com | Solar Energy Solutions, LLC | NA | Home_Charging | Not Certified | 0 | 1 |
| | | | | Powerwall | Certified | 1 | 1 |
| Erik Meyerhoffer [E] | Erik@sesre.com | Solar Energy Solutions, LLC | NA | Home_Charging | Certified | 1 | 1 |
| | | | | Powerwall | Certified | 1 | 1 |
| Ezra Klarer [E] | ezrak@sesre.com | Solar Energy Solutions, LLC | NA | Powerwall | Certified | 1 | 1 |
| Julie Jones [E] | julie@sesre.com | Solar Energy Solutions, LLC | NA | Home_Charging | Not Certified | 0 | 1 |
| | | | | Powerwall | Not Certified | 0 | 1 |
| | | | | PW_Sales | Certified | 1 | 1 |
| Mary Edwards [E] | mary@sesre.com | Solar Energy Solutions, LLC | NA | Home_Charging | Not Certified | 0 | 1 |
| | | | | Powerwall | Certified | 1 | 1 |
| | | | | PW_Sales | Certified | 1 | 1 |
| Matt Partymiller [E] | matt@sesre.com | Solar Energy Solutions, LLC | NA | Home_Charging | Not Certified | 0 | 1 |
| | | | | Powerwall | Certified | 1 | 1 |
| Michael Nelson [E] | michael@sesre.com | Solar Energy Solutions, LLC | NA | Powerwall | Certified | 1 | 1 |
| Steve Rickets [E] | steve@sesre.com | Solar Energy Solutions, LLC | NA | Home_Charging | Not Certified | 0 | 1 |
| | | | | Powerwall | Certified | 1 | 1 |
| Syl Masih [E] | syl@sesre.com | Solar Energy Solutions, LLC | NA | Home_Charging | Certified | 1 | 1 |
| | | | | Powerwall | Certified | 1 | 1 |
| | | | | PW_Sales | Certified | 1 | 1 |
| Wesley Mathews [E] | wesley@sesre.com | Solar Energy Solutions, LLC | NA | Home_Charging | Not Certified | 0 | 1 |
| | | | | Powerwall | Certified | 1 | 1 |
| Zach Clayton [E] | zach@sesre.com | Solar Energy Solutions, LLC | NA | Home_Charging | Certified | 1 | 1 |
| | | | | Powerwall | Certified | 1 | 1 |

Learner_Region

APAC

EMEA

NA

Unknown

Company

Multiple values

Training_Type

Home_Charging

Powerpack

Powerwall

PV

PV_CI

PV_Subcontractors

PW_Design

PW_Sales

Supercharger_V2

Supercharger_V3

CertifiedStatus

Certified

Not Certified



SPEC SHEETS

(ATTACHMENT B)

Solar Energy Solutions takes great care in selecting components for our installations with the understanding that solar systems will run for decades into the future. As a result, we always use tier-1 solar panels.

We have selected the materials for the Solarize Lexington program with durability, quality, and economy in mind.

ZXM7-SH108 Series

10BB HALF-CELL Monocrystalline PERC PV Module

390-410W

POWER RANGE

20.97%

MAXIMUM EFFICIENCY

0.55%

YEARLY DEGRADATION

12 12 YEARS PRODUCT WARRANTY

25 25 YEARS OUTPUT GUARANTEE



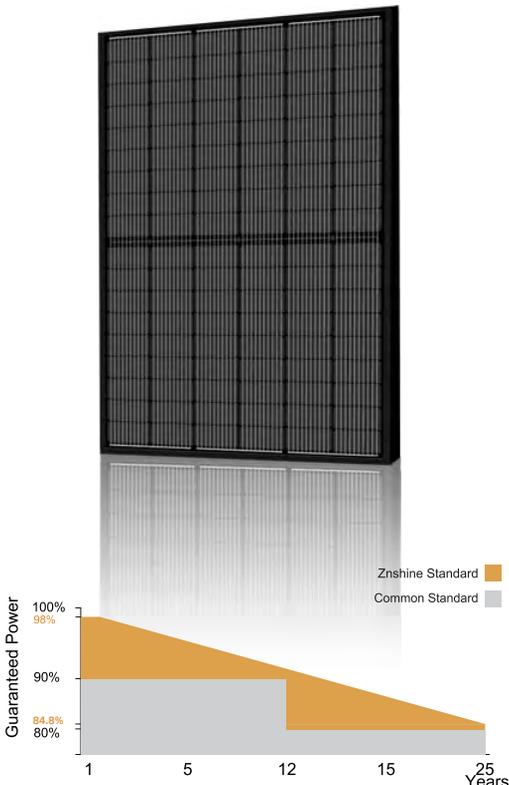
IEC 61215/IEC 61730/IEC 61701/IEC 62716/UL6 1730

ISO 14001: Environmental Management System

ISO 9001: Quality Management System

ISO45001: Occupational Health and Safety Management System

*As there are different certification requirements in different markets, please contact your local znshine sales representative for the specific certificates applicable to the products in the region in which the products are to be used.



*Please check the valid version of Limited Product Warranty which is officially released by ZNSHINE PV-TECH Co.,Ltd.

KEY FEATURES



Excellent Cells Efficiency

MBB technology reduce the distance between busbars and finger grid line which is benefit to power increase.



Better Weak Illumination Response

More power output in weak light condition, such as haze, cloudy, and early morning.



Anti PID

Ensured PID resistance through the quality control of cell manufacturing process and raw materials.



Adapt To Harsh Outdoor Environment

Resistant to harsh environments such as salt, ammonia, sand, high temperature and high humidity environment.



TIER 1

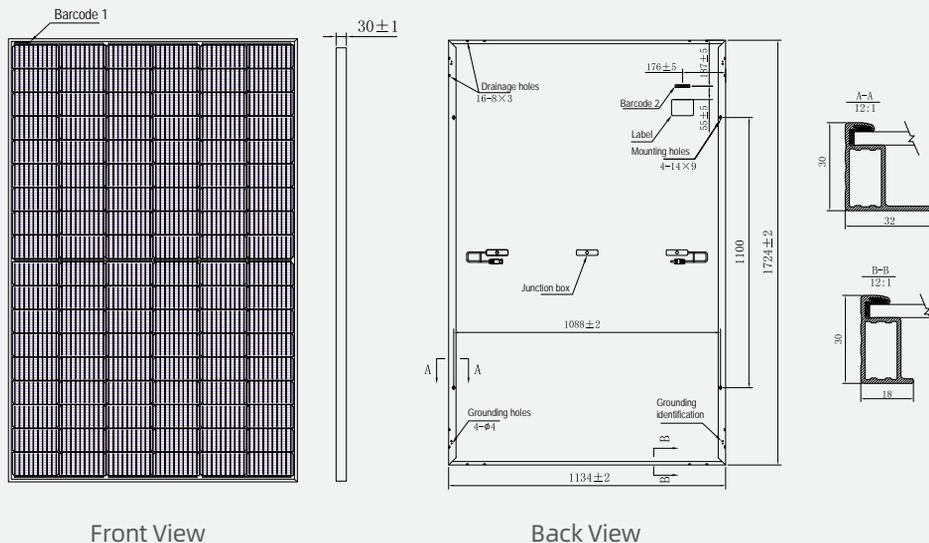
Global, Tier 1 bankable brand, with independently certified advanced automated manufacturing.



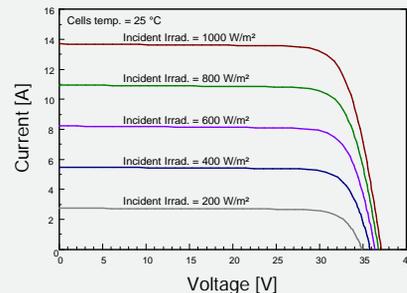
Excellent Quality Management System

Warranted reliability and stringent quality assurances well beyond certified requirements.

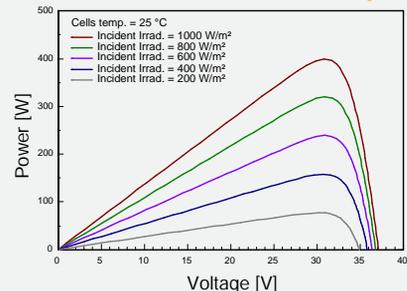
DIMENSIONS OF PV MODULE(mm)



I-V CURVES OF PV MODULE(400W)



P-V CURVES OF PV MODULE(400W)



*Remark: customized frame color and cable length available upon request

ELECTRICAL CHARACTERISTICS | STC*

| | | | | | |
|--------------------------------|-------|-------|-------|-------|-------|
| Nominal Power Watt Pmax(W)* | 390 | 395 | 400 | 405 | 410 |
| Power Output Tolerance Pmax(%) | 0~+3 | 0~+3 | 0~+3 | 0~+3 | 0~+3 |
| Maximum Power Voltage Vmp(V) | 30.50 | 30.70 | 30.90 | 31.10 | 31.30 |
| Maximum Power Current Imp(A) | 12.79 | 12.87 | 12.95 | 13.03 | 13.10 |
| Open Circuit Voltage Voc(V) | 36.70 | 36.90 | 37.10 | 37.30 | 37.50 |
| Short Circuit Current Isc(A) | 13.56 | 13.63 | 13.70 | 13.77 | 13.84 |
| Module Efficiency (%) | 19.95 | 20.20 | 20.46 | 20.72 | 20.97 |

*The data above is for reference only and the actual data is in accordance with the practical testing
*STC (Standard Test Condition): Irradiance 1000W/m², Module Temperature 25°C, AM 1.5
*Measuring tolerance: ±3%

MECHANICAL DATA

| | |
|-------------------|--|
| Solar cells | Mono PERC |
| Cells orientation | 108 (6×18) |
| Module dimension | 1724×1134×30 mm (With Frame) |
| Weight | 20.5±1.0 kg |
| Glass | 3.2mm, High Transmission, AR Coated Tempered Glass |
| Junction box | IP 68, 3 diodes |
| Cables | 4 mm² ,350mm (With Connectors) |
| Connectors* | EVO2 or EVA2A |

*Please refer to regional datasheet for specified connector

ELECTRICAL CHARACTERISTICS | NMOT

| | | | | | |
|-------------------------------|--------|--------|--------|--------|--------|
| Maximum Power Pmax(Wp) | 291.50 | 295.20 | 299.00 | 302.70 | 306.30 |
| Maximum Power Voltage Vmpp(V) | 28.30 | 28.50 | 28.70 | 28.90 | 29.10 |
| Maximum Power Current Imp(A) | 10.29 | 10.35 | 10.41 | 10.47 | 10.53 |
| Open Circuit Voltage Voc(V) | 34.30 | 34.50 | 34.70 | 34.80 | 35.00 |
| Short Circuit Current Isc(A) | 10.95 | 11.01 | 11.06 | 11.12 | 11.18 |

*NMOT: Irradiance 800W/m², Ambient Temperature 20°C, AM 1.5, Wind Speed 1m/s

TEMPERATURE RATINGS*

| | | | |
|---------------------------------|-----------|-----------------------------------|---------------|
| NMOT | 44°C ±2°C | Maximum system voltage | 1500 V DC |
| Temperature coefficient of Pmax | -0.35%/°C | Operating temperature | -40°C~+85°C |
| Temperature coefficient of Voc | -0.29%/°C | Maximum series fuse | 25 A |
| Temperature coefficient of Isc | 0.05%/°C | Front Side Maximum Static Loading | Up to 5400 Pa |
| | | Rear Side Maximum Static Loading | Up to 2400 Pa |

*Do not connect Fuse in Combiner Box with two or more strings in parallel connection

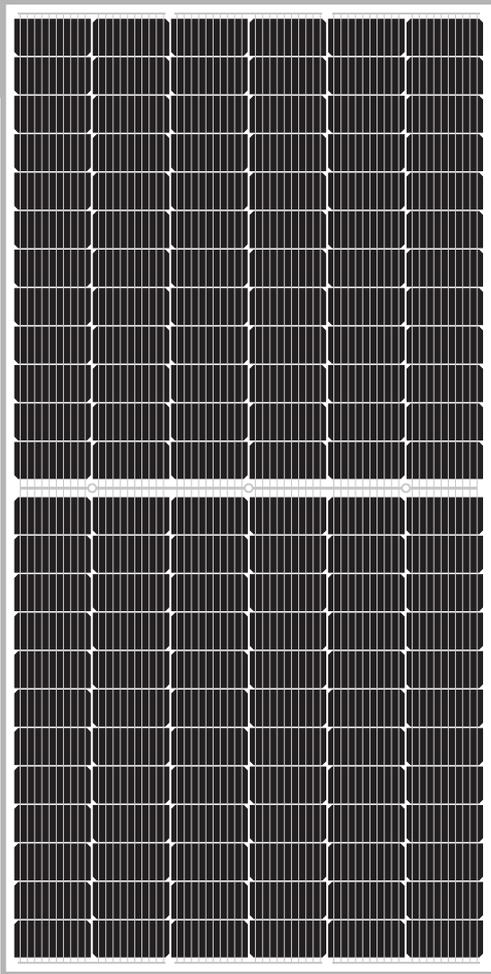
**Customized packaging is available upon request.

Remark: Electrical data in this catalog do not refer to a single module and they are not part of the offer. They only serve for comparison among different module types.

Caution: Please be kindly advised that PV modules should be handled and installed by qualified people who have professional skills and please carefully read the safety and installation instructions before using our PV modules.

PACKAGING CONFIGURATION **

| | |
|------------------------|-----|
| Piece/Box | 36 |
| Piece/Container(40'HQ) | 936 |



KEY FEATURES



High efficiency PERC

A high efficiency 182 (M10) PERC solar cell with 10 busbars technology to ensure the efficiency of the solar module up to 21.10% and stable operation.



Bifacial power generation

Increases 10-30% power generation revenue.



Excellent performance with weak light

More power output with a weak light condition-through advanced glass and solar cells.



Wind/Snow load

Wind load 2400 pa, snow load 5400 pa.



PID

Pid Free

Excellent Anti-PID performance, minimized the degradation of power.



Resistance of extreme environment conditions

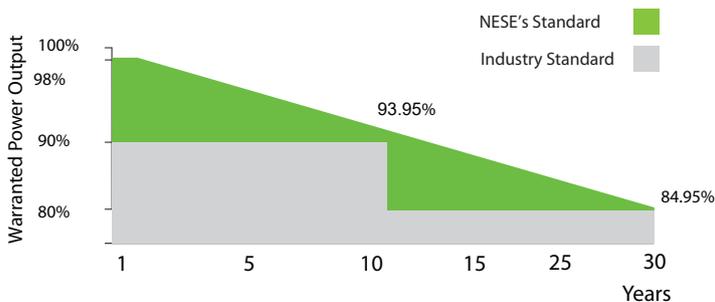
High Salt Mist and Ammonia resistance certified by TUV.

INSURED BY



LINEAR PERFORMANCE WARRANTY

12 years product warranty. 30 years linear power warranty.



MANAGEMENT SYSTEM CERTIFICATES

ISO 9001:2015/QUALITY MANAGEMENT SYSTEM
ISO 14001:2015/STANDARDS FOR ENVIRONMENTAL MANAGEMENT SYSTEM

PRODUCT CERTIFICATES

IEC 61215/IEC 61730:VDE/CE/CEC AU
UL 61730: CSA



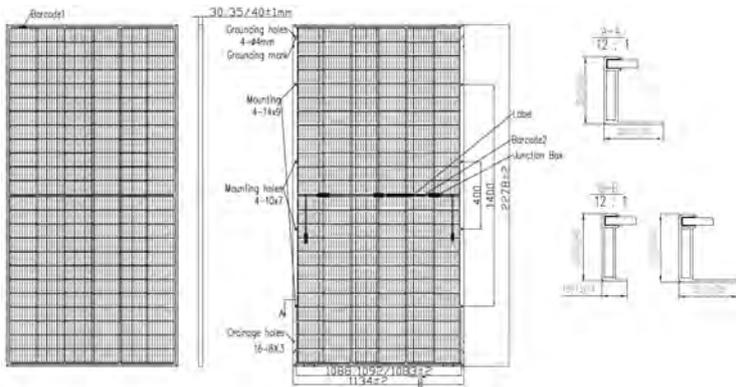
SPECIFICATIONS

| Module type | NESE 525-72MHB-M10 | | NESE530-72MHB-M10 | | NESE535-72MHB-M10 | | NESE540-72MHB-M10 | | NESE545-72MHB-M10 | |
|-----------------------------|--------------------|--------|-------------------|--------|-------------------|--------|-------------------|--------|-------------------|--------|
| | STC | (NOCT) | STC | (NOCT) | STC | (NOCT) | STC | (NOCT) | STC | (NOCT) |
| Maximum power(Pmax) | 525Wp | 393Wp | 530Wp | 397Wp | 535Wp | 400Wp | 540Wp | 404Wp | 545Wp | 408Wp |
| Maximum power voltage(Vmp) | 40.9V | 37.8V | 41.1V | 38.0V | 41.3V | 38.1V | 41.5V | 38.3V | 41.7V | 38.5V |
| Maximum power current (Imp) | 12.85A | 10.40A | 12.91A | 10.45A | 12.96A | 10.50A | 13.02A | 10.55A | 13.08A | 10.60A |
| Open-circuit voltage(Voc) | 49.2V | 45.9V | 49.4V | 46.1V | 49.6V | 46.3V | 49.8V | 46.5V | 51.0V | 46.7V |
| Short-circuit current(Isc) | 13.59A | 10.98A | 13.65A | 11.02A | 13.71A | 11.07A | 13.77A | 11.12A | 13.83A | 11.17A |
| Module efficiency STC (%) | 20.32% | | 20.52% | | 20.71% | | 20.90% | | 21.10% | |
| Operating temperature(°C) | -40°C ~ 85°C | | | | | | | | | |

ELECTRICAL CHARACTERISTICS WITH 25% REAR SIDE POWER GAIN

| | | | | | |
|--------------------|-------|-------|-------|-------|-------|
| Front power Pmax/W | 525 | 530 | 535 | 540 | 545 |
| Total power Pmax/W | 656 | 663 | 669 | 675 | 681 |
| Vmp/V(Total) | 41.0 | 41.2 | 41.4 | 41.6 | 41.8 |
| Imp/A(Total) | 16.01 | 16.08 | 16.15 | 16.23 | 16.30 |
| Voc/V(Total) | 49.3 | 49.5 | 49.7 | 49.9 | 50.1 |
| Isc/A(Total) | 16.75 | 16.82 | 16.90 | 16.97 | 17.05 |

ENGINEERING DRAWING



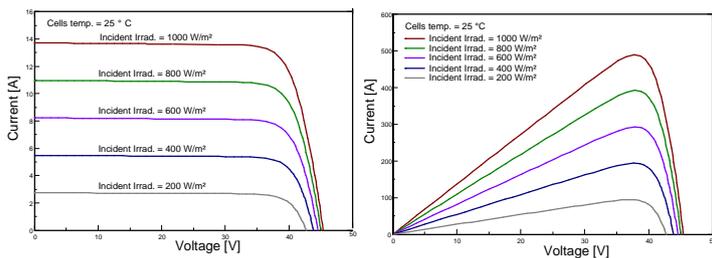
TEMPERATURE RATINGS

| | |
|----------------------------------|-----------|
| NOCT | 44 ± 2°C |
| Temperature coefficients of Pmax | -0.35%/°C |
| Temperature coefficients of Voc | -0.29%/°C |
| Temperature coefficients of Isc | +0.05%/°C |
| Refer. Bifacial Factor | 70 ± 5% |

MATERIAL CHARACTERISTICS

| | |
|----------------|-------------------------------------|
| Number of cell | 144 (6 * 24) |
| Dimensions | 2278*1134*30/35/40 |
| Weight | 33.5/34/34.5kg |
| Front glass | 2.0mm+2.0mm heat strengthened glass |
| Frame | Anodized aluminium alloy |

IV CURVES OF THE PV MODULES



WORKING CONDITIONS

| | | | |
|----------------------------|---------------|--------------|--------------------------------------|
| Maximum system voltage | 1000/1500 VDC | Junction box | Ip68 , 3 diodes |
| Maximum series fuse rating | 30A | Cables | 12 AWG, length: 350 mm or Customized |
| | | Connectors | MC4-Compatible |

PACKAGING CONFIGURATION

40HQ 720/620/540PCS

Electrical performance vs Incident Irradiance
Current-voltage & power-voltage curves (545W)

Q.TRON BLK M-G2+ SERIES



PRELIMINARY

410 - 430 W_p | 108 Cells
22.4 % Maximum Module Efficiency

MODEL Q.TRON BLK M-G2+



High performance Qcells N-type solar cells

Q.ANTUM NEO Technology with optimized module layout boosts module efficiency up to 22.4%.



A reliable investment

Inclusive 25-year product warranty and 25-year linear performance warranty¹.



Enduring high performance

Long-term yield security with Anti LeTID Technology, Anti PID Technology², Hot-Spot Protect.



Extreme weather rating

High-tech aluminium alloy frame, certified for high snow (5400 Pa) and wind loads (3600 Pa).



Innovative all-weather technology

Optimal yields, whatever the weather with excellent low-light and temperature behaviour.



The most thorough testing programme in the industry

Qcells is the first solar module manufacturer to pass the most comprehensive quality programme in the industry: The new "Quality Controlled PV" of the independent certification institute TÜV Rheinland.

¹ See data sheet on rear for further information.

² APT test conditions according to IEC/TS 62804-1:2015, method A (-1500V, 96h)

The ideal solution for:

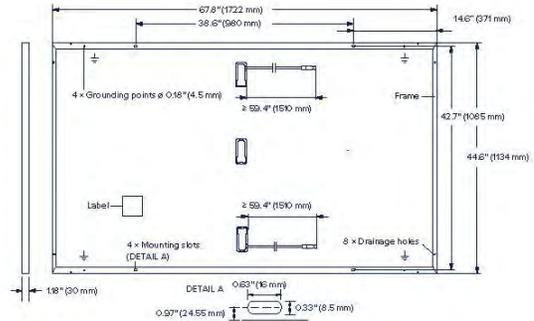
 Rooftop arrays on residential buildings



Q.TRON BLK M-G2+ SERIES

Mechanical Specification

| | |
|--------------|---|
| Format | 67.8 in × 44.6 in × 1.18 in (including frame) (1722 mm × 1134 mm × 30 mm) |
| Weight | 47.2 lbs (21.4 kg) |
| Front Cover | 0.13 in (3.2 mm) thermally pre-stressed glass with anti-reflection technology |
| Back Cover | Composite film |
| Frame | Black anodised aluminium |
| Cell | 6 × 18 monocrystalline QANTUM NEO solar half cells |
| Junction box | 2.09-3.98 in × 1.26-2.36 in × 0.59-0.71 in (53-101 mm × 32-60 mm × 15-18 mm), Protection class IP67, with bypass diodes |
| Cable | 4 mm ² Solar cable; (+) ≥ 59.4 in (1510 mm), (-) ≥ 59.4 in (1510 mm) |
| Connector | Stäubli MC4; IP68 |



Electrical Characteristics

| POWER CLASS | 410 | 415 | 420 | 425 | 430 |
|-------------|-----|-----|-----|-----|-----|
|-------------|-----|-----|-----|-----|-----|

MINIMUM PERFORMANCE AT STANDARD TEST CONDITIONS, STC¹ (POWER TOLERANCE +5W / -0W)

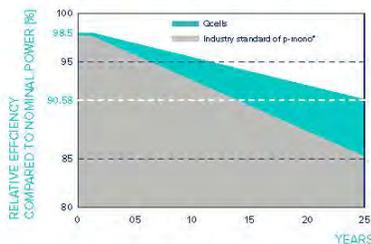
| Minimum | Power at MPP ¹ | P _{MPP} [W] | 410 | 415 | 420 | 425 | 430 |
|---------|------------------------------------|----------------------|--------|--------|--------|--------|--------|
| | Short Circuit Current ¹ | I _{SC} [A] | 13.39 | 13.42 | 13.46 | 13.49 | 13.53 |
| | Open Circuit Voltage ¹ | V _{OC} [V] | 38.58 | 38.61 | 38.64 | 38.67 | 38.70 |
| | Current at MPP | I _{MPP} [A] | 12.68 | 12.75 | 12.82 | 12.88 | 12.95 |
| | Voltage at MPP | V _{MPP} [V] | 32.32 | 32.55 | 32.77 | 32.98 | 33.20 |
| | Efficiency ¹ | η [%] | ≥ 21.4 | ≥ 21.6 | ≥ 21.9 | ≥ 22.2 | ≥ 22.4 |

MINIMUM PERFORMANCE AT NORMAL OPERATING CONDITIONS, NMOT²

| Minimum | Power at MPP | P _{MPP} [W] | 310.0 | 313.8 | 317.6 | 321.4 | 325.2 |
|---------|-----------------------|----------------------|-------|-------|-------|-------|-------|
| | Short Circuit Current | I _{SC} [A] | 10.79 | 10.82 | 10.84 | 10.87 | 10.90 |
| | Open Circuit Voltage | V _{OC} [V] | 36.61 | 36.63 | 36.66 | 36.69 | 36.71 |
| | Current at MPP | I _{MPP} [A] | 9.97 | 10.03 | 10.09 | 10.15 | 10.21 |
| | Voltage at MPP | V _{MPP} [V] | 31.09 | 31.29 | 31.48 | 31.66 | 31.85 |

¹Measurement tolerances P_{MPP} ± 3%; I_{SC}; V_{OC} ± 5% at STC: 1000 W/m², 25 ± 2°C, AM 1.5 according to IEC 60904-3 • ²800 W/m², NMOT, spectrum AM 1.5

Qcells PERFORMANCE WARRANTY

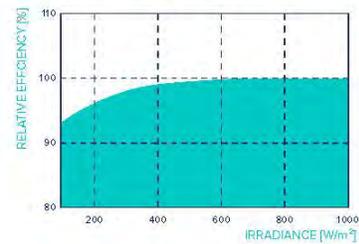


At least 98.5% of nominal power during first year. Thereafter max. 0.33% degradation per year. At least 95.53% of nominal power up to 10 years. At least 90.58% of nominal power up to 25 years.

All data within measurement tolerances. Full warranties in accordance with the warranty terms of the Qcells sales organisation of your respective country.

*Standard terms of guarantee for the 5 PV companies with the highest production capacity in 2021 (February 2021)

PERFORMANCE AT LOW IRRADIANCE



Typical module performance under low irradiance conditions in comparison to STC conditions (25°C, 1000 W/m²).

TEMPERATURE COEFFICIENTS

| | | | | | |
|---|---------|-------|--|-----------|----------------------|
| Temperature Coefficient of I _{SC} | α [%/K] | +0.04 | Temperature Coefficient of V _{OC} | β [%/K] | -0.24 |
| Temperature Coefficient of P _{MPP} | γ [%/K] | -0.30 | Nominal Module Operating Temperature | NMOT [°F] | 109 ± 5.4 (43 ± 3°C) |

Properties for System Design

| | | | | |
|--|--------------------------|------------------------------|---|--|
| Maximum System Voltage | V _{SYS} [V] | 1000 (IEC)/1000 (UL) | PV module classification | Class II |
| Maximum Series Fuse Rating | [A DC] | 20 | Fire Rating based on ANSI/UL 61730 | C / TYPE 2 |
| Max. Design Load, Push/Pull ³ | [lbs / ft ²] | 75 (3600 Pa) / 50 (2400 Pa) | Permitted Module Temperature on Continuous Duty | -40°F up to +185°F (-40°C up to +85°C) |
| Max. Test Load, Push/Pull ³ | [lbs / ft ²] | 113 (5400 Pa) / 75 (3600 Pa) | | |

³ See Installation Manual

Qualifications and Certificates

Quality Controlled PV - TÜV Rheinland; IEC 61215:2016; IEC 61730:2016. This data sheet complies with DIN EN 50380.



Qcells pursues minimizing paper output in consideration of the global environment.

Note: Installation instructions must be followed. Contact our technical service for further information on approved installation of this product. Harwin Q CELLS America Inc. 400 Spectrum Center Drive, Suite 1400, Irvine, CA 92618, USA | TEL +1 949 748 59 96 | EMAIL: hq-inquiry@qcells.com | WEB: www.qcells.com

qcells

Single Phase Inverter with HD-Wave Technology

for North America

SE3000H-US / SE3800H-US / SE5000H-US / SE6000H-US /
SE7600H-US / SE10000H-US / SE11400H-US



Optimized installation with HD-Wave technology

- // Specifically designed to work with power optimizers
- // Record-breaking efficiency
- // Quick and easy inverter commissioning directly from a smartphone using the SolarEdge SetApp
- // Fixed voltage inverter for longer strings
- // Integrated arc fault protection and rapid shutdown for NEC 2014 and 2017, per article 690.11 and 690.12
- // UL1741 SA certified, for CPUC Rule 21 grid compliance
- // Extremely small
- // Built-in module-level monitoring
- // Outdoor and indoor installation
- // Optional: Revenue grade data, ANSI C12.20 Class 0.5 (0.5% accuracy)

/ Single Phase Inverter with HD-Wave Technology for North America

SE3000H-US / SE3800H-US / SE5000H-US / SE6000H-US/
SE7600H-US / SE10000H-US / SE11400H-US

| Model Number | SE3000H-US | SE3800H-US | SE5000H-US | SE6000H-US | SE7600H-US | SE10000H-US | SE11400H-US | |
|---|---------------------------------|----------------------------|------------|----------------------------|------------|-------------|------------------------------|-----|
| APPLICABLE TO INVERTERS WITH PART NUMBER | SEXXXXH-XXXXXBXX4 | | | | | | | |
| OUTPUT | | | | | | | | |
| Rated AC Power Output | 3000 | 3800 @ 240V 3300 @ 208V | 5000 | 6000 @ 240V 5000 @ 208V | 7600 | 10000 | 11400 @ 240V 10000 @ 208V | VA |
| Maximum AC Power Output | 3000 | 3800 @ 240V 3300 @ 208V | 5000 | 6000 @ 240V 5000 @ 208V | 7600 | 10000 | 11400 @ 240V 10000 @ 208V | VA |
| AC Output Voltage Min.-Nom.-Max. (211 - 240 - 264) | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | Vac |
| AC Output Voltage Min.-Nom.-Max. (183 - 208 - 229) | - | ✓ | - | ✓ | - | - | ✓ | Vac |
| AC Frequency (Nominal) | 59.3 - 60 - 60.5 ⁽¹⁾ | | | | | | | Hz |
| Maximum Continuous Output Current @240V | 12.5 | 16 | 21 | 25 | 32 | 42 | 47.5 | A |
| Maximum Continuous Output Current @208V | - | 16 | - | 24 | - | - | 48.5 | A |
| Power Factor | 1, adjustable -0.85 to 0.85 | | | | | | | |
| GFDI Threshold | 1 | | | | | | | A |
| Utility Monitoring, Islanding Protection, Country Configurable Thresholds | Yes | | | | | | | |
| INPUT | | | | | | | | |
| Maximum DC Power @240V | 4650 | 5900 | 7750 | 9300 | 11800 | 15500 | 17650 | W |
| Maximum DC Power @208V | - | 5100 | - | 7750 | - | - | 15500 | W |
| Transformer-less, Ungrounded | Yes | | | | | | | |
| Maximum Input Voltage | 480 | | | | | | | Vdc |
| Nominal DC Input Voltage | 380 | | | | 400 | | | Vdc |
| Maximum Input Current @240V ⁽²⁾ | 8.5 | 10.5 | 13.5 | 16.5 | 20 | 27 | 30.5 | Adc |
| Maximum Input Current @208V ⁽²⁾ | - | 9 | - | 13.5 | - | - | 27 | Adc |
| Max. Input Short Circuit Current | 45 | | | | | | | Adc |
| Reverse-Polarity Protection | Yes | | | | | | | |
| Ground-Fault Isolation Detection | 600k Ω Sensitivity | | | | | | | |
| Maximum Inverter Efficiency | 99 | 99.2 | | | | | | % |
| CEC Weighted Efficiency | 99 | | | | | | 99 @ 240V 98.5 @ 208V | % |
| Nighttime Power Consumption | < 2.5 | | | | | | | W |

⁽¹⁾ For other regional settings please contact SolarEdge support

⁽²⁾ A higher current source may be used; the inverter will limit its input current to the values stated

/ Single Phase Inverter with HD-Wave Technology for North America

SE3000H-US / SE3800H-US / SE5000H-US / SE6000H-US/
SE7600H-US / SE10000H-US / SE11400H-US

| Model Number | SE3000H-US | SE3800H-US | SE5000H-US | SE6000H-US | SE7600H-US | SE10000H-US | SE11400H-US | |
|--|---|-------------|-------------|-------------|-------------------------------------|-------------|-------------|---------|
| ADDITIONAL FEATURES | | | | | | | | |
| Supported Communication Interfaces | RS485, Ethernet, ZigBee (optional), Cellular (optional) | | | | | | | |
| Revenue Grade Data, ANSI C12.20 | Optional ⁽³⁾ | | | | | | | |
| Inverter Commissioning | with the SetApp mobile application using built-in Wi-Fi Access Point for local connection | | | | | | | |
| Rapid Shutdown - NEC 2014 and 2017 690.12 | Automatic Rapid Shutdown upon AC Grid Disconnect | | | | | | | |
| STANDARD COMPLIANCE | | | | | | | | |
| Safety | UL1741, UL1741 SA, UL1699B, CSA C22.2, Canadian AFCI according to T.I.L. M-07 | | | | | | | |
| Grid Connection Standards | IEEE1547, Rule 21, Rule 14 (HI) | | | | | | | |
| Emissions | FCC Part 15 Class B | | | | | | | |
| INSTALLATION SPECIFICATIONS | | | | | | | | |
| AC Output Conduit Size / AWG Range | 1" Maximum / 14-6 AWG | | | | 1" Maximum /14-4 AWG | | | |
| DC Input Conduit Size / # of Strings / AWG Range | 1" Maximum / 1-2 strings / 14-6 AWG | | | | 1" Maximum / 1-3 strings / 14-6 AWG | | | |
| Dimensions with Safety Switch (HxWxD) | 17.7 x 14.6 x 6.8 / 450 x 370 x 174 | | | | 21.3 x 14.6 x 7.3 / 540 x 370 x 185 | | | in / mm |
| Weight with Safety Switch | 22 / 10 | 25.1 / 11.4 | 26.2 / 11.9 | 38.8 / 17.6 | | | lb / kg | |
| Noise | < 25 | | | | <50 | | | dBA |
| Cooling | Natural Convection | | | | | | | |
| Operating Temperature Range | -40 to +140 / -40 to +60 ⁽⁴⁾ | | | | | | | °F / °C |
| Protection Rating | NEMA 4X (Inverter with Safety Switch) | | | | | | | |

⁽³⁾ Revenue grade inverter P/N: SExxxxH-US000BNC4

⁽⁴⁾ Full power up to at least 50°C / 122°F; for power de-rating information refer to: <https://www.solaredge.com/sites/default/files/se-temperature-derating-note-na.pdf>

Power Optimizer

For Residential Installations

S440 / S500 / S500B / S650B



POWER OPTIMIZER

Enabling PV power optimization at the module level

- Specifically designed to work with SolarEdge residential inverters
- Mitigates all types of module mismatch loss, from manufacturing tolerance to partial shading
- Detects abnormal PV connector behavior, preventing potential safety issues*
- Faster installations with simplified cable management and easy assembly using a single bolt
- Module-level voltage shutdown for installer and firefighter safety
- Flexible system design for maximum space utilization
- Superior efficiency (99.5%)
- Compatible with bifacial PV modules

* Functionality subject to inverter model and firmware version

/ Power Optimizer

For Residential Installations

S440 / S500 / S500B / S650B

| | S440 | S500 | S500B | S650B | UNIT |
|---|--|---------|----------------|-----------|------|
| INPUT | | | | | |
| Rated Input DC Power ⁽¹⁾ | 440 | 500 | | 650 | W |
| Absolute Maximum Input Voltage (Voc) | 60 | | 125 | 85 | Vdc |
| MPPT Operating Range | 8 – 60 | | 12.5 – 105 | 12.5 - 85 | Vdc |
| Maximum Short Circuit Current (Isc) of Connected PV Module | 14.5 | | 15 | | Adc |
| Maximum Efficiency | | 99.5 | | | % |
| Weighted Efficiency | | 98.6 | | | % |
| Oversoltage Category | | II | | | |
| OUTPUT DURING OPERATION | | | | | |
| Maximum Output Current | | 15 | | | Adc |
| Maximum Output Voltage | 60 | | 80 | | Vdc |
| OUTPUT DURING STANDBY (POWER OPTIMIZER DISCONNECTED FROM INVERTER OR INVERTER OFF) | | | | | |
| Safety Output Voltage per Power Optimizer | | 1 ± 0.1 | | | Vdc |
| STANDARD COMPLIANCE⁽²⁾ | | | | | |
| EMC | FCC Part 15 Class B, IEC61000-6-2, IEC61000-6-3, CISPR11, EN-55011 | | | | |
| Safety | IEC62109-1 (class II safety), UL1741 | | | | |
| Material | UL94 V-0, UV Resistant | | | | |
| RoHS | Yes | | | | |
| Fire Safety | VDE-AR-E 2100-712:2018-12 | | | | |
| INSTALLATION SPECIFICATIONS | | | | | |
| Maximum Allowed System Voltage | | 1000 | | | Vdc |
| Dimensions (W x L x H) | 129 x 155 x 30 | | 129 x 165 x 45 | | mm |
| Weight | 720 | | 790 | | gr |
| Input Connector | MC4 ⁽³⁾ | | | | |
| Input Wire Length | 0.1 | | | | m |
| Output Connector | MC4 | | | | |
| Output Wire Length | (+) 2.3, (-) 0.10 | | | | m |
| Operating Temperature Range ⁽⁴⁾ | -40 to +85 | | | | °C |
| Protection Rating | IP68 | | | | |
| Relative Humidity | 0 – 100 | | | | % |

(1) Rated power of the module at STC will not exceed the Power Optimizer Rated Input DC Power. Modules with up to +5% power tolerance are allowed.

(2) For details about CE compliance, see Declaration of Conformity – CE.

(3) For other connector types please contact SolarEdge.

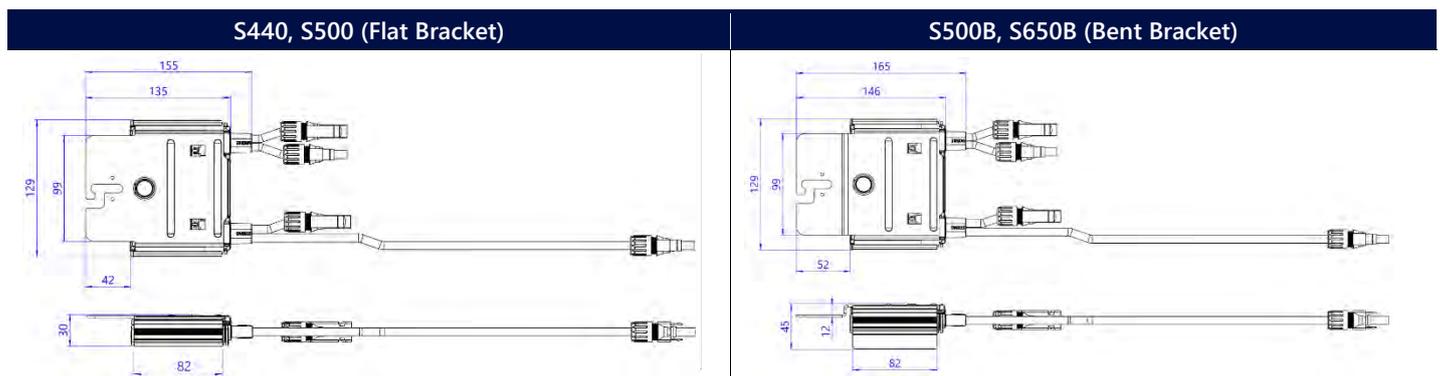
(4) Power de-rating is applied for ambient temperatures above +85°C for S440 and S500, and for ambient temperatures above +75°C for S500B. Refer to the Power Optimizers Temperature De-Rating Technical Note for details.

| PV System Design Using a SolarEdge Inverter ⁽⁵⁾ | | SolarEdge Home Wave Inverter Single Phase | SolarEdge Home Short String Inverter Three Phase | Three Phase for 230/400V Grid | Three Phase for 277/480V Grid | |
|---|--------------|---|--|-------------------------------|-------------------------------|-----|
| Minimum String Length (Power Optimizers) | S440, S500 | 8 | 9 | 16 | 18 | |
| | S500B, S650B | 6 | 8 | | 14 | |
| Maximum String Length (Power Optimizers) | | 25 | 20 | | 50 | |
| Maximum Continuous Power per String | | 5700 | 5625 | 11,250 | 12,750 | W |
| Maximum Allowed Connected Power per String ⁽⁶⁾ (In multiple string designs, the maximum is permitted only when the difference in connected power between strings is 2,000W or less) | | 6800 ⁽⁷⁾ | See ⁽⁶⁾ | 13,500 | 15,000 | W |
| Parallel Strings of Different Lengths or Orientations | | | | | | Yes |

(5) It is not allowed to mix S-series and P-series Power Optimizers in new installations in the same string.

(6) If the inverter's rated AC power ≤ maximum continuous power per string, then the maximum connected power per string will be able to reach up to the inverters maximum input DC power. Refer to the Single String Design Guidelines application note.

(7) For inverters with a rated AC power ≥ 8000W that are connected to at least two strings.



Tesla Solar Inverter with Solar Shutdown Device

Tesla Solar Inverter completes the Tesla home solar system, converting DC power from solar to AC power for home consumption. Tesla's renowned expertise in power electronics has been combined with robust safety features and a simple installation process to produce an outstanding solar inverter that is compatible with both Solar Roof and traditional solar panels. Once installed, homeowners use the Tesla mobile app to manage their solar system and monitor energy consumption, resulting in a truly unique ecosystem experience.

KEY FEATURES

- Built on Powerwall technology for exceptional efficiency and reliability
- Wi-Fi, Ethernet, and cellular connectivity with easy over-the-air updates
- Designed to integrate with Tesla Powerwall and Tesla App
- 0.5% revenue-grade metering for Solar Renewable Energy Credit (SREC) programs included
- 3.8 kW and 7.6 kW models available



Tesla Solar Inverter Technical Specifications

| Electrical Specifications: | Model Number | 1534000-xx-y | 1538000-xx-y |
|----------------------------|----------------------------------|--|--|
| Output (AC) | Output (AC) | 3.8 kW | 7.6 kW |
| | Nominal Power | 3,800 W | 7,600 W |
| | Maximum Apparent Power | 3,328 VA at 208 V 3,840 VA at 240 V | 6,656 VA at 208 V 7,680 VA at 240 V |
| | Maximum Continuous Current | 16 A | 32 A |
| | Breaker (Overcurrent Protection) | 20 A | 40 A |
| | Nominal Power Factor | 1 - 0.9 (leading / lagging) | |
| | THD (at Nominal Power) | <5% | |

| Electrical Specifications: | MPPT | 2 | 4 |
|----------------------------|--|---------------------------|---------|
| Input (DC) | Input Connectors per MPPT | 1-2 | 1-2-1-2 |
| | Maximum Input Voltage | 600 VDC | |
| | DC Input Voltage Range | 60 - 550 VDC | |
| | DC MPPT Voltage Range | 60 - 480 VDC ¹ | |
| | Maximum Current per MPPT (I_{MP}) | 13 A ² | |
| | Maximum Short Circuit Current per MPPT (I_{SC}) | 17 A ² | |
| | ¹ Maximum current. | | |
| | ² Where the DC input current exceeds an MPPT rating, jumpers can be used to allow a single MPPT to intake additional DC current up to 26 A I_{MP} / 34 A I_{SC} . | | |

| Performance Specifications | Peak Efficiency | 98% at 208 V 98.1% at 240 V | 98.4% at 208 V 98.6% at 240 V |
|----------------------------|---------------------------------------|---|----------------------------------|
| | CEC Efficiency | 97.5% at 208 V 97.5% at 240 V | 97.5% at 208 V 98.0% at 240 V |
| | Allowable DC/AC Ratio | 1.7 | |
| | Customer Interface | Tesla Mobile App | |
| | Internet Connectivity | Wi-Fi (2.4 GHz, 802.11 b/g/n), Ethernet ³ , Cellular (LTE/4G) ⁴ | |
| | Factory-Installed Revenue Grade Meter | Revenue Accurate (+/- 0.5%) ³ | |
| | AC Remote Metering Support | Wi-Fi (2.4 GHz, 802.11 b/g/n) | |
| | Protections | Integrated arc fault circuit interrupter (AFCI), Rapid Shutdown | |
| | Supported Grid Types | 60 Hz, 240 V Split Phase 60 Hz, 208 V Wye | |
| | Warranty | 12.5 years | |

³Applicable to Tesla Solar Inverter with Site Controller (1538000-45-y) only.

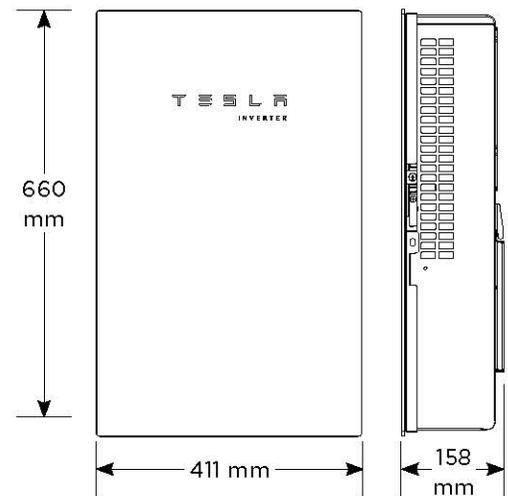
⁴Cellular connectivity subject to network operator service coverage and signal strength.

Tesla Solar Inverter Technical Specifications

Mechanical Specifications

Dimensions

660 mm x 411 mm x 158 mm (26 in x 16 in x 6 in)



Weight

52 lb⁵

Mounting Options

Wall mount (bracket)

⁵Door and bracket can be removed for a mounting weight of 37 lb.

Environmental Specifications

Operating Temperature

-30°C to 45°C (-22°F to 113°F)⁶

Operating Humidity (RH)

Up to 100%, condensing

Storage Temperature

-30°C to 70°C (-22°F to 158°F)

Maximum Elevation

3000 m (9843 ft)

Environment

Indoor and outdoor rated

Enclosure Rating

Type 3R

Ingress Rating

IP55 (Wiring compartment)

Pollution Rating

IP55 for power electronics and terminal wiring compartment, IP2X for all other components

Operating Noise @ 1 m

< 40 db(A) nominal, < 50 db(A) maximum

⁶For the 7.6 kW Tesla Solar Inverter, performance may be de-rated to 6.2 kW at 240 V or 5.37 kW at 208 V when operating at temperatures greater than 45°C.

Compliance Information

Grid Certifications

UL 1741, UL 1741 SA, UL 1741 SB, IEEE 1547, IEEE 1547.1

Safety Certifications

UL 1741 PVRSS, UL 1699B, UL 1998 (US), UL 3741

Emissions

EN 61000-6-3 (Residential), FCC 47CFR15.109 (a)

Solar Shutdown Device Technical Specifications

The Solar Shutdown Device is a Mid-Circuit Interrupter (MCI) and is part of the PV system rapid shutdown (RSD) function in accordance with Article 690 of the applicable NEC. When paired with Tesla Solar Inverter, solar array shutdown is initiated by any loss of AC power.

| Electrical Specifications | Model | MCI-1 | MCI-2 |
|---|--|---|--|
| | Nominal Input DC Current Rating (I_{MP}) | | 12 A |
| Maximum Input Short Circuit Current (I_{SC}) | | 19 A | 17 A |
| Maximum System Voltage (PVHCS) | | 600 V DC | 1000 V DC ⁷ |
| ⁷ Maximum System Voltage is limited by Tesla Solar Inverter to 600 V DC. | | | |
| RSD Module Performance | Maximum Number of Devices per String | 5 | 5 |
| | Control | Power Line Excitation | Power Line Excitation |
| | Passive State | Normally Open | Normally Open |
| | Maximum Power Consumption | 7 W | 7 W |
| | Warranty | 25 years | 25 years |
| Environmental Specifications | Operating Temperature | -40°C to 50°C (-40°F to 122°F) | -45°C to 70°C (-49°F to 158°F) |
| | Storage Temperature | -30°C to 70°C (-22°F to 158°F) | -30°C to 70°C (-22°F to 158°F) |
| | Enclosure Rating | NEMA 4X / IP65 | NEMA 4X / IP65 |
| Mechanical Specifications | Electrical Connections | MC4 Connector | MC4 Connector |
| | Housing | Plastic | Plastic |
| | Dimensions | 125 x 150 x 22 mm (5 x 6 x 1 in) | 173 x 45 x 22 mm (6.8 x 1.8 x 1 in) |
| | Weight | 350 g (0.77 lb) | 120 g (0.26 lb) |
| | Mounting Options | ZEP Home Run Clip M4 Screw (#10) M8 Bolt (5/16") Nail / Wood screw | Wire Clip |
| Compliance Information | Certifications | UL 1741 PVRSE, UL 3741, PVRSA (Photovoltaic Rapid Shutdown Array) | |
| | RSD Initiation Method | PV System AC Breaker or Switch | |

UL 3741 PV Hazard Control (and PVRSA) Compatibility

The following categories of solar module meet the UL 3741 PVHCS listing when installed with Tesla Solar Inverter and Solar Shutdown Devices.

Tesla Solar Roof

[PV Hazard Control System: BIPV compliance document](#)

Tesla or Hanwha (Q.Peak Duo BLK or BLK-G6+) Modules certified for use with ZEP racking

[PV Hazard Control System: ZS PVHCS compliance document](#)

Other module and racking combinations

[PV Hazard Control System: Generic PV Array compliance document](#)

Enphase IQ Envoy

The **Enphase IQ Envoy™** communications gateway delivers solar production and energy consumption data to Enphase Enlighten™ monitoring and analysis software for comprehensive, remote maintenance and management of the Enphase IQ System.

With integrated revenue grade production metering and optional consumption monitoring, the Envoy IQ is the platform for total energy management and integrates with the Enphase IQ Battery™.



Smart

- Enables web-based monitoring and control
- Bidirectional communications for remote upgrades
- Supports power export limiting and zero-export applications

Simple

- Easy system configuration using Enphase Installer Toolkit™ mobile app
- Flexible networking with Wi-Fi, Ethernet, or cellular

Reliable

- Designed for installation indoors or outdoors
- Five-year warranty



LISTED

To learn more about Enphase offerings, visit enphase.com

Enphase IQ Envoy

| MODEL NUMBERS | |
|--|---|
| Enphase IQ Envoy™ ENV-IQ-AM1-240 | Enphase IQ Envoy communications gateway with integrated revenue grade PV production metering (ANSI C12.20 +/- 0.5%) and optional consumption monitoring (+/- 2.5%). Includes one 200A continuous rated production CT . |
| ACCESSORIES (order separately) | |
| Enphase Mobile Connect™ CELLMODEM-03 (4G / 12-year data plan) CELLMODEM-01 (3G / 5-year data plan) CELLMODEM-M1 (4G based LTE-M / 5-year data plan) | Plug and play industrial grade cellular modem with data plan for systems up to 60 microinverters. (Available in the US, Canada, Mexico, Puerto Rico, and the US Virgin Islands, where there is adequate cellular service in the installation area.) |
| Consumption Monitoring CT CT-200-SPLIT | Split-core current transformers enable whole home metering. |
| POWER REQUIREMENTS | |
| Power requirements | 120/240 VAC split-phase. Max 20 A overcurrent protection required. |
| CAPACITY | |
| Number of microinverters polled | Up to 600 |
| MECHANICAL DATA | |
| Dimensions (WxHxD) | 21.3 x 12.6 x 4.5 cm (8.4" x 5" x 1.8") |
| Weight | 17.6 oz (498 g) |
| Ambient temperature range | -40° to 65° C (-40° to 149° F) -40° to 46° C (-40° to 115° F) if installed in an enclosure |
| Environmental rating | IP30. For installation indoors or in an NRTL-certified, NEMA type 3R enclosure. |
| Altitude | To 2000 meters (6,560 feet) |
| Production CT | - Is limited to 200A of continuous current / 250A OCPD – 72kW AC - Internal aperture measures 19.36mm to support 250MCM THWN conductors (max) |
| Consumption CT | - For electrical services to 250A with parallel runs up to 500A - Internal aperture measures 0.84" x 0.96" (21.33mm x 24.38mm) to support 3/0 THWN conductor - CT wire insulation rating of 600V |
| INTERNET CONNECTION OPTIONS | |
| Integrated Wi-Fi | 802.11b/g/n |
| Ethernet | 802.3, Cat5E (or Cat 6) UTP Ethernet cable, not included |
| Mobile | Optional, CELLMODEM-01 (3G) or CELLMODEM-03 (4G), not included |
| COMPLIANCE | |
| Compliance | UL 916 CAN/CSA C22.2 No. 61010-1 47 CFR, Part 15, Class B, ICES 003 IEC/EN 61010-1:2010, EN50065-1, EN61000-4-5, EN61000-6-1, EN61000-6-2 Metering: ANSI C12.20 accuracy class 0.5 |

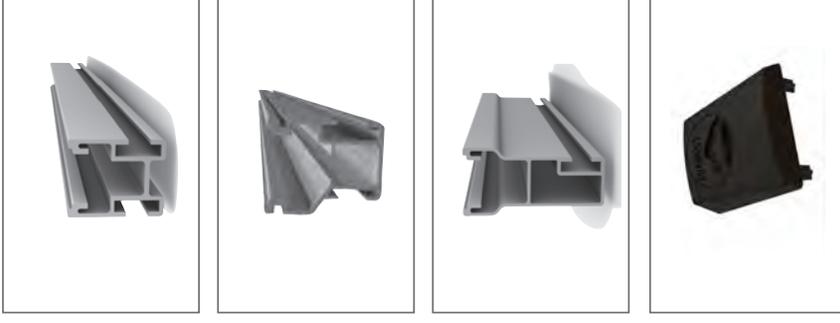
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2018-12-10





Mounting systems for solar technology



EVEREST SOLAR SYSTEMS **RESIDENTIAL ROOF SOLUTIONS CROSSRAIL SYSTEM**

Everest Solar Systems, LLC
3809 Ocean Ranch Blvd., Suite 111
Oceanside, CA 92056
Service-Hotline +1.760.301.5300
info@everest-solarsystems.com
www.everest-solarsystems.com

Product Sheet Crossrail System 1US2 | 02/16
Product images are for illustrative purposes only. Specifications are subject to change without notice. All sales of our products shall be subject to Everest Solar Systems terms and conditions, including the exclusive limited warranty set forth therein.

- High quality, German engineered system optimized for residential installation
- Everest M K2 mounting hardware simplifies module installation – fast, easy, and secure
- Easily integrates with third party roof attachment products, such as QuickMountPV
- L-foot provides adjustability and compatibility with common roof interfaces (Comp, Tile & Metal)
- No shingle cutting, won't void roof manufacturer's warranty
- 100% code-compliant, structural validation for all solar states
- Three rail sizes available to suit all structural conditions
- All components also available in dark
- Fast installation, minimal component count result in low total installed cost
- Simple to design using code compliant Everest Online Design Tool



| | | |
|-----------------------|---|----------|
| Tech | al | a |
| Applicable Roof Types | Composition shingle, tile, flat tile | |
| Flexibility | Modular construction, suitable for any system size, height adjustable | |
| PV modules | For all common module types | |
| Module orientation | Portrait and landscape | |
| Material | High corrosion resistance, stainless steel and high grade aluminum | |
| Roof attachment | Screw connection into rafter | |
| Structural validity | IBC compliant, stamped engineering letters available for all solar states | |
| Warranty | 12 years | |
| System components | CrossRail 48, 48-S or 80, L-Foot, Mid and End Clamp Sets, Universal Mid and End Clamps, third-party roof attachment products such as QuickMountPV | |



CrossRail for Pitched Roofs



CrossRail with EverFlash



Bonding Mid and End Clamps



Components

CrossRail

| Part Number | Description |
|-------------|--------------------------|
| 4000662 | CrossRail 48x 166", Mill |
| 4000663 | CrossRail 48x 166", Dark |
| 4000675 | CrossRail 48x 175", Mill |

CrossRail L

| Part Number | Description |
|-------------|---------------------------|
| 4000695 | CrossRail 48xL 166", Mill |
| 4000705 | CrossRail 48xL 166", Dark |

CrossRB

| Part Number | Description |
|-------------|-----------------------------|
| 4000508 | CrossRail 80 168" Rail Mill |



CrossRM Mill

| Part Number | Description |
|-------------|---|
| 4000601 | CR MC Silver, 30x7mm, Shar ed RL 30x2mm |
| 4000602 | CR MC Dark, 30x7mm, Shar ed RL 30x2mm |
| 4000001 | Shared Rail MC+ Silver, SS 43x50mm |
| 4000002 | Shared Rail MC+ Dark, SS 43x50mm |



CrossRM

| Part Number | Description |
|-------------|--|
| 4000429 | CR EC Silver, 30x0mm, S hared RL 30x45mm |
| 4000430 | CR EC Dark, 30x0mm, Shar ed RL 30x45mm |
| 4000003 | Shared Rail EC Silver, SS 46x50mm |
| 4000004 | Shared Rail EC Dark, SS 46x50mm |



YetiRM

| Part Number | Description |
|-------------|-----------------------------|
| 4000050 | Yeti Hidden EC for CR, Mill |



Aluminum

| Part Number | Description |
|-------------|---------------------------------|
| 4005344 | CrossRail EC Silver, AL 32x3mm |
| 4005169 | CrossRail EC Silver, AL 34x6mm |
| 4005290 | CrossRail EC Silver, AL 37x8mm |
| 4005170 | CrossRail EC Silver, AL 39x11mm |
| 4005291 | CrossRail EC Silver, AL 42x4mm |
| 4005171 | CrossRail EC Silver, AL 45x7mm |
| 4005292 | CrossRail EC Silver, AL 48mm |
| 4005172 | CrossRail EC Silver, AL 49x0mm |



CrossRail Connector

| Part Number | Description |
|-------------|--|
| 4000385 | RailConn CR 48x, 48xL Struct Set, Mill |
| 4000386 | RailConn CR 48x, 48xL Struct Set, Dark |



Foot Slotted

| Part Number | Description |
|-------------|------------------------|
| 4000630 | Foot Slotted Set, Mill |
| 4000631 | Foot Slotted Set, Dark |



Everest Ground Lug

| Part Number | Description |
|-------------|------------------------|
| 4000006 | Everest Ground Lug Set |



EverFlash Kit

| Part Number | Description |
|-------------|---------------------------------------|
| 4000054 | EverFlash XP Slider Kit, Mill |
| 4000055 | EverFlash XP Slider Kit, Dark |
| 4000057 | EverFlash XP Kit, Mill LF, Dark Flash |
| 4000060 | EverFlash XP Comp Kit, Dark |
| 4000061 | EverFlash XP Comp Kit, Mill |

EverFlash Kit

| Part Number | Description |
|-------------|---|
| 4000015 | EverFlash eComp + SRS Slide Kit, Mill |
| 4000027 | EverFlash eComp+SR Slide Kit, Dark |
| 4000029 | EverFlash eComp+SR Slide, LF Mill, Dark |

Add

| Part Number | Description |
|-------------|--------------------------------------|
| 4000632 | Shared Rail Clamp Addition, Slide In |



CrossRail Shared Rail System

- ▶ High quality, German-engineered system optimized for residential installation
- ▶ Beneficial for small 2 row arrays
- ▶ Cost competitive
- ▶ Reduce rail and roof attachments
- ▶ Uses universal CrossRail components
- ▶ MK3 mounting hardware simplifies module installation - fast, easy and secure
- ▶ L-Foot provides adjustability and compatibility with common roof types
- ▶ 100% code compliant, structural validation for all solar states
- ▶ 3 rail sizes available to suit all structural conditions
- ▶ Fast installation with minimal component count result in low total installed cost



Array Skirt



Sleek Look. Attractive Design. Easily Mounted.



Skirt mounts attach to any standard module using a single bolt with a 1/2" socket



The skirt easily snaps onto the mount providing a clean finished look



Splice provides snap-in attachment of skirt sections together



Can be installed at any time allowing easy retrofit of existing systems

Start Installing Array Skirts Today!

Array Skirt

An enhanced aesthetic option with a sleek black finish provides flush clean line homeowners love. When installed, the Array Skirt offers a clean finish to the front of arrays covering any screws, bolts, wires, or mounting hardware. It mounts directly to standard module frames allowing it to attach to almost any array.

Skirt Mounts

- Hook onto the inside of the module frame
- Secured in place with ½” fastener from the front of module preventing any need for reaching under the array



Skirt

- Snaps into place on the mount easily with no tools required
- A smooth curved profile provides an elegant finished look

Splice

- Attaching separate sections of the skirt is easy with the snap-in splice
- Provides a seamless transition between skirt sections



End Caps

- Cover end sections of the skirt so no cuts are visible
- Easily snap end caps onto the ends of any skirt section

Quality. Innovative. Superior.

SnapNrack Solar Mounting Solutions are engineered to optimize material use and labor resources and improve overall installation quality and safety.

S-5![®]

The Right Way![™]

NEW
DESIGN

The right way to attach almost anything to metal roofs!

The concept of combining photovoltaic arrays with standing seam metal roofing is growing—and for good reasons. A standing seam metal roof has a life expectancy consistent with that of framed PV modules—a 30-year power source on a 40-year roof, along with zero-penetration technology, creates the most sustainable roof system available with alternative power generation, all without compromising the roof manufacturer's warranty! PV Kit 2.0 is also a great solution for attaching PV modules directly to many exposed fastener roofs when paired with S-5! brackets.

S-5! has introduced a new and improved PV Kit, boasting an improved installation experience for PV mounting technology. The kit comes preassembled with either the MidGrab or EdgeGrab for easier and more efficient installation. The kits were designed with thread lock on the standoff bolt so that the grab will seat to the PV Module frame by using one tool to drive the top bolt, eliminating a step required in the previous PV Kit. The PV Kit 2.0 features bonding teeth, which are more aggressive to secure a better ground path. No lugs or wire required except to connect one string of modules to another and to ground the system.

The S-5 PV Kit 2.0 is built to save you time and money —
The Right Way[™] to install solar to your metal roof.

PV Kit[™] 2.0 Features:

Pre-assembled kit saves time and money

Only *one tool* needed for installation

Bolt head uses standard hex bit tip which is provided

Improved single piece EdgeGrab installs with ease

Low profile bolt head provides a sleek and clean finish

Also available in black by special order only

MidGrab leaves 1" gap between modules, allowing reduction per ASCE7

UL 2703 Listed

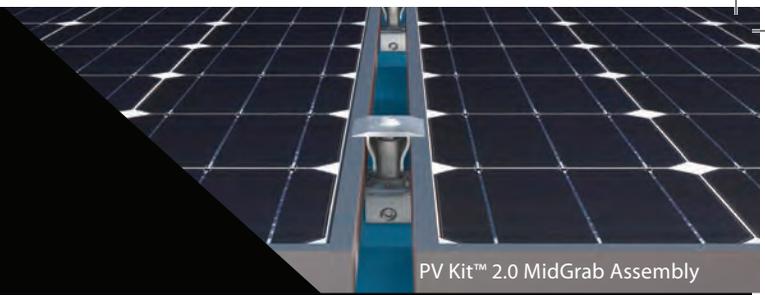
PV Kit[™] 2.0 EdgeGrab Assembly

PV Kit[™] 2.0 MidGrab or EdgeGrab



888-825-3432 | www.S-5.com





PV Kit™ 2.0 MidGrab Assembly

PV Kit™ 2.0: New Design



The PV Kit 2.0 is furnished with the hardware shown at right, excluding the attachment clamp, which is supplied separately. The PV Kit 2.0 is compatible with most common metal roofing materials, including copper.

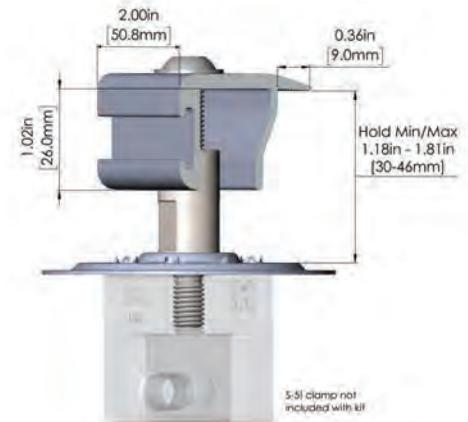
The Module Placement Bevel Guide makes the module placement easier. The mounting disk is multi-directional and rails are not required. The PV grab ears, holding the solar panels in place, are broader to allow for ease of installation and precise module engagement.

Accommodating module thicknesses between 33 and 46mm, the PV Kit 2.0 fits the majority of solar panels on the market. Using the S-5! mini clamps, it fits most standing seam metal roofs. When paired with other S-5! products, the PV Kit 2.0 and EdgeGrab or MidGrab will also work on most exposed fastener including corrugated metal roofs. The MidGrab is designed to fit mid conditions (two adjacent panels), while the new EdgeGrab is designed specifically for end conditions.

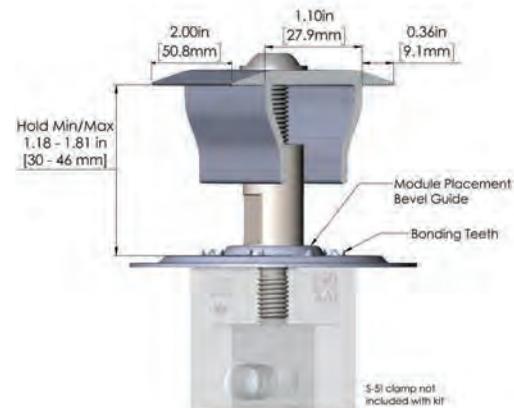
Wind dynamics are complex; thus, each system should be reviewed by a qualified licensed professional who understands wind effects prior to purchase and installation. For more detailed information including specifications, installation instructions, and CAD drawings, visit www.S-5.com or your PV Kit 2.0 distributor.

The PV Kit 2.0 continues to be the easiest, most cost-effective way to install solar panels directly to standing seam and exposed fastener metal roofs, remaining the most popular choice worldwide.

PV Kit 2.0™ EdgeGrab



PV Kit 2.0™ MidGrab



** Patents pending. Certain components featured in illustration may not be UL listed. Due to the variety of attachment needs, S-5-PV Kit 2.0 are sold separately from S-5! clamps.*

S-5!® Warning! Please use this product responsibly!

The independent lab test data found at www.S-5.com can be used for load-critical designs and applications.

Products are protected by multiple U.S. and foreign patents. For published data regarding holding strength, fastener torque, patents, and trademarks, visit the S-5! website at www.S-5.com. Copyright 2018, Metal Roof Innovations, Ltd. S-5! products are patent protected.

Copyright 2018, Metal Roof Innovations, Ltd. Version 072018

Distributed by:

GROUND FIXED TILT



GROUND FIXED TILT (GFT) is an engineered system of standard, lightweight ground mount components that are in stock and ready to ship from North America's largest ground mount distribution network. UNIRAC's unmatched commercial project support makes construction easy, from permitting through installation, including region-specific engineering. GFT's refined solution, including a new shared rail design, delivers enhanced system and labor optimization. Plus, enjoy peace of mind with **SOLARMOUNT** Mounting Technology and UNIRAC's industry-leading 25-year warranty.



IN STOCK & READY TO SHIP
THE BEST SOLUTION IS AVAILABLE



COMMERCIAL PARTNERSHIP
EXPERIENCE THAT MAKES A DIFFERENCE



INSTALLATION EXPERIENCE
REFINED WITH YOU IN MIND

MAKE GROUND MOUNT SIMPLE

FOR QUESTIONS OR CUSTOMER SERVICE VISIT UNIRAC.COM OR CALL (505) 248-2702

GROUND FIXED TILT



IN STOCK AND READY TO SHIP

THE BEST SOLUTION IS AVAILABLE

Single post configurations with 20° and 30° tilt options. Standardized components and kitted hardware bring ease of stockability and repeatability, from 2KW to multi-MW. North America's largest Ground Mount Distributor network ensures the fastest lead times and empowers you to finish your projects on schedule.

COMMERCIAL PARTNERSHIP

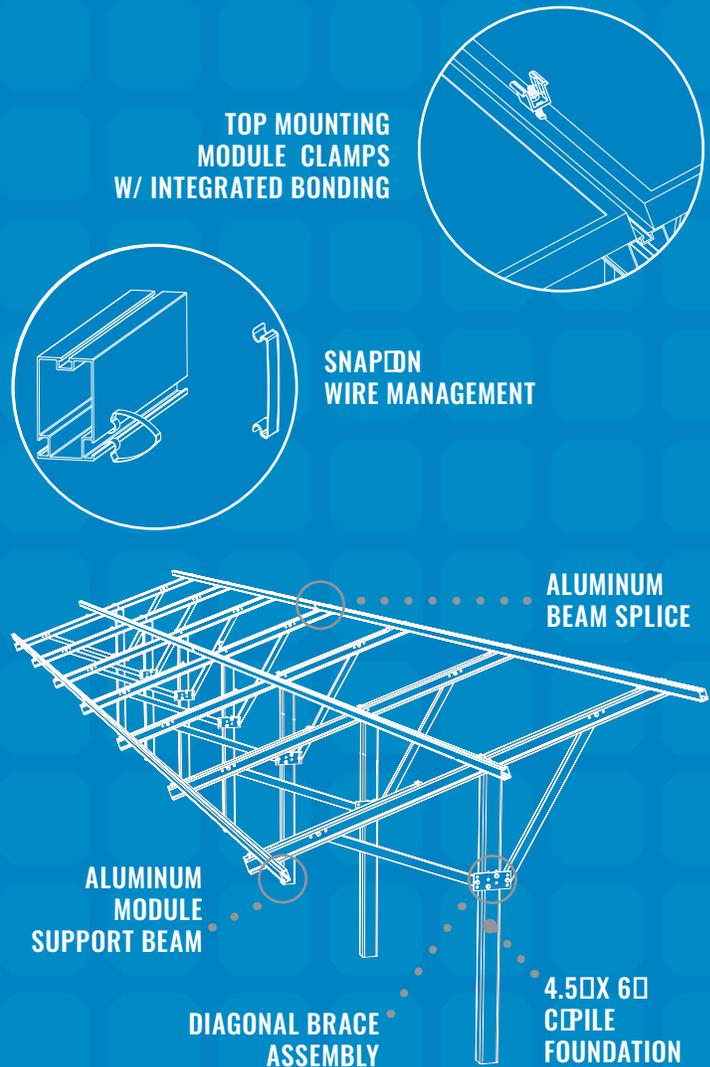
EXPERIENCE THAT MAKES A DIFFERENCE

Permit ready, pre-engineered regional designs save you valuable time. Standard construction drawings with general structural notes, table and component cross sections, foundation options and structural details speed permit submittal and construction. Industry leading commercial customer service supports you across your project, from design and logistics thru installation.

INSTALLATION EXPERIENCE

REFINED WITH YOU IN MIND

Kitted hardware, integrated bonding, and pre-assembled parts streamline construction, from pre-mobilization to installation. Straightforward connections ensure maximum strength and require no specialized labor or training. Lightweight components allow for one or two-person assembly. System flexibility enables you to mount 60 & 72 cell modules and choose from multiple foundation and rail options to optimize your projects.



UNMATCHED

CERTIFIED

ENGINEERING

BANKABLE

DESIGN

PERMIT

ON-TIME DELIVERY

No waiting. Our goal is simple: Consistently deliver solutions and services correctly, efficiently and dependably to exceed your expectations. Our world-class operations provide a 99% on-time delivery to help you meet your commitment dates.

CERTIFIED QUALITY PROVIDER

UNIRAC is the only PV mounting vendor with ISO certifications for 9001:2008, 14001:2004 and OHSAS 18001:2007, which means we deliver the highest standards for fit, form, and function. These certifications demonstrate our excellence and our commitment to first class business.

BANKABLE WARRANTY

UNIRAC has the financial strength to back our products and reduce your risk. Have peace of mind knowing you are receiving products of exceptional quality. GFT is covered by a 25-year manufacturing warranty on all parts.

Product Overview

Power your home and electric vehicle with clean energy and reduce your reliance on the grid.

With solar, you can generate more energy than you need. By combining solar with Powerwall, a rechargeable home battery, you can store excess energy for use anytime—even during a power outage.

Monitor the clean energy you produce and manage your system through the Tesla app with 24/7 remote access.



Backup Protection

Powerwall is a battery that stores energy, detects outages and automatically becomes your home's energy source when the grid goes down. Unlike generators, Powerwall keeps your lights on and phones charged without upkeep, fuel or noise. Pair with solar and recharge with sunlight to keep your appliances running for days.

Powerwall can detect a power cut, disconnect from the grid and automatically restore power to your home.

With Powerwalls 5 kW continuous power output, your home or business keeps running with little disruption.

To maximise your Powerwall energy supply during a grid outage, we recommend being aware of which appliances may be energy-intensive and should be used sparingly.

Standard Appliances

Use Normally



Wifi



Refrigerator



Phone



Lights



Television



Microwave

Energy-Intensive Appliances

Use Sparingly



Dishwasher



Washer/Dryer



Pool Pump



A/C



Heating
incl. Under Floor



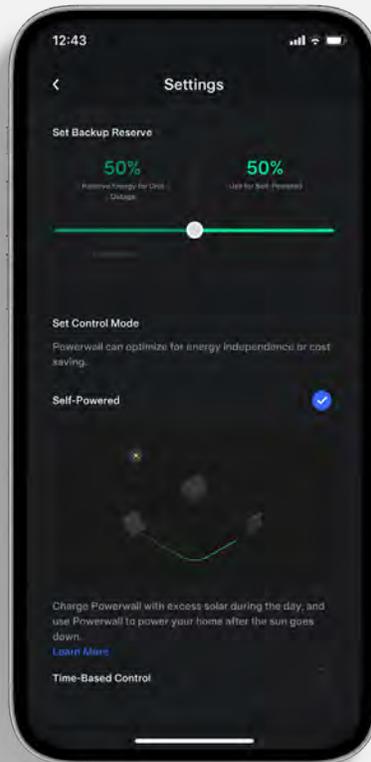
Car Charging

24/7 Control

Monitor your energy production and consumption in real time and optimise your system for energy independence, outage protection and savings.



Manage and track your energy with instant notifications, simplified graphs and easy navigation



Prepare your system for outages and recharge with sunlight to keep your appliances running



Learn how your system uses energy on a daily, weekly or monthly basis

Compact & Simple

With easy installation and no required maintenance, Powerwall is a completely automated system that is compatible with any home.

Liquid thermal controls, independent fuses and touch-safe technology deliver maximum battery life and added safety.



Specifications

Usable Capacity
13.5 kWh

Scalable
Up to 10 Powerwalls

Efficiency
90% Round-trip

Weight
114 kg

Warranty
10 Years

Continuous Power
5 kW

Operating Temperature
-20°C to 50°C

Peak Power
7 kW

Gateway 2
380mm x 584mm
11.4 kg

Experience
Energy
Independence

TESLA

Power Everything

Prepare your home for a clean energy future with greater energy security, self-sufficiency and savings.

1 Solar Panels

Convert energy from the sun into electricity that can power everything in your home, from appliances to electric vehicles

2 Powerwall

Store the excess energy your system generates for use at night or during an outage for 24/7 backup protection and energy savings during peak hours

3 Wall Connector

Charge electric vehicles at home with multiple power settings and up to 71 km of range per hour

4 Tesla App

Monitor and manage all the products in your Tesla ecosystem in one place and see how your energy flows



aPower + aGate

Whole-home storage to energize your fullest life



Reliable

Exceeds performance standards, backed by 12-year warranty

Flexible

Technology-agnostic system can be used with any solar inverter

Scalable

Highest system density allows up to 15 units for 204 kWh¹

Simplified

Pre-assembled for fast, easy one-step installation

Hassle-free

Remote monitoring and user-friendly app limits O&M

Franklin Home Power Solution (“FHP”)

Franklin Home Power goes well beyond the demand for safe, reliable back-up to optimize daily household energy management. Our powerful performance stems from integrating the highest AC battery capacity with the industry’s most intelligent controls.

- a.** aPower is the AC battery with built-in advanced inverter.
- b.** aGate is the energy management device connecting the grid, the loads, the generator and the solar system.
- c.** FranklinWH App provides seamless monitoring and control of your whole home energy.



Performance

AC Battery

| | |
|--|--|
| Battery Chemistry | Lithium Iron Phosphate (LFP) |
| Usable System Energy | 13.6 kWh per unit, scalability up to 15 units ¹ |
| Aggregate Throughput | 43 MWh |
| Communications | Ethernet / 4G / WiFi |
| Nominal AC Voltage | 120 V / 240 V, 60 Hz |
| Maximum Continuous / Peak Discharge Power (10 s) | 5 kW / 10 kW |
| Maximum Supply Fault Current | 20 kA |
| Switch Over Time (grid to micro-grid) | <16 ms |
| Round Trip Efficiency | 89% ² |
| Inverter Topology | Isolated |
| Noise Emission (optimal) | <30 dB (A) |
| User Interface | FranklinWH App |
| Warranty | 12 years |

Electrical Connections

| | |
|--|--|
| aPower Over Current Protection Device | 90 A Max |
| Solar Input Over Current Protection Device | 80 A Max |
| Generator Over Current Protection Device ³ | 200 A Max |
| Smart Circuits Over Current Protection Device ⁴ | Opt. a 1 × 80 A Max @240 V & 1 × 50 A Max @240 V Opt. b 1 × 80 A Max @240 V & 2 × 50 A Max @120 V |

Electrical Interface

| | |
|--------------------|------------------|
| Coupling | AC Coupled |
| Feed-in Phase | Split Phase |
| Connection Support | L1 / L2 / N / PE |

Work Modes

| |
|------------------|
| Self-Consumption |
| Load Shifting |
| Backup Standby |

Environmental

| | |
|-------------------------|--|
| Operating Temperature | -4°F to 122°F (-20°C to 50°C) |
| Operating Humidity (RH) | Up to 100% RH, condensing |
| Altitude | Maximum 9,843 ft (3,000 m) |
| Ingress Rating | IP67 (Battery and power converter system) IP56 (Wiring compartment) |
| Storage Condition | 14°F to 113°F (-10°C to 45°C) Up to 95% RH, non-condensing |
| Enclosure Type | NEMA type 3R |
| Environment | Indoor and outdoor rated |

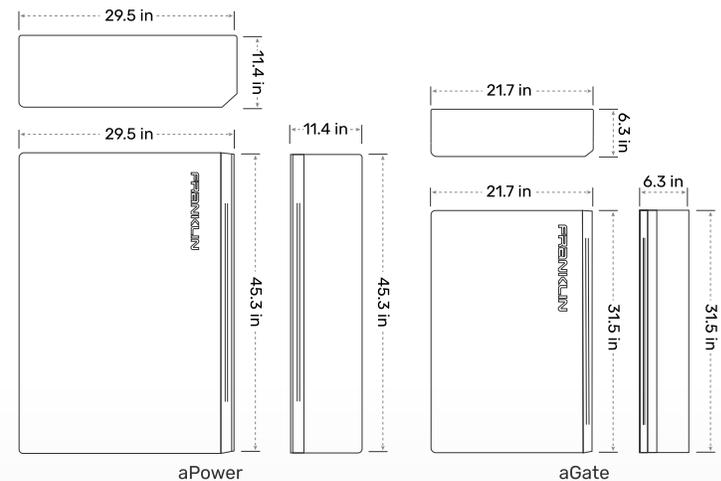
Mechanical

| | |
|-------------------|---|
| Dimensions(H*W*D) | aPower X: 45.3 × 29.5 × 11.4 in (1150 × 750 × 290 mm) aGate X: 31.5 × 21.7 × 6.3 in (800 × 550 × 160 mm) |
| Weight | aPower X: 408 lb (185 Kg) aGate X: 50 lb (23 Kg) |
| Installation | Wall mount or floor mount |

Compliance & Certificates

| | |
|---------------|---|
| Certificates | aPower X: UL 9540, UL 1741, UL 1741SA, UL 1973, UL 9540A, IEEE 1547, IEEE 1547.1, UN 38.3 |
| | aGate X: UL 1741 PCS, UL 67 ⁵ , UL 869A ⁵ , UL 916 ⁵ |
| Seismic | AC156, OSHPD, IEEE 693-2005 (high) |
| Environmental | California Proposition 65 RoHS Directive 2011 / EU |
| Emissions | FCC Part 15 Class B, ICES 003 |

- 1: Please contact us if you have large capacity requirements.
- 2: At beginning of life, AC to battery to AC, 50% power rating.
- 3: Generator integration is optional.
- 4: Smart Circuits are optional.
- 5: Sections from these standards were used during the safety evaluation and included in the UL 1741 listing.



Address: 1731 Technology Dr. Suite 530 San Jose , CA 95110
Telephone: +1 888-837-2655
Email: info@franklinwh.com
Website: www.franklinwh.com

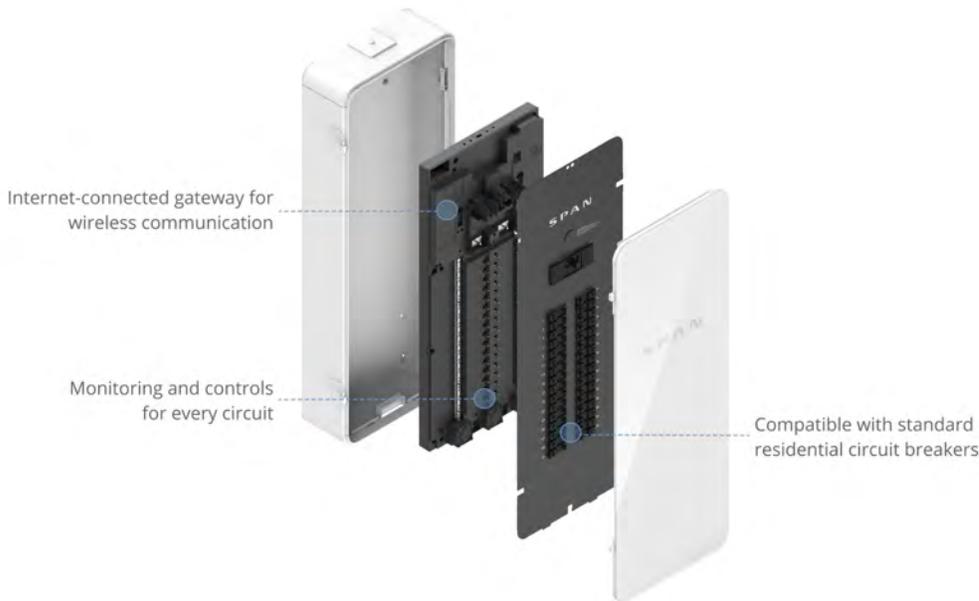




SPAN

A smarter electrical panel

- Monitor and control every circuit
- Unprecedented home energy insights
- Fully customizable backup when paired with storage



Electrical

- Integrated grid disconnect relay
- Revenue accurate energy monitoring
- 100 - 200A main breaker
- 225A bussing

Installation

- Indoor and outdoor rated
- Surface or flush-mount
- Compatible with standard 1" breakers

Connectivity

- Ethernet, WiFi, Cellular
- Free over-the-air updates



Intuitive Control

SPAN goes beyond monitoring with the SPAN Home app for real-time control and energy insights to bring your home energy to life.

Combined with battery storage, SPAN gives homeowners the power to choose and change backup priorities whenever they want.

Become a Certified Installer

SPAN is designed to completely replace the traditional electrical panel for new build or retrofit. The all in-one-design and Installer App allow for simple installation and same-day commissioning.

Learn more at www.span.io/partners

Performance Specifications

| | |
|-------------------------------------|--|
| AC Voltage (Nominal) | 120/240 V |
| Grid Connection | Split Phase |
| Grid Frequency | 60 Hz |
| Disconnect Current | 200 A |
| Busbar Rating | 225 A |
| Sub-feed Lug Rating | 200A max |
| Maximum Input Short Circuit Current | 22 kA ¹ |
| Main Overcurrent Protection Device | 100-200 A Breaker ² |
| Controllable Circuits | 32 (90 A max per breaker) ³ |
| Overvoltage Category | Category IV |
| AC Metering | ANSI revenue accurate (+/- 0.5%) |
| Primary Connectivity | Ethernet, WiFi (2.5, 5 GHz) |
| Secondary Connectivity | Cellular (4G/LTE, 3G) |
| User Interface | Span Home App (iOS, Android) |
| Warranty | 10 years |

¹ 22 kA RMS symmetrical with main breaker installed, otherwise 10 kA

² Service Entrance Rated when main breaker installed

³ Compatible with tandem/quad style breakers at all positions. Monitoring and control is combined when used.

Environmental Specifications

| | |
|-------------------------|----------------------------|
| Operating Temperature | -22 to 122°F (-30 to 50°C) |
| Operating Humidity (RH) | Up to 100% condensing |
| Maximum Elevation | 2000 m (6562 ft) |
| Environment | Indoor and Outdoor rated |
| Enclosure Type | NEMA 3R |

Mechanical Specifications

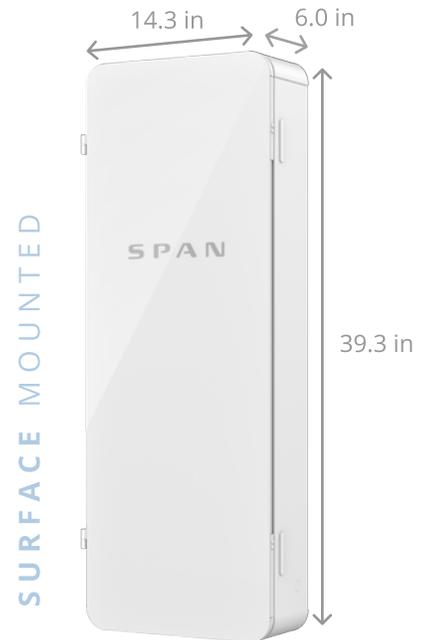
| | |
|---------------------------|---|
| Enclosure Dimensions | 39.3 x 14.3 x 6.0 in (998 x 362 x 153 mm) |
| Flush Trim Kit Dimensions | 44.2 x 15.9 in (1123 x 405 mm) |
| Mounting Options | Wall mounted, flush or surface |
| Weight | 75 lbs (34 kg) |

Compliance Information

| | |
|----------------|------------------------|
| Certifications | UL 67, UL 916, UL 869A |
| Emissions | FCC Part 15 Class B |
| Other | NEC compliant |

Additional Features

- Customizable Battery Backup
- Backup Time Remaining Estimates
- Real-time Load Control
- Energy Monitoring & Insights
- Load Management for Upgrade Avoidance





CERTIFICATE OF INSURANCE (ATTACHMENT C)



CERTIFICATE OF LIABILITY INSURANCE

SOLAENE-01

JMARION

DATE (MM/DD/YYYY) 12/20/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement.

PRODUCER: AssuredPartners NL, 435 North Whittington Parkway, Suite 300, Louisville, KY 40222. CONTACT: Jackson Marion, PHONE: (502) 259-9304 1304, FAX: (502) 259-9304, E-MAIL: jackson.marion@assuredpartners.com. INSURER(S) AFFORDING COVERAGE: INSURER A: West Bend Mutual Insurance Company, INSURER B: Kentucky Associated General Contractors, INSURER C: Houston Casualty Company.

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

Table with columns: INSR LTR, TYPE OF INSURANCE, ADDL INSD, SUBR WVD, POLICY NUMBER, POLICY EFF (MM/DD/YYYY), POLICY EXP (MM/DD/YYYY), LIMITS. Rows include Commercial General Liability, Automobile Liability, Umbrella Liab, Workers Compensation and Employers' Liability, Professional Liab, and Contractors Poll.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required) Quantum Business Centre 10370 Bluegrass Parkway Louisville KY 40299 The Landlord, Weston Inc., Landlord's Managing Agent & Landlord's Mortgagee shall be included as an Additional Insured as provided in form CG 2011 (or an equivalent form) on the General Liability and Automobile Liability as respects to the following property being leased by the tenant.

CERTIFICATE HOLDER: Weston, Inc. & BCC 4 & 5 LLC, 4760 Richmond Road, Warrensville Heights, OH 44128. CANCELLATION: SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE: [Signature]



SOLAR ENERGY
SOLUTIONS

STANDARD CONTRACT AGREEMENT (ATTACHMENT D)

Attached Next Page





SOLAR ENERGY INSTALLATION AGREEMENT

INSTALLATION AGREEMENT

This Solar Energy Installation Agreement (“Agreement”) made this , (“Effective Date”) by and between SOLAR ENERGY SOLUTIONS, LLC, a Kentucky limited liability company, 1038 Brentwood Ct., Suite B, Lexington, KY 40511 (hereinafter called “Contractor”) and (hereinafter called “Client”).

WHEREAS, the Client wishes to employ the Contractor to design a solar system (“Project”) for purpose of producing electricity and/or energy storage at , , , (the “Location”).

1. Generalities. _____

The Contractor shall design the aforementioned system(s) for the Location, hereto specified by the Client asset forth in Attachment A (hereinafter called the “Scope of Services or Scope of Work”). In situations where prevailing natural disasters, acts of God, wars, governmental actions or Client availability causes the design of a solar or energy storage system to be executed remotely, without direct site inspection, the Contractor reserves the right to amend the “Scope of Services” described in Attachment A subsequent to a formal on- site design review. Any such changes will be by equitable adjustment and this Agreement shall be modified in writing accordingly pursuant to a written change order signed by both parties

2. Additional Services. _____

If requested by the Client, the Client and the Contractor will negotiate for additional services in connection with this Agreement and will set forth any additional services in writing.

3. Client’s Responsibilities. _____

The Client shall:

a. Continue to promptly provide full information as to the Client’s needs and requirements for the Project to Contractor or its designate.

b. Assist the Contractor by placing at its disposal all available information pertinent to the Work to be performed under the “Scope of Services” described in Attachment A.

c. Give prompt written notice to the Contractor whenever the Client observes or otherwise becomes aware of any defect (or significant variance) in the Work or apparent non-conformance of Work performed in accordance with the “Scope of Services” as set forth in Attachment A, or of any change of circumstances.

4. _____

Compensation.

a. The total compensation to be paid to Contractor for the Work is set forth in Attachment A.

b. Contractor shall be paid for the Work upon the following schedule:

*If the system is installed on a new home build, that isn't ready for occupancy, the homeowner may retain 10% of the system price until system activation (producing power), or 3 months from completion, whichever comes first.

iv. Invoices not paid within thirty (30) days of the invoice due date shall be subject to a late fee of three percent (3%) per month of that invoice's amount, computed at 30 days from the date of invoice. Contractor shall retain title to all equipment installed under the Work and retain its statutory lien rights until paid in full.

5. Time of Completion.

a. The Work to be performed by the Contractor is to be completed as set forth in Attachment A. This completion date, if stated, may be extended in the event of circumstances beyond the control of the Contractor, including, but not limited to, failure by the Client to make timely payments, war, insurrection or Acts of God. In such circumstances, Contractor will provide a new completion date to the Client, in writing, within 30 days of the incident(s) compelling the change of time of completion.

6. Procurement of Licenses and Permits.

The Contractor shall secure all licenses and permits necessary for proper completion of the Work under this Agreement, paying the fees for such licenses and permits.

7. General Provisions.

a. Standards of Performance.

The standard of care for all services performed or furnished by the Contractor under this Agreement will be the care and skill ordinarily used by members of the Contractor's profession, practicing under similar circumstances at the same time and in the same locality.

b. Warranty.

i. **LIMITATION OF WARRANTIES.** There are no understandings, terms, conditions or warranties other than as specifically set forth herein.

A. **LIMITED WARRANTY.** Contractor warrants that the Work are as described on Attachment A and delivered under this Agreement will conform to its specifications and will be free from defects in materials and workmanship as of the date of delivery for a period of three (3) years in relation to residential projects and one (1) year for commercial installs, but no other express warranty is made with respect to the Work. Contractor hereby passes to Client the original manufacturer's warranty of twenty-five (25) years for the power production on the modules and a minimum ten (10) year original manufacturer's warranty for the inverters. All warranty claims must be notified to Contractor in writing by Client within thirty (30) days of discovery giving rise to such claim. Failure to provide such notice shall void the warranty.

B. **DISCLAIMER OF IMPLIED WARRANTIES.** CONTRACTOR DISCLAIMS ALL IMPLIED WARRANTIES WITH RESPECT TO THE WORK, INCLUDING THE IMPLIED WARRANTIES OF

MERCHANTABILITY, FREEDOM FROM INFRINGEMENT CLAIMS, AND FITNESS FOR A PARTICULAR PURPOSE. THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE WARRANTY SET FORTH HEREIN.

c. Limitation of Liability.

i. LIMITATION OF CLIENT'S REMEDIES. Contractor's sole and exclusive liability hereunder shall be limited to the obligation to repair or replace only those portions of the Work that have been proven to have failed to meet the written specification at the time of delivery and have failed within the time periods set forth above, or allow credit therefor upon mutual agreement of the parties. Contractor's total cumulative liability in any way arising from or pertaining to any Work shall not in any case exceed the compensation paid by Client for such non-conforming Work. CONTRACTOR WILL NOT BE LIABLE TO CLIENT, ITS CUSTOMERS, EMPLOYEES OR AGENTS, UNDER ANY CLAIM OR CIRCUMSTANCES (INCLUDING WITHOUT LIMITATION ANY CIRCUMSTANCE INVOLVING A FINDING THAT A WARRANTY OR REMEDY HAS FAILED OF ITS ESSENTIAL PURPOSE), WHETHER THE CLAIM SOUNDS IN CONTRACT, TORT OR OTHER LEGAL THEORY, FOR INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOST PROFITS OR REVENUE, LOST SALES, LOST GOODWILL OR LOSS OF USE OF ANY PRODUCT.

ii. LIMITATION OF LIABILITY FOR FAILURE OR DELAY IN DELIVERY. Delivery dates are approximate and are based on conditions existing at the time of commencement of the Work. In no event shall Contractor be responsible or liable for any damages, including special, indirect, incidental or consequential damages arising from any failure or delay in delivery.

iii. LIMITATION OF POWER PRODUCTION GUARANTEES. Contractor does not provide a performance guarantee for the amount of power to be produced from the Work as such performance is conditioned upon local meteorological conditions, vegetative shading and Client system maintenance and upkeep.

d. Changes.

The Client may, at any time by written notice, make changes to the Work provided; however, that if such changes cause an increase or decrease in the Contractor's expenses, or time required, for performance of any services, whether or not changed by any order, an equitable adjustment shall be made and this Agreement shall be modified in writing accordingly pursuant to a written change order signed by both parties. In the event that the Contractor finds non-visible defects or circumstances which pose a barrier to completion of the installation of the system(s), including but not limited to asbestos, rot and mold (or other environmental conditions), the Contractor will notify the Client of the non-visible defects, so that the parties may negotiate an equitable modification of the terms of this Agreement. In the event the Contractor discovers any non-visible barriers to completion of the installation of the systems, including but not limited to rock preventing ground racking insertion, roof condition, existing code failures and spatial limitations, the Contractor will notify the Client so the parties can negotiate an equitable modification of the terms of this Agreement pursuant to a written change order.

e. Force Majeure

Either Party shall be excused from performance and shall not be in default in respect of any obligation hereunder to the extent that the failure to perform such obligation is due to a Natural

Force Majeure Event. Force Majeure events include natural disasters, acts of God, wars, governmental actions, trade sanctions or tariff impositions.

Successor and Assigns.

The Client and the Contractor each binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Agreement and to the partners, successors, executors, administrators, and assigns of such other party, in respect of all covenants of this Agreement; except as above, neither Client nor Contractor shall assign, sublet or transfer its

interest in this Agreement without prior written consent of the other. Client recognizes that acceptance of Attachment A by Contractor constitutes prior written consent. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body which may be a party thereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than Client and Contractor.

Dispute Resolution.

a. Claims, disputes or other matter in question between the parties to this Agreement shall be first subject to mediation prior to the filing of any arbitration. Mediation is a condition precedent to arbitration. The obligation to mediate is a material and essential provision of this Agreement.

b. Unless otherwise agreed in writing, the Contractor shall carry on the Work and maintain its progress during any mediation or arbitration, and the Client shall continue to make payments to the Contractor in accordance with this Agreement.

c. Either party may initiate a mediation proceeding by submitting a request in writing to the other party within thirty (30) days after the claim, dispute or other matter in question has arisen.

d. The parties shall endeavor in good faith to mutually agree upon an acceptable mediator. In the event the parties have not agreed upon a mediator within 30 days of the request for mediation, the Contractor shall select a mediator. Each party is to bear its own fees, costs and expenses, of said mediation.

e. In the event that mediation is unsuccessful, the parties shall submit to binding arbitration. This Agreement shall be governed in all aspects by the laws of the Commonwealth of Kentucky. All disputes, if not settled by mediation, which may arise relating to this Agreement, shall be settled according to the arbitration rules of the American Arbitration Association by one (1) arbitrator appointed to settle the dispute. The cost of such arbitration will be divided equally by the parties involved. Arbitration shall be held exclusively in Louisville, Kentucky and the decision of the arbitrator shall be binding on both parties. The prevailing party shall have the right to enforce such decision in the state or Federal courts sitting in Jefferson County, Kentucky, and each party submits to the exclusive jurisdiction thereof. Each party waives any defense of forum non-conveniens, or like defense. The decision of the arbitrator shall be final and obligatory for both parties. The prevailing party shall be entitled to recover its reasonable attorneys' fees and expenses incurred in mediation or arbitration from the losing party.

10. Indemnity.

- a. Subject to the provisions and limitations set forth in Sections 7(b) and (c) of this Agreement, the Contractor shall hold harmless and indemnify the Client and his officials, agents, and employees against any and all claims, loss, damage, injury, fines, penalties, and costs, including reasonable court costs and attorney fees, arising out of or caused by the Contractor's intentional, willful, wanton, reckless, or negligent acts, errors, or omissions in the Contractor's performance under this Agreement, including the actions, errors, or omissions of the Contractor's officials, agents, or employees in performance under this Agreement.
- b. The Client shall hold harmless and indemnify the Contractor and its officials, agents, and employees against any and all claims, loss, damage, injury, fines, penalties, and costs, including reasonable court costs and attorney fees, arising out of or caused by the Client's intentional, willful, wanton, reckless, or negligent acts, errors, or omissions in the Client's performance under this Agreement, including the actions, errors, or omissions of the Client's officials, agents, or employees in performance under this Agreement.

11. Termination.

Either party may terminate this Agreement in whole or in part after giving written notice of termination (specifying specific portions being terminated, if terminated in part,) at least thirty (30) days before date of termination. The Client may terminate this Agreement at any time by giving thirty days (30) notice to the Contractor. If this Agreement is terminated, the Contractor shall be compensated for Work actually performed and expense(s) incurred by Contractor up to the date of termination, including administrative, design Work or Work subrogated to other parties.

12. Counterparts.

This Agreement may be executed in two or more original or facsimile counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same Agreement.

13. Complete Agreement.

This Agreement constitutes the entire Agreement and understanding between the parties hereto and replaces, cancels and supersedes any prior oral or written Agreements and understandings relating to the subject matter hereof.

14. Construction.

Should any provision of the Agreement require interpretation or construction, it is agreed by the parties hereto that the Court, administrative body or other entity interpreting or construing this Agreement shall not apply a presumption that the provision hereof shall be more strictly construed against one party than another by reason of the rule of construction that a document is to be more strictly construed against the party who itself or through its agent prepared the same. The headings of sections and subsections are convenience only and shall not affect or control the meaning or construction of any of the provisions of this Agreement.

15. Notices.

All notices, requests, demands, or other communications required under this Agreement shall be made in writing and shall be served by hand delivery or by placing in the United States Mail, certified mail, return receipt requested and bearing adequate postage. Each notice shall be effective upon receipt.

16. Confidentiality.

The Client shall not disclose nor permit disclosure of any information specifically designated by the Contractor as confidential or proprietary, except to its employees and other sub-consultants who need such information in order to properly execute the services of this Agreement. If the Contractor determines the Client has informed the Contractor's competitors of processes proprietary to the Contractor, the Contractor can file suit to request mediation or court award of any damages incurred.

17. Ownership of Work Product.

The Contractor shall continue to be the owner of all drawings, electronic media files, reports and other material provided to the Client unless otherwise agreed in writing. The Contractor may keep copies of all Work products. In the event that the Client should use any Work product from this Agreement on any future Projects unrelated to (or outside the scope or) the subject of this Agreement, the Client shall assume full responsibility for such use and shall hold the Contractor harmless from any claims, lawsuits or challenges to such subsequent use or performance. The Contractor shall have the right to change appropriate royalty fees from the Client for the additional use thereof. The Contractor shall have the right to display and distribute images of the system(s) as installed for purposes of advertising, promotion or subsequent research and development.

18. Waiver.

No waiver by either party of any default or non-performance by either party shall be considered a waiver of any subsequent default or non-performance.

19. Records Retention.

All records related to this Agreement shall be retained by both parties for a period of four (4) years after the conclusion of this Agreement. Records relating to any claim arising out of the performance of this Agreement or costs and expenses of this Agreement to which exception has been taken by either party shall be retained by the other party until the claim has been resolved.

20. Severability.

In the event that any term, provision or covenant hereunder shall be held invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall

remain valid and enforceable by any party and the invalid unenforceable covenant shall automatically be deemed modified and amended to provide the maximum rights available under applicable law to the party who is the beneficiary of the covenant in question.

21. Authority of Parties.

The individuals who have executed this Agreement on behalf of the respective parties expressly represent and warrant that they are authorized to sign on behalf of such entities for the purpose of duly binding such entities to this Agreement.

22. Right To Cancel.

You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right.

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

CLIENT: SOLAR ENERGY SOLUTIONS LLC

By: By:

Date: Title: Vice President of Sales & Marketing

Customer: Date:

Address:

Contact phone #:

Contact email:



PROPOSAL TEMPLATE

(ATTACHMENT E)

Attached on the following pages is our proposal template, or you may scan the QR code below. We have tried to incorporate everything that the program has requested in the RFP and are happy to work with Solarize to fine-tune anything that is needed.

Link to the on-line proposal:

https://api.opensolar.com/share/776538/?token=AAgp4TW_KSbkN_4EZtY



- Please note that the discount field in the proposal will need to be fine-tuned, and there is an example.
- This example location is outside of Lexington, but the utility information has been updated for Lexington.

Prepared by: Julie Jones
513-477-5814
Julie@sesre.com

For: Sierra Solar
1731 Llanfair Ave
Cincinnati, OH 45224

Quote #: 776538



Lexington Solarize Proposal

Hello Sierra,

Thank you for your interest in the Solarize Lexington program and Solar Energy Solutions (SES). SES is thrilled to have been vetted and selected by the City in a competitive bidding process to serve the greater Lexington area with high-quality solar systems at a discounted program rate.

Solar Energy Solutions was founded in 2006 and has served Kentucky for over 17 years. I look forward to working with you.

Best regards,

Julie





Solar Energy Solutions (SES) is the region's largest and most experienced solar design, engineering, and construction company in the midwest with locations in Illinois, Indiana, Kentucky, Ohio, and many surrounding states. SES is also the region's leading Tesla Powerwall Certified Installer. Founded in Kentucky in 2006, Solar Energy Solutions has more than 2,000 active photovoltaic and battery storage projects in the residential, commercial, and utility arenas throughout the tri-state region and beyond.

OUR APPROACH

Think Design:

At SES our best work begins before we even lift a tool. Anyone can learn to install a panel, but we design and engineer systems to meet the needs of each unique project. That means skillfully having a vision for the intended results, planning the best path to get there, and making it last a lifetime.

Embrace The Details:

At SES we are in a technical field where the smallest parts are critical to the success and 25+ year life of the whole system. Therefore, from design to installation and from people to the product, the details matter, and we pay attention to them to ensure our success for our customers.

Go The Extra Mile:

At SES we will over-deliver when we can, providing our customers with more than their money's worth. Likewise, we work hard to give advice and support that goes beyond our customers' expectations to be as thorough as possible and deliver the best long-term solution. Therefore, if we make a mistake, we own it and correct it to your satisfaction.

Always Learning:

At SES we are stewards of a new and rapidly growing industry. And so, as leaders in our field, it is our responsibility to continue our education and remain informed and acquainted with the latest technologies and methods of our craft.

Show Respect:

At SES we treat our customers, and each other, with acceptance, courtesy, and the esteem due to any member of our community. We want to earn their business with our expertise, experience, and ethical approach to solar.

Advocacy:

At SES we are the protectors of solar power at a regional, state, and local level. Consequently, we place our resources, people, and voice behind its continued growth and success. Our passion and enthusiasm stems from knowing our political advocacy efforts not only ensure our industry but also solidify the confidence our customers have in solar as a long-term solution.

Be Ethical:

At SES we manage our conduct by what is right for people, their investment, the environment, and the profession we love. And so, we are in business primarily to solve the world's #1 issue of climate change and to grow local, sustainable jobs. Profits follow.

Solar Energy Solutions (SES) has been selected as the official solar installation partner for the Solarize Lexington campaign. SES is the region's largest and most experienced solar design, engineering, and construction company with projects in Indiana, Kentucky, Ohio, and the surrounding states. SES is also the region's leading Tesla Powerwall Certified Installer. Founded in Kentucky in 2006, SES has nearly 2,750 active photovoltaic and battery storage projects in the residential, commercial, and utility arenas throughout the tri-state region and beyond. SES has also participated in Solarize campaigns in Lexington, Cincinnati, Bloomington, Indianapolis, and other regional counties.

A review panel consisting of the Lexington-Fayette Urban Council Government (LFUCG) and KYSES, a community solar advocate, worked together to select the vetted installer through a rigorous competitive process. Some factors that were considered when selecting an installer were:

- Affordability of pricing and financing options
- Quality of and longevity of the company's work history
- Quality of hardware and warranties, and
- Number of local jobs supported

Recommended System Option

10.25 kW

System Size

\$26,445

Total System Price

\$18,512

Net System Price

12,696 kWh

Estimated Annual
Solar Generation



Your Solution

Solar Panels

Znshinesolar

10.250 kW Total Solar Power

25 x 410 Watt Panels (ZXM7-SH108 410)

12,696 kWh per year

Power Optimizer

440 W Power Optimizer For Residential Installations

25 x S440

Inverter

SolarEdge Technologies Ltd.

10.000 kW Total Inverter Rating

1 x Energy Hub SE11400H-US [208V]

2-Year Workmanship Warranty Extension

Extends Workmanship Warranty to total of 5 years as part of a local Solarize Campaign

1 x Additional 2-year Solarize Warranty Extension

The price per watt of this system, including any upgrades and additions, is 2.58.

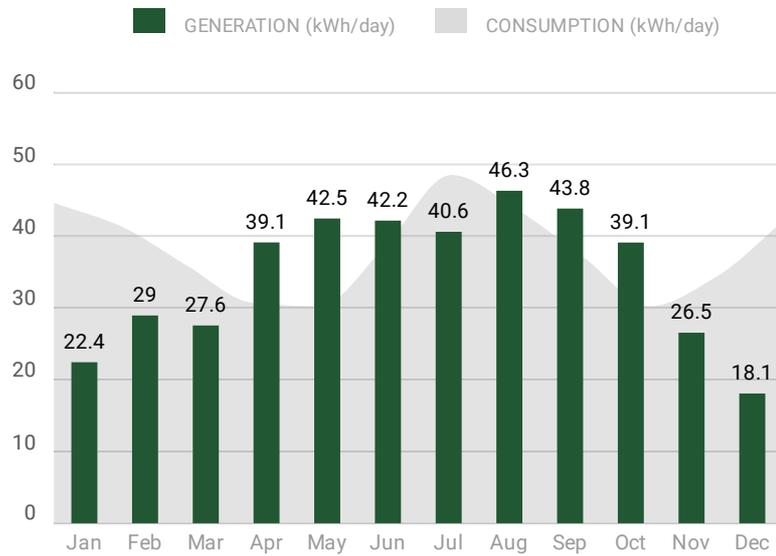
The manufacturer warranties for the system components are: Warranties: 12 Year Panel Product Warranty, 25 Year Panel Performance Warranty, 12 Year Inverter Product Warranty

This contract is executed between Solar Energy Solutions and Sierra Solar. Solarize Lexington, LFUCG, and other campaign partners are not parties to this contract. Solar Energy Solutions is solely liable for any claims, losses, or damages arising out of the contract.

**Due to supply chain constraints, SES reserves the right to substitute panels of equal or greater quality from another manufacturer. Inverter sizing is estimated and will be finalized in engineering.

System Performance

91%
Energy From Solar



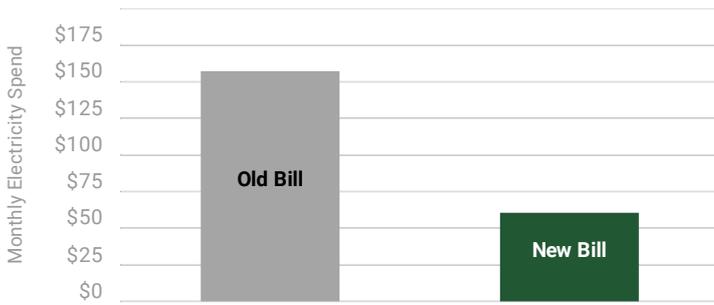
38%
Self-consumption

62%
Export to grid

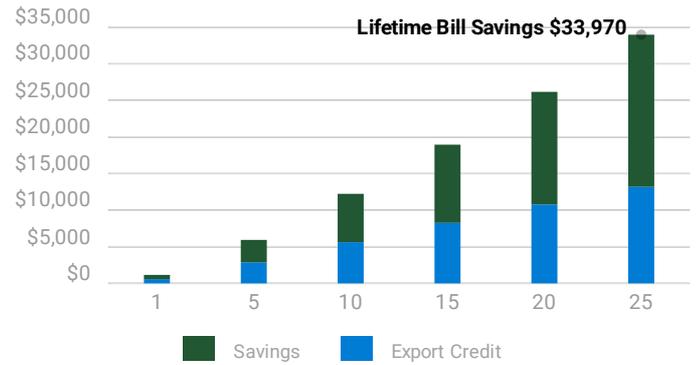
System Performance Assumptions: System Total losses: 19.9%, Inverter losses: 1.5%, Optimizer losses: 1.4%, Shading losses: 5.6%, Performance Adjustment: 0%, Output Calculator: System Advisor Model 2020.02.29.r2. Panel Orientations: 25 panels with Azimuth 183 and Slope 37.

Electricity Bill Savings

First Year Monthly Bill Savings



Cumulative Bill Savings



| Month | Solar Generation (kWh) | Electricity Consumption before solar (kWh) | Electricity Imported after solar (kWh) | Electricity Exported after solar (kWh) | Export Credit (\$) | Utility Bill before solar (\$) | Utility Bill after solar (\$) | Cumulative Energy Credit (\$) | Estimated Savings (\$) |
|-------|------------------------|--|--|--|--------------------|--------------------------------|-------------------------------|-------------------------------|------------------------|
| Jan | 696 | 1,384 | 1,077 | 389 | 29 | 185 | 119 | 0 | 66 |
| Feb | 811 | 1,160 | 854 | 505 | 37 | 156 | 82 | 0 | 74 |
| Mar | 854 | 1,114 | 777 | 517 | 38 | 152 | 73 | 0 | 79 |
| Apr | 1,174 | 922 | 546 | 799 | 59 | 128 | 24 | 0 | 105 |
| May | 1,316 | 937 | 509 | 888 | 65 | 131 | 16 | 0 | 114 |
| Jun | 1,265 | 1,159 | 646 | 752 | 55 | 157 | 39 | 0 | 118 |
| Jul | 1,259 | 1,504 | 871 | 625 | 46 | 200 | 76 | 0 | 123 |
| Aug | 1,436 | 1,353 | 771 | 855 | 63 | 181 | 47 | 0 | 134 |
| Sep | 1,315 | 1,111 | 659 | 864 | 64 | 151 | 33 | 0 | 119 |
| Oct | 1,213 | 937 | 611 | 886 | 65 | 131 | 26 | 0 | 105 |
| Nov | 796 | 1,031 | 762 | 527 | 39 | 141 | 70 | 0 | 72 |
| Dec | 560 | 1,303 | 1,067 | 325 | 24 | 175 | 122 | 0 | 53 |

Your projected energy cost is calculated by considering a 3% increase in energy cost each year, due to trends in the raising cost of energy. This estimate is based on your selected preferences, current energy costs and the position and orientation of your roof to calculate the efficiency of the system. Projections are based on estimated usage of 13915 kWh per year, assuming Residential Service Electricity Tariff.

Quotation

This contract is executed between Solar Energy Solutions and Sierra Solar. Solarize Lexington, LFUCG, and other campaign partners are not parties to this contract. Solar Energy Solutions is solely liable for any claims, losses, or damages arising out of the contract.

**Due to supply chain constraints, SES reserves the right to substitute panels of equal or greater quality from another manufacturer. Inverter sizing is estimated and will be finalized in engineering.

Payment Option: Price

| | |
|---|---|
| 25 x ZXM7-SH108 410 410 Watt Panels (Znshinesolar) 1 x Energy Hub SE11400H-US [208V] (SolarEdge Technologies Ltd.) 25 x S440, 1 x Additional 2-year Solarize Warranty Extension | |
| Standard System Price | \$34,796.05 |
| Discount | \$-8,351.05 This is an example only to show format |
| Total System Price | \$26,445.00 |
| Purchase Price | \$26,445.00 |
| Deposit Payable | \$5,289.00 |

Additional Incentives

| | |
|--|--------------------|
| Federal Investment Tax Credit (ITC) <small>The Federal Solar Tax Credit or The Federal Investment Tax Credit (ITC) for installations energized in 2023.</small> | \$7,933.50 |
| Net System Cost | \$18,511.50 |

Payment Milestones

| | |
|---|------------------|
| i. Deposit <small>20% on or prior to order (the Retainer)</small> | 5,289.00 |
| ii. Delivery of Goods & Installation <small>50% upon delivery of goods on site and commencement of installation</small> | 13,222.50 |
| iii. System Activation (Power Production) <small>30% and all balances upon system activation (power production)*</small> | 7,933.50 |
| Total | 26,445.00 |

Please mail deposit check to : Solar Energy Solutions LLC, 1038 Brentwood Court, Suite B, Lexington, KY 40511

I have reviewed and accept the above agreement.

Signature _____

Name _____

Date _____

Payment Details: Offline Payment

Contact your sales representative regarding payment.

Environmental Benefits

Solar has no emissions. It just silently generates pure, clean energy.



Each Year

91%
Of CO₂, SO_x & NO_x

8 tons
Avoided CO₂ per year

Over System Lifetime

147,407
Car miles avoided

1,526
Trees planted

170
Long haul flights avoided

We can't wait to work with you on your project. Select the option that you want and click accept to move on to sign your contract document and financing if selected. We're here to help so please reach out to Julie Jones at Julie@sesre.com or 513-477-5814 if you have any questions.

Case Studies

Your Questions Answered

Feel like you still have questions? Check out [this article](#) for answers and an explanation of some key terms.

Interested in solar for an agricultural property? Read more about the USDA's REAP program [here](#).



SOLAR ENERGY INSTALLATION AGREEMENT

This Solar Energy Installation Agreement (“Agreement”) made this Jan 25 2024, (“Effective Date”) by and between SOLAR ENERGY SOLUTIONS, LLC, a Kentucky limited liability company, 1038 Brentwood Ct., Suite B, Lexington, KY 40511 (hereinafter called “Contractor”) and Sierra Solar (hereinafter called “Client”).

WHEREAS, the Client wishes to employ the Contractor to design a solar system (“Project”) for purpose of producing electricity and/or energy storage at 1731 Llanfair Ave, Cincinnati, OH, 45224(the “Location”).

1. Generalities.

The Contractor shall design the aforementioned system(s) for the Location, hereto specified by the Client asset forth in Attachment A (hereinafter called the “Scope of Services or Scope of Work”). In situations where prevailing natural disasters, acts of God, wars, governmental actions or Client availability causes the design of a solar or energy storage system to be executed remotely, without direct site inspection, the Contractor reserves the right to amend the “Scope of Services” described in Attachment A subsequent to a formal on- site design review. Any such changes will be by equitable adjustment and this Agreement shall be modified in writing accordingly pursuant to a written change order signed by both parties

2. Additional Services.

If requested by the Client, the Client and the Contractor will negotiate for additional services in connection with this Agreement and will set forth any additional services in writing.

3. Client’s Responsibilities.

The Client shall:

- a. Continue to promptly provide full information as to the Client’s needs and requirements for the Project to Contractor or its designate.
- b. Assist the Contractor by placing at its disposal all available information pertinent to the Work to be performed under the “Scope of Services” described in Attachment A.
- c. Give prompt written notice to the Contractor whenever the Client observes or otherwise becomes aware of any defect (or significant variance) in the Work or apparent non-conformance of Work performed in accordance with the “Scope of Services” as set forth in Attachment A, or of any change of circumstances.

4. Compensation.

- a. The total compensation to be paid to Contractor for the Work is set forth in Attachment A.
- b. Contractor shall be paid for the Work upon the following schedule:

| Payment Milestone | Amount |
|---|--------------------|
| i. Deposit <i>20% on or prior to order (the Retainer)</i> | \$5,289.00 |
| ii. Delivery of Goods & Installation <i>50% upon delivery of goods on site and commencement of installation</i> | \$13,222.50 |
| iii. System Activation (Power Production) <i>30% and all balances upon system activation (power production)*</i> | \$7,933.50 |
| Total | \$26,445.00 |

*If the system is installed on a new home build, that isn't ready for occupancy, the homeowner may retain 10% of the system price until system activation (producing power), or 3 months from completion, whichever comes first.

- iv. Invoices not paid within thirty (30) days of the invoice due date shall be subject to a late fee of three percent (3%) per month of that invoice’s amount or the maximum amount allowed by law, computed at 30 days from the date of the invoice. The contractor shall retain title to all equipment installed under the Work and retain its statutory lien rights until paid in full.

5. Time of Completion.

a. The Work to be performed by the Contractor is to be completed as set forth in Attachment A. This completion date, if stated, may be extended in the event of circumstances beyond the control of the Contractor, including, but not limited to, failure by the Client to make timely payments, war, insurrection or Acts of God. In such circumstances, Contractor will provide a new completion date to the Client, in writing, within 30 days of the incident(s) compelling the change of time of completion.

6. Procurement of Licenses and Permits.

The Contractor shall secure all licenses and permits necessary for proper completion of the Work under this Agreement, paying the fees for such licenses and permits.

7. General Provisions.

a. Standards of Performance.

The standard of care for all services performed or furnished by the Contractor under this Agreement will be the care and skill ordinarily used by members of the Contractor's profession, practicing under similar circumstances at the same time and in the same locality.

b. Warranty.

i. **LIMITATION OF WARRANTIES.** There are no understandings, terms, conditions or warranties other than as specifically set forth herein.

A. **LIMITED WARRANTY.** Contractor warrants that the Work are as described on Attachment A and delivered under this Agreement will conform to its specifications and will be free from defects in materials and workmanship as of the date of delivery for a period of three (3) years in relation to residential projects and one (1) year for commercial installs, but no other express warranty is made with respect to the Work. Contractor hereby passes to Client the original manufacturer's warranty of twenty-five (25) years for the power production on the modules and a minimum ten (10) year original manufacturer's warranty for the inverters. All warranty claims must be notified to Contractor in writing by Client within thirty (30) days of discovery giving rise to such claim. Failure to provide such notice shall void the warranty.

B. **DISCLAIMER OF IMPLIED WARRANTIES.** CONTRACTOR DISCLAIMS ALL IMPLIED WARRANTIES WITH RESPECT TO THE WORK, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FREEDOM FROM INFRINGEMENT CLAIMS, AND FITNESS FOR A PARTICULAR PURPOSE. THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE WARRANTY SET FORTH HEREIN.

c. Limitation of Liability.

i. **LIMITATION OF CLIENT'S REMEDIES.** Contractor's sole and exclusive liability hereunder shall be limited to the obligation to repair or replace only those portions of the Work that have been proven to have failed to meet the written specification at the time of delivery and have failed within the time periods set forth above, or allow credit therefor upon mutual agreement of the parties. Contractor's total cumulative liability in any way arising from or pertaining to any Work shall not in any case exceed the compensation paid by Client for such non-conforming Work. CONTRACTOR WILL NOT BE LIABLE TO CLIENT, ITS CUSTOMERS, EMPLOYEES OR AGENTS, UNDER ANY CLAIM OR CIRCUMSTANCES (INCLUDING WITHOUT LIMITATION ANY CIRCUMSTANCE INVOLVING A FINDING THAT A WARRANTY OR REMEDY HAS FAILED OF ITS ESSENTIAL PURPOSE), WHETHER THE CLAIM SOUNDS IN CONTRACT, TORT OR OTHER LEGAL THEORY, FOR INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOST PROFITS OR REVENUE, LOST SALES, LOST GOODWILL OR LOSS OF USE OF ANY PRODUCT.

ii. **LIMITATION OF LIABILITY FOR FAILURE OR DELAY IN DELIVERY.** Delivery dates are approximate and are based on conditions existing at the time of commencement of the Work. In no event shall Contractor be responsible or liable for any damages, including special, indirect, incidental or consequential damages arising from any failure or delay in delivery.

iii. **LIMITATION OF POWER PRODUCTION GUARANTEES.** Contractor does not provide a performance guarantee for the amount of power to be produced from the Work as such performance is conditioned upon local meteorological conditions, vegetative shading and Client system maintenance and upkeep.

d. Changes.



The Client may, at any time by written notice, make changes to the Work provided; however, that if such changes cause an increase or decrease in the Contractor's expenses, or time required, for performance of any services, whether or not changed by any order, an equitable adjustment shall be made and this Agreement shall be modified in writing accordingly pursuant to a written change order signed by both parties. In the event that the Contractor finds non-visible defects or circumstances which pose a barrier to completion of the installation of the system(s), including but not limited to asbestos, rot and mold (or other environmental conditions), the Contractor will notify the Client of the non-visible defects, so that the parties may negotiate an equitable modification of the terms of this Agreement. In the event the Contractor discovers any non-visible barriers to completion of the installation of the systems, including but not limited to rock preventing ground racking insertion, roof condition, existing code failures and spatial limitations, the Contractor will notify the Client so the parties can negotiate an equitable modification of the terms of this Agreement pursuant to a written change order.

e. Force Majeure

Either Party shall be excused from performance and shall not be in default in respect of any obligation hereunder to the extent that the failure to perform such obligation is due to a Natural Force Majeure Event. Force Majeure events include natural disasters, acts of God, wars, governmental actions, trade sanctions or tariff impositions.

8. Successor and Assigns.

The Client and the Contractor each binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Agreement and to the partners, successors, executors, administrators, and assigns of such other party, in respect of all covenants of this Agreement; except as above, neither Client nor Contractor shall assign, sublet or transfer its interest in this Agreement without prior written consent of the other. Client recognizes that acceptance of Attachment A by Contractor constitutes prior written consent. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body which may be a party thereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than Client and Contractor.

9. Dispute Resolution.

a. Claims, disputes or other matter in question between the parties to this Agreement shall be first subject to mediation prior to the filing of any arbitration. Mediation is a condition precedent to arbitration. The obligation to mediate is a material and essential provision of this Agreement.

b. Unless otherwise agreed in writing, the Contractor shall carry on the Work and maintain its progress during any mediation or arbitration, and the Client shall continue to make payments to the Contractor in accordance with this Agreement.

c. Either party may initiate a mediation proceeding by submitting a request in writing to the other party within thirty (30) days after the claim, dispute or other matter in question has arisen.

d. The parties shall endeavor in good faith to mutually agree upon an acceptable mediator. In the event the parties have not agreed upon a mediator within 30 days of the request for mediation, the Contractor shall select a mediator. Each party is to bear its own fees, costs and expenses, of said mediation.

e. In the event that mediation is unsuccessful, the parties shall submit to binding arbitration. This Agreement shall be governed in all aspects by the laws of the Commonwealth of Kentucky. All disputes, if not settled by mediation, which may arise relating to this Agreement, shall be settled according to the arbitration rules of the American Arbitration Association by one (1) arbitrator appointed to settle the dispute. The cost of such arbitration will be divided equally by the parties involved. Arbitration shall be held exclusively in Louisville, Kentucky and the decision of the arbitrator shall be binding on both parties. The prevailing party shall have the right to enforce such decision in the state or Federal courts sitting in Jefferson County, Kentucky, and each party submits to the exclusive jurisdiction thereof. Each party waives any defense of forum non-conveniens, or like defense. The decision of the arbitrator shall be final and obligatory for both parties. The prevailing party shall be entitled to recover its reasonable attorneys' fees and expenses incurred in mediation or arbitration from the losing party.

10. Indemnity.

a. Subject to the provisions and limitations set forth in Sections 7(b) and (c) of this Agreement, the Contractor shall hold harmless and indemnify the Client and his officials, agents, and employees against any and all claims, loss, damage, injury, fines, penalties, and costs, including reasonable court costs and attorney fees, arising out of or caused by the Contractor's intentional, willful, wanton, reckless, or negligent acts, errors, or omissions in the Contractor's performance under this Agreement, including the actions, errors, or omissions of the Contractor's officials, agents, or employees in performance under this Agreement.

b. The Client shall hold harmless and indemnify the Contractor and its officials, agents, and employees against any and all claims, loss, damage, injury, fines, penalties, and costs, including reasonable court costs and attorney fees, arising out of or caused by the Client's intentional, willful, wanton, reckless, or negligent acts, errors, or omissions in the Client's performance under this Agreement, including the actions, errors, or omissions of the Client's officials, agents, or employees in performance under this Agreement.

11. Termination.

Either party may terminate this Agreement in whole or in part after giving written notice of termination (specifying specific portions being terminated, if terminated in part,) at least thirty (30) days before date of termination. The Client may terminate this Agreement at any time by giving thirty days (30) notice to the Contractor. If this Agreement is terminated, the Contractor shall be compensated for Work actually performed and expense(s) incurred by Contractor up to the date of termination, including administrative, design Work or Work subrogated to other parties.

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All notices, requests, demands, or other communications required under this Agreement shall be made in writing and shall be served by hand delivery or by placing such in the United States Mail, certified mail, return receipt requested and bearing adequate postage. Each notice shall be effective upon receipt.

16. Confidentiality.

The Client shall not disclose nor permit disclosure of any information specifically designated by the Contractor as confidential or proprietary, except to its employees and other sub-consultants who need such information in order to properly execute the services of this Agreement. If the Contractor determines the Client has informed the Contractor's competitors of processes proprietary to the Contractor, the Contractor can file suit to request mediation or court award of any damages incurred.

17. Ownership of Work Product.

The Contractor shall continue to be the owner of all drawings, electronic media files, reports and other material provided to the Client unless otherwise agreed in writing. The Contractor may keep copies of all Work products. In the event that the Client should use any Work product from this Agreement on any future Projects unrelated to (or outside the scope or) the subject of this Agreement, the Client shall assume full responsibility for such use and shall hold the Contractor harmless from any claims, lawsuits or challenges to such subsequent use or performance. The Contractor shall have the right to change appropriate royalty fees from the Client for the additional use thereof. The Contractor shall have the right to display and distribute images of the system(s) as installed for purposes of advertising, promotion or subsequent research and development.

18. Waiver.

No waiver by either party of any default or non-performance by either party shall be considered a waiver of any subsequent default or non-performance.

19. Records Retention.

All records related to this Agreement shall be retained by both parties for a period of four (4) years after the conclusion of this Agreement. Records relating to any claim arising out of the performance of this Agreement or costs and expenses of this Agreement to which exception has been taken by either party shall be retained by the other party until the claim has been resolved.

20. Severability.

In the event that any term, provision or covenant hereunder shall be held invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall remain valid and enforceable by any party and the invalid unenforceable covenant shall automatically be deemed modified and amended to provide the maximum rights available under applicable law to the party who is the beneficiary of the covenant in question.

21. Authority of Parties.

The individuals who have executed this Agreement on behalf of the respective parties expressly represent and warrant that they are authorized to sign on behalf of such entities for the purpose of duly binding such entities to this Agreement.

22. Right To Cancel.

You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right.

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

CLIENT: Sierra Solar SOLAR ENERGY SOLUTIONS LLC

| | |
|-------|--|
| By: | By: |
| Date: | Title: Vice President of Sales & Marketing |
| | Date: |

Address: 1731 Llanfair Ave
Cincinnati, OH 45224
Contact phone #: 1231231234

Contact email: nobody@nobody.com

Solar Energy Solutions and Sierra Solar
1731 Llanfair Ave, Cincinnati, OH, 45224
(Attachment A – Residential) Jan 25 2024

10.250 kW Solar Array

Scope of Services:

- Design, Engineering, and Management
- Solar Modules
 - 25 Zshinesolar ZXM7-SH108 410
- Inverter
 - 1 SolarEdge Technologies Ltd.
- Battery
 - 0
- Other Hardware & Components, Component Warranties, and Additional Warranties

25 x S440, 1 x Additional 2-year Solarize Warranty Extension
Warranties: 12 Year Panel Product Warranty, 25 Year Panel Performance Warranty, 12 Year Inverter Product Warranty

- Wiring, Installation, Workmanship Warranty
 - o All labor required for installation and commissioning of the system
 - o All consumables, small and miscellaneous parts
 - o All permitting, inspection, utility administration and fees
 - o 3 year workmanship warranty

TOTAL COST INSTALLED

\$ 26445.00

\$ 7933.50 Estimated Incentives (30 % Federal Tax Credit, estimated SREC value, and all others if applicable).*

\$ 18511.50 REALIZED COST (NET TAX CREDIT)

CLIENT: Sierra Solar

SOLAR ENERGY SOLUTIONS LLC

By:

By:

Owner(s) Signature

SES Signature

Date:

Date:

*Solar Energy Solutions does not provide financial advice and encourages customers to consult with their tax professional for any IRS claims made.

END OF ATTACHMENT 'A'

TESTIMONIALS

Jack

★★★★★ 1 week ago

I'm very pleased with the overall project with Solar Energy Solutions. From the planning stage thru the final day of install, I was very impressed with the continued communication thru-out the project. Every step was well planned and executed by very friendly and professional installers. Eric Straeter was my sales contact with Solar Energy Solutions. Eric is very knowledgeable and very easy to work with, his experience with solar energy was very impressive and yet could relate to my novice questions and answer them with easy to understand answers. Eric's ability to relate to real time farm experiences helped me to know that Solar Energy Solutions was the right fit for our farm needs.

Eddie

★★★★★ 5 weeks ago

SES was outstanding in evaluating, installing and follow-up on our Solar project. I can't wait for the days to getting longer and the sun get higher so I can see how many Kwh this baby can crank out. Special thanks to Patrick Ferrell for keeping me informed at each step of the operation. I hope this is just a first step for us in embracing clean energy. Thanks to all the folks at SES for making this a great experience. Good to be "Green".

Jane

★★★★★ 25 weeks ago

I recommend Solar Energy Solutions without reservation. During our decision making process, Steve answered all of our questions honestly and openly without ever trying to rush us with a hard sell. His installation team were careful of our property and made sure that our cats were safe every time they came in and out of the house. They were professional and considerate throughout the entire process.

Glenn

★★★★★ 46 weeks ago

Patrick, Caleb, and the crew at SES worked with me over 3 months tweaking out a system that will power my home and charge my car. Once the design was settled, they handled the rest. Now I am my own Exxon, as well as LG&E, and will be for the rest of my life. Want to be green and save money doing it? Buy an EV and call SES. The gasoline and oil changes you will stop buying for life will pay off most of the cost of solar. (Go all electric for your lawn and power equipment too for more savings.) The low electricity bills will do the rest fairly quickly, and lower the total cost of ownership of your EV. If you buy a Tesla, they are your Tesla Solar and Powerwall experts. They can integrate your car, solar and storage all in the Tesla app so that it all works as a whole. My next project with them is getting some Powerwalls so I can weather an outage and time shift energy.



This proposal has been prepared by Solar Energy Solutions, LLC using tools from OpenSolar. Please visit www.opensolar.com/proposal-disclaimer for additional disclosures from OpenSolar.



WORKMANSHIP WARRANTY (ATTACHMENT F)



SOLAR ENERGY
SOLUTIONS

Warranty

Installation

Solar Energy Solutions LLC warrants the installation of its Photovoltaic array system for five years from date of installation. Solar Energy Solutions LLC warrants its system to be free from defects in workmanship and materials under installed service conditions. Solar Energy Solutions LLC warrants that it will replace or repair any faulty materials free of charge during the warranty period. Solar Energy Solutions LLC makes no claims to warrant any materials damaged by end user abuse or mismanagement. This warranty applies exclusively to system purchaser. Warranty becomes void upon transfer of ownership. Solar Energy Solutions LLC also bears no responsibility for damages resulting from system alterations performed by end user or other parties.

Manufacturer warranties

The equipment installed benefits from manufacturer warranties as per the attached documents.

Headquarters:
1038 Brentwood Ct, Suite B
Lexington, KY 40511

Tel: (859) 312-7456

www.solar-energy-solutions.com



Limited Warranty for Solar Systems and Battery Storage

This Limited Warranty applies to the Solar System installed on the address identified above (the "Address"). Solar Insure will pay to repair or replace the Solar System panels, inverters, batteries and software monitoring (the "Component(s)") if they are defective or fail to work as intended, subject to the terms and conditions set forth below.

| Territory | Coverage |
|---------------------|-----------------------------------|
| USA, US Territories | Parts, Labor and Limited Warranty |

Terms and Conditions

- Warranty coverage begins on the date that the Solar System is installed on the property by a properly licensed contractor (the "Start Date") and continues for 30 years. Battery product coverage ends 20 years after the installation date.
- Solar Insure will pay for both the parts and labor necessary to, at its option, repair or replace Components that are defective or fail to work as intended. This includes shipping costs and labor costs related to uninstalling defective Component(s) and re-installing repaired or replacement Component(s). If Solar Insure is unable to replace a Component and repair is not commercially practicable or cannot be timely made, then Solar Insure may refund the cost of the Component.
- Repair or replacement will be made with identical new or re-manufactured Component(s). If identical new or re-manufactured Component(s) are not available, then repair or replacement may be made with parts that differ in size, color, shape, model number, and/or power level. Replaced Component(s) shall be returned to Solar Insure and become Solar Insure property.
- Internet connectivity and software monitoring permissions must be enabled throughout coverage term.
- This Limited Warranty may be transferred to subsequent owners of the property. However, if the Solar System or any of its Components are sold or transferred to another location, then this Limited Warranty shall terminate immediately upon such sale or transfer.
- If a Component is returned to Solar Insure as a result of a claim made under this Limited Warranty and is found not to be defective, then you are responsible for the return shipping costs.
- Solar Insure warrants the battery product retains at least 30% of Nominal Energy at the end of the warranty period, so long as the system is operated under normal use per the operation and installation manual provided by the manufacturer. The "Nominal Energy" refers to the initial rated capacity of the battery module, as measured at the DC side.
- Solar Insure does not warrant or guarantee a specific power output, and the inability of the Solar System to generate a specific power output does not necessarily mean that a Component is defective.
- The remedies set forth in this Limited Warranty are the sole and exclusive remedies for defects in the Solar System and/or its Components. Any repair or replacement work performed under this Limited Warranty shall not extend the term of the warranty.

Exclusions:

The following are excluded and therefore not covered by this Warranty:

- Solar Systems and Components sold and/or installed outside the United States and its territories.
- Components which have had a serial number altered, defaced, or removed.
- Solar Systems and Components installed on a mobile home, vehicle, or vessel.
- Damage and/or failure caused by: accident; misuse; abuse; neglect; improper installation; installation not in conformance with Component specifications, manuals, or instructions; operation not in conformance with operation manuals and instructions; improper sizing; and/or rodent or insect infestation.
- Damage and/or failure caused by flying objects or environmental pollution (e.g. soot, salt, acid rain).
- Damage and/or failure caused by devices and/or parts other than the Component(s) themselves including firmware updates.
- Damage and/or failure caused by improper or incorrectly performed maintenance, operation, unauthorized removal, or modification.
- Damage and/or failure caused by repairs (other than repairs made pursuant to this warranty) not in accordance with the manufacturer's instructions or made by unlicensed technicians.
- Damage and/or failure caused by inappropriate handling during storage, packaging or transportation.
- Damage and/or failure caused by non-compliance with applicable electric & building codes.
- Damage and/or failure caused by natural forces (e.g. earthquakes, floods, lightning, hurricanes, heavy snow, fire, etc.), power failures, power surges or other unforeseen circumstances that are not related to a defect in the Solar System or the Components;
- Damage and/or failure caused by normal wear and tear.
- Damage to Component(s) caused by the use of unauthorized parts or equipment or by unauthorized system changes.

CLAIMS PROCEDURE

To make a claim under this Limited Warranty, immediately notify the authorized Solar Insure representative, or contact Solar Insure in writing at:

SOLARINSURE, INC. • 555 ANTON BLVD Suite 150 • Costa Mesa, CA,
Ph: (714)-625-8204 • Fax: (714)625-8290

Claims: <http://www.solarinsure.com/warranty-claim>

Except to the extent prohibited by applicable law, any implied warranty of merchantability or fitness for a particular purpose for the Solar System and its Components is limited to the duration of this Limited Warranty. Under no circumstances shall Solar Insure be liable for any incidental, special or consequential damages including, without limitation, lost good will, lost revenues or profits, work stoppage, impairment of other goods, loss of use, and/or injury to persons or property arising out or related to the Solar System or its Components. Solar Insure's total liability, if any, shall not exceed the invoice price paid by the customer for the Solar System. Some states do not allow the exclusion or limitation of incidental or consequential damages, or allow limitations on how long an implied warranty lasts, so the above limitations or exclusions may not apply to you. This limited warranty gives the customer specific legal rights; customers may also have the rights that vary from state to state.



STANDARD TOOLS/SOFTWARE (ATTACHMENT G)

OpenSolar

SES uses OpenSolar, a solar design and proposal tool. OpenSolar streamlines and improves our proposing capabilities in the following ways.

- **3D Design, Leading Accuracy**
 - The fastest, most straightforward, and most accurate 3D design tool makes your proposals streamlined and reliable from the office and the field.
- **Upgraded Proposal Design**
 - Fully customizable, interactive proposals online or as a PDF. This will allow going over proposals in person, online, or over the phone, with the ability to modify the online proposal in real time with customer input.
- **Integrated Financing**
 - Our financing partner is integrated into the proposal so customers can complete that process from the proposal in the comfort and privacy of their own homes.

Solmetric Suneye

SES uses the Solmetric Suneye for shade assessment on project sites. The Suneye is the industry's gold standard for onsite shade assessment. The device produces an exportable report/file that can easily be integrated into many standard site evaluation tools. SES site evaluators are trained to use the Suneye and are issued the device as a standard site evaluation tool.

Helioscope & Energy Tool Base

For commercial designs and large systems, SES uses Helioscope. Helioscope is the gold standard in solar design software for larger systems. HelioScope simplifies the process of engineering by integrating easy layout tools with performance modeling. HelioScope offers CAD-caliber layouts that can be integrated with Energy Tool Base for financial calculations



STANDARD TOOLS/SOFTWARE (ATTACHMENT G)

HubSpot

SES has, for the last five years, managed its sales process through CRM software. Starting in 2024, SES upgraded that software to HubSpot, which allows us to better track where customers are and integrate other software like Arrivy, Quickbooks, Etc. HubSpot has more filtering features, which also allow salespeople to better understand where their contacts are in the sales process. In this transition we have incorporated the work flow that was developed over the last 4-5 years with Job Nimbus.

Arrivy

The Arrivy Operations Cloud for service is being onboarded now. It will equip SES with the tools to streamline operations, enhance collaboration, and exceed customer expectations. Arrivy streamlines ordinary day-of experiences and ensures a seamless transition from warehouse to field service.

Elevated Customer Experience with Arrivy

Arrivy will ensure end-to-end transparency and bridge the gap between our crews and customers. From pre-appointment reminders and real-time ETA's to live location reporting, Arrivy will keep customers informed on the day of service.

Arrivy will also allow us to simplify onsite paperwork for site visits, installations, and service.



SOLAR ENERGY
SOLUTIONS

SESRE.COM

STANDARD LOAN AGREEMENT (ATTACHMENT H)

Standard loan agreement contract language on the next page along with the Credit Human Rate Sheet

**UCC SECURED SOLAR
LOAN AGREEMENT**



1703 Broadway
San Antonio, TX 78215
210-258-1234
CreditHuman.com

| | | | |
|-----------------------------|-----------------------------|--------------------|------------------------|
| Member Name and Address (1) | Member Name and Address (2) | Effective Date (e) | |
| | | Maturity Date (e) | Interest Rate % |

Merchant Name

FEDERAL TRUTH-IN-LENDING DISCLOSURE

| | | | |
|---|---|---|---|
| ANNUAL PERCENTAGE RATE <small>The cost of your credit as a yearly rate.</small> <p style="text-align: center;">%</p> | FINANCE CHARGE (e) <small>The dollar amount the credit will cost you</small> <p style="text-align: center;">\$</p> | AMOUNT FINANCED (e) <small>The amount of credit provided to you or on your behalf.</small> <p style="text-align: center;">\$</p> | TOTAL OF PAYMENTS (e) <small>The amount you will have paid when you have made all payments as scheduled.</small> <p style="text-align: center;">\$</p> |
|---|---|---|---|

Your Payment Schedule Will Be (e)

| | | |
|--------------------|------------------------|----------------------------|
| Number of Payments | Amount Of Payments (e) | When Payments Are Due* (e) |
| | \$ | |
| | \$ | |

PREPAYMENT: If you pay off your loan early, you will not have to pay a penalty.

REQUIRED DEPOSIT: The annual percentage rate does not take into account your required deposit, if any.

UCC FILING FEE: \$250.00

PROCESSING FEE: \$25.00

AMERICAN SOLAR ENERGY SOCIETY MEMBERSHIP FEE: \$20.00

LATE CHARGE: If your payment is 10 or more days late, you will be charged \$25.00.

SECURITY: You are giving a security interest in the property purchased with this transaction. You are giving a security interest in all present and future, individual and joint shares and other accounts you have in the Credit Union.
See your contract documents for any additional information about prepayment, default, any required repayment in full before the scheduled due date, and prepayment refunds and penalties. All numerical disclosures except the late payment disclosure are estimates.

DRAWS: You acknowledge and agree that the Credit Union may provide draws up to 50% of the loan amount to the merchant for supplies and/or other job related expenses.

INTEREST: Interest will begin to accrue on the outstanding balance on the date the loan is funded or date of draw, whichever comes first.

***FIRST PAYMENT DATE:** The first payment due date will be _____ from the date the loan is funded or the date of the first draw, whichever comes first.

CREDIT UNION MEMBERSHIP: This Installment Agreement is only available to members in good standing of Credit Human Federal Credit Union. You signed an account card and the Credit Union received \$5.00 payable to Credit Human Federal Credit Union as a deposit to open a member share account with the Credit Union. If you opened a joint account, each member signing the card has the right to use the share account.

PROMISE TO PAY: By authenticating (signing) this Installment Agreement (the "Agreement"), you acknowledge that you have applied for membership in Credit Human Federal Credit Union and that you understand and agree to the terms and conditions of this Agreement which will govern and control your Agreement with the Credit Union. You promise to pay all amounts advanced to you plus a finance charge and any other charges to your account.

JOINT ACCOUNTS: If more than one person authenticates (signs) this Agreement, the obligations and liabilities of each shall be joint and several. This means that the Credit Union may enforce its right under this Agreement against any one of you or against all of you together.

SECURITY DESCRIPTION- PLEDGE PROPERTY

You grant the Credit Union a security interest in the described property to secure repayment of this installment loan. The Credit Union has the right to file a UCC Financing Statement to record its lien on property purchased with the loan proceeds. Such lien may be filed at the Credit Union's discretion.

All solar photovoltaic equipment and associated components located at:

SIGNATURES

By signing below, you agree to be bound by the Terms and Conditions of this Agreement. You acknowledge receiving a copy of and reading the Agreement and Disclosure. You further acknowledge and agree that you give the Credit Union a consensual security interest in the shares you have in all individual and joint accounts you have with the Credit Union, now and in the future (other than those accounts that would have an adverse tax consequence if pledged as collateral), to secure repayment of amounts you owe to the extent of any unpaid balance on your Account.

Negative Information Notice: We may report information about your account to credit bureaus. Late payments, missed payments or other defaults on your account may reflect in your credit report.

CAUTION: IT IS IMPORTANT THAT YOU THOROUGHLY READ THIS CONTRACT BEFORE YOU SIGN IT.

| | | | |
|-------------------------------|------|-------------------------------|------|
| Member Borrower Signature (1) | Date | Member Borrower Signature (2) | Date |
| X | | X | |

ITEMIZATION OF THE AMOUNT FINANCED The Credit Union or an entity affiliated with the Credit Union will retain a portion of the amount paid to others denoted by asterisk (*).

| Itemization of amount financed of | Amount given to you directly | Paid on Account | Prepaid Finance Charge |
|---------------------------------------|------------------------------|--|------------------------|
| \$ | \$0 | \$0 | \$0 |
| Amount paid to others on your behalf: | | | |
| To: | \$ | To: American Solar Energy Society Membership Fee | \$ |
| To: Loan Processing Fee | \$ | To: UCC Filing Fee | \$ |

Borrower Initial AUTOMATIC PAYMENT AUTHORIZATION

I authorize Credit Human Federal Credit Union to initiate recurring Automatic Payments from the account named below. I acknowledge that the origination of ACH transactions must comply with all provisions of the U.S. Law and the rules of National Automated Clearinghouse Association ("NACHA"). Available funds are required in the account prior to origination to allow reasonable time for processing on the requested date.

Account Holder Name: _____ Financial Institution Name: _____
 Account Type: Checking Savings Routing #: _____ Account #: _____
 Requested Debit Date (e) _____ Payments to begin on Date (e) _____ Amount to Debit (e) \$ _____
 Frequency: _____

This ACH authorization is to remain in full force and will continue until Credit Human Federal Credit Union has received from me written notification of any changes or to terminate in such time and in such manner as to afford Credit Human Federal Credit Union and Financial Institution a reasonable opportunity to act on it. See Credit Human Federal Credit Union Membership Agreement for ACH terms and transfer Agreement details. I understand that if the funds are not available in my account on the designated debit date, I may be charged a NSF fee. See Rate and Fee Schedule for fee and details. I understand that if the funds are not available to allow this debit transaction to be completed, I am still responsible for making the loan payment. The Credit Union reserves the right to cancel this Agreement at any time. (e) means estimate. Payment amount and Payment Due Date are estimated until final disbursement occurs (if applicable). The method for determining the recurring monthly payment is outlined in your loan Agreement. If the loan payment is less than the authorized amount, you authorize Credit Human Federal Credit Union to reduce the debit amount.

Repayment: The words "You" and "Your" mean any person authenticating this Agreement as Member whether by affixing their actual signature, or through use of an electronic signature, facsimile signature, or photocopied signature. You promise to pay to the Credit Union or its order, the amount financed plus the finance charge according to the payment schedule as each is set forth in the disclosure on page 1 of this Agreement and Disclosure. If you are provided with a Confirmation of Exact Amount Financed Truth-in-Lending disclosure, such disclosure describes the exact amount financed, date finance charges begin to accrue and the first payment due date. Your payment amount includes interest computed and payable at the interest rate shown on page 1 on the loan from the date finance charges begin until the loan is paid in full. The amount of your final payment as well as total Finance Charge and the total of payments will be somewhat more or less than the amounts disclosed if payments are not received precisely on the due dates. When received, your payment will be applied in the order chosen by the Credit Union to finance charges, late charges, collection costs, any other charges and to the principal. Unpaid interest will be paid by later payments and will not be added to your principal balance.

believes endangers the collateral, if any, or your ability to repay what you owe, including but not limited to, leaving your current employment; (7) if you break any promise you have made under this or any other Agreement with the Credit Union; (8) if you use the collateral in any illegal activity. In the event of a default, you understand that the decision to take action is at the sole discretion of the Credit Union and that the failure to act on one default will not stop action on another. You further agree that the Credit Union does not have to provide you advance notice before taking action on any default, unless required to do so by applicable law. This Agreement, the Texas Business and Commerce Code or other applicable law, authorize the Credit Union to take various actions; and the Credit Union may rely on any or all of those sources.

Right of Offset: If you are in default, the Credit Union may at any time without demand or notice of any kind, appropriate and apply toward the payment of the unpaid balance due, any unpaid shares, dividends, or other funds that would not have adverse tax consequences if pledged as security. You appoint the Credit Union as your Attorney-in-act to perform any act(s) which it feels are necessary to protect its security interest.

Limited Power of Attorney: By accepting loan advance(s) under this Agreement, you hereby appoint the Credit Union to be your Attorney-in-Fact for you to record a lien on property purchased with loan advance(s) and to print your name and sign the Credit Union in your behalf.

Acceleration: If you are in default and to the extent permitted by state law, the Credit Union may call any amounts you owe immediately due and payable plus FINANCE CHARGES which shall continue to accrue until the entire balance owed is paid in full. The undersigned individually and jointly waive presentment, demand, protest, notice of protest, notice of acceleration, and notice of intent to accelerate and any notice that the Credit Union is demanding payment in full of the outstanding balance under the contract because of default or for any other reason.

Remedies: If you are in default, the Credit Union may, after expiration of any right you have under state law to cure your default, require immediate payment of any or all amounts you owe under this Agreement or any other loan you have with the Credit Union and take possession of the collateral. You waive any right to demand for payment, notice of intent to accelerate and notice of acceleration. You will continue to pay interest until you repay what you owe at the loan interest rate. The Credit Union can exercise any right given to it by the Texas Business and Commerce Code or other applicable law. The Credit Union may delay taking any action to protect its rights as many times as it wants and as long as it wants without losing them.

Late Charge: If any payment is made late, you may be charged a late charge. You agree to pay the late charge if any is disclosed on page 1.

Joint Member: If you are authenticating this Agreement as a joint Member, you waive any right to require the Credit Union to attempt collection of this Agreement from primary Member first. You agree to be equally and severally responsible with the primary Member for all obligations under this Agreement. You understand that the terms of the Agreement apply to you as well as to the primary Member and you waive any requirement that you be notified of changes in the terms of this Agreement.

Treatment of Payments: Payments must be received at any branch by closing on a business day to be credited to your account as of that same

IF THIS BOX IS CHECKED, THE FOLLOWING APPLIES:

Military Lending Act Disclosure: Federal law provides important protections to members of the Armed Forces and their dependents relating to the extension of consumer credit. In general, the cost of consumer credit to a member of the Armed Forces and his or her dependent may not exceed an **Annual Percentage Rate** of 36 percent. This rate must include, as applicable to the credit transaction or account: The costs associated with credit insurance premiums; fees for ancillary products sold in connection with the credit transaction; any application fees charged (other than certain application fees for specified credit transactions or accounts); and any participation fee charged (other than certain participation fees for a credit card account).

Please call us at 1-844-347-9250 to receive oral disclosure of the Military Lending Act disclosure above and description of the payment obligation.

A "Covered Borrower" for purpose of this loan means a consumer who, at the time the consumer becomes obligated on this loan, is a covered member or a dependent of a covered member as defined by the Military Lending Act. A Covered Borrower does not mean a consumer who (though a Covered Borrower at the time he or she became obligated on this transaction) no longer is a covered member or a dependent of a covered member as defined by the Military Lending Act.

Prepayment: You may prepay all or part of your loan at anytime without penalty. However, if a balance remains owing, you are still required to make your regular periodic payments. A partial payment will not automatically reduce your periodic payment unless the remaining amount owed is less than the periodic payment.

Default: To the extent permitted by state law, you will be in default: (1) if you fail to make any payment on time; (2) in the event of your death; (3) in the event of your insolvency or the filing of any requests for relief under the bankruptcy code by or against you; (4) if you are the subject of any legal process which seeks to attach your Credit Union account, any of your property or rights; (5) if you have given the Credit Union false or inaccurate information in obtaining a loan or any other Credit Union services; (6) if you do any act or fail to do any act which the Credit Union

day. If any payments made by you are less than the total payment due, the Credit Union may allocate the payment at its sole discretion.

Other Terms: If any part of this Agreement is determined by court or by law to be invalid or unenforceable, the rest will remain in effect. All the Credit Union's rights shall inure to the benefit of its successors and assigns, and all of your obligations shall bind your heirs or legal representatives or successors. You authorize the use of electronic signatures, facsimile signatures and photocopied signatures for all purposes of authenticating this Agreement. Said signatures will have the same force in effect as original signings for all transactions included in applications and Agreements with the Credit Union.

Notice: You promise that your name and address shown on page 1 are your legal name and place of residence and such place of residence is the proper address for all notice(s) that may be required and you further understand that changes in address must be submitted to the Credit Union in writing to be effective.

Loan Amortization: You may elect to re-amortize your loan up to three times over the life of your loan at no cost with a minimum ten percent principal payment.

Loan Transfer: In the event of a property transfer, the new buyer may elect to assume the loan upon buyer qualification. The loan assumption will be the existing term and loan balance with the interest rate based on an index plus a margin of 2.50%. The index is the Secured Overnight Financing Rate (SOFR) as published by the New York Federal Reserve.

COLLECTION COSTS:

For Borrowers in CO: You promise to pay, subject to any limits under applicable law, all costs of collecting the amount you owe under this Agreement. This includes, but is not limited to reasonable attorneys fees not to exceed 15% of the unpaid debt after termination or acceleration of your account and referral to an attorney not our salaried employee, as well as legal expenses for any bankruptcy, appeals or postjudgment proceedings. If not prohibited by applicable law you will also pay any court costs.

For Borrowers in DE: You promise to pay, subject to any limits under applicable law, all costs of collecting the amount you owe under this Agreement. This includes, but is not limited to legal expenses for any bankruptcy, appeals or postjudgment proceedings. If not prohibited by applicable law, you will also pay any court costs.

For Borrowers in GA: You promise to pay, subject to any limits under applicable law, all costs of collecting the amount you owe under this Agreement. If collected by or through an attorney, you promise to pay attorney's fees not to exceed 15% of the principal and interest owing as well as legal expenses for any bankruptcy, appeals or postjudgment proceedings. If not prohibited by applicable law you will also pay any court costs.

For Borrowers in IA: You promise to pay, subject to any limits under the Iowa Uniform Consumer Credit Code, all costs of collecting the amount you owe under this Agreement. This includes, but is not limited to reasonable attorney's fees and court costs as well as legal expenses for any bankruptcy, appeals or postjudgment proceedings.

For Borrowers in ID: You promise to pay, subject to any limits under the Idaho Credit Code, all costs of collecting the amount you owe under this Agreement. This includes, but is not limited to reasonable attorney's fees paid or to be paid to an attorney who is not our salaried employee, as well as legal expenses for any bankruptcy, appeals or postjudgment proceedings. If not prohibited by applicable law, you will also pay any court costs.

For Borrowers in IL: You promise to pay, subject to applicable law, all costs of collecting what you owe under this Agreement or realizing on security including court costs, collection agency fees and reasonable attorney's fees. We may enter into a contingent or hourly fee arrangement with an attorney or collection agency and you agree that such an Agreement is reasonable. This provision also applies to bankruptcy, appeals or postjudgment proceedings.

For Borrowers in KS: You promise to pay, subject to any limits under applicable law, all costs of collecting the amount you owe under this Agreement. This includes, but is not limited to reasonable attorney's fees and court costs as well as legal expenses for any bankruptcy, appeals or postjudgment proceedings incurred by an individual who is not a salaried employee of the credit union.

For Borrowers in MI: You promise to pay, subject to any limits under applicable law, all costs of collecting the amount you owe under this Agreement. This includes, but is not limited to reasonable attorney's fees as fixed by the court as well as legal expenses for any bankruptcy, appeals or postjudgment proceedings. If not prohibited by applicable law you will also pay any court costs.

For Borrowers in NE: You promise to pay, except to the extent that our obtaining your Agreement to do so is prohibited by applicable law and our enforcing such an Agreement may be limited by applicable law, all costs of collecting the amount you owe under this Agreement. This includes, but is not limited to reasonable attorney's fees and court costs as well as legal expenses for any bankruptcy, appeals or postjudgment proceedings.

For Borrowers in NH: You promise to pay, subject to any limits under applicable law, all costs of collecting the amount you owe under this Agreement. This includes, but is not limited to reasonable attorney's fees and court costs as well as legal expenses for any bankruptcy, appeals or postjudgment proceedings. If, by applicable law, we are permitted to

collect attorney's fees from you as part of our costs of collecting under this Agreement, then you, to the extent required by New Hampshire Revised Statutes Annotated Chapter 361-C as amended, shall be entitled to reasonable attorney's fees if you prevail in (a) any action, suit or proceeding brought by us, or (b) any action brought by you. If you successfully assert a partial defense or setoff, recoupment or counterclaim to any action brought by us, the court may withhold from us the entire amount or such portion of the attorney's fees as the court considers equitable.

For Borrowers in OK: You promise to pay, subject to any limits under applicable law, all costs of collecting the amount you owe under this Agreement. This includes, but is not limited to reasonable attorney's fees not to exceed 15% of the unpaid debt after termination or acceleration of your account and referral to an attorney not our salaried employee, as well as legal expenses for any bankruptcy, appeals or postjudgment proceedings. If not prohibited by applicable law you will also pay any court costs.

For Borrowers in SC: You promise to pay, subject to any limits under the South Carolina Consumer Protection Code, all costs of collecting the amount you owe under this Agreement. This includes, but is not limited to reasonable attorney's fees not to exceed 15% of the unpaid debt upon referral to any attorney who is not our salaried employee, as well as legal expenses for any bankruptcy, appeals or postjudgment proceedings. If not prohibited by applicable law you will also pay any court costs.

For Borrowers in WI: Unless this Agreement is subject to the Wisconsin Consumer Act you promise to pay all costs of collecting the amount you owe under this Agreement. This includes, but is not limited to reasonable attorney's fees and court costs as well as legal expenses for any bankruptcy, appeals or postjudgment proceedings.

For Borrowers in WV: No collection costs.

For Borrowers in AK, AL, AR, AZ, CA, CT, DC, FL, HI, IN, KY, LA, MA, MD, ME, MN, MO, MS, MT, NC, ND, NJ, NM, NV, NY, OH, OR, PA, RI, SD, TN, UT, VA, VT, WA, WY: You promise to pay, subject to any limits under applicable law, all costs of collecting the amount you owe under this Agreement. This includes, but is not limited to reasonable attorney's fees and court costs as well as legal expenses for any bankruptcy, appeals or postjudgment proceedings.

Governing Law: Except to the extent that Federal Law is applicable, the laws of the State of Texas is written shall govern the validity, construction and enforcement of this Agreement.

Default: *The following provision applies to borrowers in Idaho, Kansas, and Maine:* You will be in default if (1) you do not make a payment of the required amount when due; or (2) we believe the prospect of payment, performance, or realization on any property given as security is significantly impaired.

The following provision applies to borrowers in Wisconsin: You shall be in default under this Agreement if any of the following occur: (a) if an amount exceeding one (1) full payment due under this Agreement is more than ten (10) days late or if the first or last payment due under this Agreement is more than forty (40) days late; OR (b) you breach any term or condition of this Agreement, which breach materially impairs your ability to pay amounts when due or materially impairs the condition, value, or protection of our rights to or in any collateral securing this transaction.

The following provision applies to all other borrowers: You shall be considered in default if any of the following occur: (1) if you break any promise made under this Loan Agreement or under the Security Agreement; or (2) if you do not use the money we loaned you for the purpose stated in your application; or (3) if we should, in good faith, believe that prospect or payment, performance or realization of the collateral, if any, is impaired; or (4) if you die; or (5) if you file a petition in bankruptcy, insolvency or receivership or are put involuntarily into such proceedings; or (6) if the collateral, if any, given as security for this loan, is lost, damaged or destroyed, or if it is levied against, attached, garnished, or seized for any reason under any authority; or (7) if you do not pay on time any of your current or future debts to us; or (8) if anyone is in default of any Security Agreement given in connection with any loan under this Agreement; or (9) if you make any false or misleading statements in any credit application or update of credit information; or (10) you are in default of any other loan or Security Agreement you have with the Credit Union; or (11) you use the Agreement for any illegal purpose or transaction as determined by applicable law. If you default, we may, at our option, declare this loan immediately due and payable and you must immediately pay to us at that time the total unpaid balance, as well as the Finance Charge to date, any late charges and costs of collection permitted under law, including reasonable attorney's fees.

Costs of Collection: You shall pay all costs incurred by us in collecting any amount you owe or in enforcing or protecting our rights. Costs of collection include, but are not limited to, collection agency fees, repossession fees, appraisals, environmental site assessments, and casualty insurance. *The following, applies to all borrowers except Wisconsin borrowers:* Costs of collection also include reasonable attorney's fees for any action taken by an attorney who is not our salaried employee in order to collect this loan or preserve or protect our rights and remedies, including, without limitation, pre-suit demands for payment, pre-suit mediation or settlement, negotiations, investigation and assessment of our rights, participation in bankruptcy cases, matters, and proceedings (including, without limitation, filing proofs of claim, pursuing reaffirmation Agreements, attending meetings of creditors and pursuing complaints, motions, and objections that relate in any way to the credit union's collateral or right to the payment), collateral disposition, non-bankruptcy suits and/or administrative actions, and appeals. *For Alabama borrowers:* attorney's fees after default shall not exceed 15% of the unpaid debt, or such higher amount as a court may allow. *For Georgia borrowers:*

attorney's fees shall not exceed 15% of principal and accrued interest or such higher amount as a court may allow.

Action Upon Default: *The following provision applies to borrowers in Colorado, District of Columbia, Kansas, Maine, Massachusetts, Missouri, Nebraska, and West Virginia:* Once you have defaulted, and after the expiration of any right you may have under applicable state law to cure your default, we can demand immediate payment of the entire unpaid balance of the loan without giving you advance notice. The principal balance in default shall bear interest at the contract rate, or a default rate, if one has been disclosed to you, or another rate if required by applicable law.

The following provision applies to borrowers in Wisconsin:

Right to Cure Default: If you are in default under this Agreement we must give a notice of default to you pursuant to Wisconsin Statutes sec. 425.104425.105. You shall have fifteen (15) calendar days from the date the notice is mailed to you to cure the default. In the event of an uncured default, we shall have all the rights and remedies for default provided under the Wisconsin Consumer Act, Uniform Commercial Code, or other applicable law including, but not limited to, the right to repossess the collateral. We may waive any default without waiving any other subsequent or prior default by you.

No Right to Cure: Pursuant to Wis. Stat. Sec. 425.105(3), you shall not have the right to cure a default if the following occur twice during the preceding twelve (12) months: (a) you were in default on the closed-end Agreement; (b) we gave you notice of the right to cure such previous default in accordance with Wis. Stat. Sec. 425.104; and (c) you cured the previous default.

Nothing in this Agreement shall be construed to restrict our ability to exercise our rights under the Wisconsin Consumer Act, Uniform Commercial Code, or other applicable law, including, but not limited to, the right to repossess the collateral.

STATE NOTICES:

NOTICES TO WISCONSIN BORROWERS: No provision of a marital property Agreement, a unilateral Agreement under Wis. Stat. Section 766.59, or a court decree under Wis. Stat. 766.70 adversely affects the interest of the Credit Union unless prior to the time the credit is extended, the Credit Union is furnished with a copy of the Agreement or statement, or has actual knowledge of the adverse provision when the obligation to the Credit Union is incurred.

NOTICE TO UTAH BORROWERS: This written Agreement is a final expression of the Agreement between you and the Credit Union. This written Agreement may not be contradicted by evidence of any oral Agreement.

For Missouri Residents: Oral Agreements or commitments to loan money, extend credit or to forbear from enforcing repayment of a debt including promises to extend or renew such debt are not enforceable. To protect you (borrower) and us (creditor) from misunderstanding or disappointment, any Agreements we reach covering such matters are contained in this writing, which is the complete and exclusive statement of the Agreement between us, except as we may later agree in writing to modify it.

For Vermont Residents: **NOTICE TO CO-BORROWER: YOUR SIGNATURE ON THIS LOAN MEANS THAT YOU ARE EQUALLY LIABLE FOR REPAYMENT OF THE LOAN. IF THE BORROWER DOES NOT PAY, THE LENDER HAS A LEGAL RIGHT TO COLLECT FROM YOU.**

OHIO RESIDENTS ONLY: The Ohio laws against discrimination require that all creditors make credit equally available to all creditworthy customers, and that credit reporting agencies maintain separate credit histories on each individual upon request. The Ohio Civil Rights Commission administers compliance with this law.

For purposes of foreclosure under Louisiana executory process, you hereby confess judgment in our favor for all amounts secured by the Agreement, including, but not limited to, principal, interest, late charges, costs of collection, costs of preservation of the collateral, reasonable attorney's fees, and all other amounts under the Agreement. We may appoint a keeper of the property in the event of foreclosure. To the extent allowed under Louisiana law, you hereby waive the following rights and procedures under Louisiana law: (a) all rights and benefit of appraisal; (b) notice of seizure; (c) the 3-day delay afforded under Articles 2331 and 2722; and (d) all other provisions under Articles 2331, 2722 and 2723 and all other Articles not specifically mentioned herein. You further agree that any declaration of fact made by authentic act by a person declaring that such facts are within his or her knowledge shall constitute authentic evidence of facts for the purposes of foreclosure under applicable Louisiana law and for the purposes of LSA-R.S. 9:3504(D)(6) and LSA-R.S. 10:9-508, to the extent applicable.

Telephone/Electronic Communication

You authorize the use of all electronic signature, facsimile signature for all purposes. Said signatures to have the same force and effect as original signatures for all transactions included in applications and Agreements with us.

You consent to receive calls. You agree if you have provided any telephone number, including wireless (cell phone) or email address to us in any credit union form, you are giving your consent for the Credit Union and/or our third-party providers, including debt collectors to contact you by telephone or cell phone which could result in message and data charges to you, or email address associated with your account in order to service your account, deliver messages related to suspected or actual fraudulent activity on your account or collect amounts owed to us, excluding any contacts for advertising and telemarketing purposes as prescribed by law. You understand if we contact you at any telephone number, cell phone (voice or text), or email address you have provided, you agree we may contact you whether these numbers are dialed manually or by means of an automatic telephone dialing system, or whether we use a pre-recorded message. You understand and agree that you are not required to consent to telephone contact as a condition of purchasing any property, goods or service (including loans).

You agree that the Credit Union or its agents or service providers may monitor and record telephone calls pertaining to your account to assure the quality of your service or for other reasons.

If you have provided a wireless telephone number(s) on or in connection with any account, you represent and agree you are the wireless subscriber or customary user with respect to the wireless telephone number(s) provided and have the authority to give this consent. Furthermore, you agree to notify us of any change to the wireless telephone number(s) which you have provided us.

You may withdraw your consent at any time by contacting the Credit Union by phone or in person or any other reasonable means and informing us of your preferences.

Solar UCC Secured Plans

10 Year Term - No Payments for 6 Months

(Interest accrues during no payment period)

| Plan # | Interest Rate | Dealer Fee | Payment Factor |
|--------|---------------|------------|----------------|
| 4540 | 4.99% | 14.50% | 1.09% |
| 4550 | 5.99% | 10.50% | 1.14% |
| 4560 | 6.99% | 6.50% | 1.20% |
| 4570 | 7.99% | 0.00% | 1.26% |

Min: \$7,500 / Max: \$100,000

15 Year Term - No Payments for 6 Months

(Interest accrues during no payment period)

| Plan # | Interest Rate | Dealer Fee | Payment Factor |
|--------|---------------|------------|----------------|
| 4640 | 4.99% | 20.00% | 0.81% |
| 4650 | 5.99% | 14.00% | 0.87% |
| 4660 | 6.99% | 9.00% | 0.93% |
| 4670 | 7.99% | 0.00% | 0.99% |

Min: \$10,000 / Max: \$100,000

20 Year Term - No Payments for 6 Months

(Interest accrues during no payment period)

| Plan # | Interest Rate | Dealer Fee | Payment Factor |
|--------|---------------|------------|----------------|
| 4740 | 4.99% | 24.00% | 0.68% |
| 4750 | 5.99% | 17.00% | 0.74% |
| 4760 | 6.99% | 10.00% | 0.80% |
| 4770 | 7.99% | 0.00% | 0.87% |

Min: \$12,500 / Max: \$100,000

Dealer Favorite - \$0 Dealer Fee!

- Effective Date: 11/01/2023
- For approved dealers only.
- Approvals & dealer fees are valid for 180 days.
- Rates are subject to change.
- All loans are subject to a \$295 processing fee that will be financed over the life of the loan.
- Dealer will be charged a \$250 fee for canceled loans if funds have been advanced prior to cancellation.
- Interest will begin to accrue on the outstanding balance on the date the loan is funded or date of draw, whichever comes first.
- All payment factors are estimates.
- All dealer fees and membership fees will be debited from loan proceeds.
- Federally insured by NCUA.

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Solar Unsecured Plans

60 Month Term - No Payments for 6 Months

(Interest accrues during no payment period)

| Plan # | Interest Rate | Dealer Fee | Payment Factor |
|--------|---------------|------------|----------------|
| 1445 | 4.99% | 11.50% | 1.90% |
| 1455 | 5.99% | 9.50% | 1.94% |
| 1465 | 6.99% | 7.00% | 1.99% |
| 1475 | 7.99% | 4.50% | 2.04% |
| 1485 | 8.99% | 0.00% | 2.09% |

Min: \$2,500 / Max: \$30,000

84 Month Term - No Payments for 6 Months

(Interest accrues during no payment period)

| Plan # | Interest Rate | Dealer Fee | Payment Factor |
|--------|---------------|------------|----------------|
| 1845 | 4.99% | 16.50% | 1.45% |
| 1855 | 5.99% | 13.50% | 1.50% |
| 1865 | 6.99% | 10.50% | 1.56% |
| 1875 | 7.99% | 7.50% | 1.61% |
| 1885 | 8.99% | 0.00% | 1.67% |

Min: \$5,000 / Max: \$30,000

Same as Cash - Without Payments

| Plan # | Term | Interest Rate | Dealer Fee | Payment Factor |
|--------|-----------|---------------|------------|----------------|
| 0073 | 12 Months | 14.99% | 7.50% | 3.00% |
| 0173 | 18 Months | 14.99% | 9.00% | 3.00% |
| 0273 | 24 Months | 14.99% | 10.00% | 3.00% |

Min: \$2,500 / Max: \$30,000

1 - Interest accrues during the promotional period, but all interest is waived if the loan is paid in full before the end of the promotional period.

2 - Payment factor is based on the outstanding balance.

Same as Cash - With Payments

| Plan # | Term | Interest Rate | Dealer Fee | Payment Factor |
|--------|-----------|---------------|------------|----------------|
| 2074 | 12 Months | 14.99% | 6.50% | 1.75% |
| 2174 | 18 Months | 14.99% | 8.00% | 1.75% |
| 2274 | 24 Months | 14.99% | 9.00% | 1.75% |
| 2374 | 36 Months | 14.99% | 12.50% | 1.75% |

Min: \$2,500 / Max: \$30,000

1 - Interest accrues during the promotional period, but all interest is waived if the loan is paid in full before the end of the promotional period.

2 - Payment factor is based on the original balance.

Dealer Favorite - \$0 Dealer Fee!

- Effective Date: 11/01/2023
- For approved dealers only.
- Rates are subject to change.
- Approvals & dealer fees are valid for 180 days.
- All payment factors are estimates.
- All dealer fees and membership fees will be debited from loan proceeds.
- Federally insured by NCUA.

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AMERICAN RESCUE PLAN ACT

AMENDMENT 1 — CERTIFICATION OF COMPLIANCE FOR EXPENDITURES USING FEDERAL FUNDS, INCLUDING THE AMERICAN RESCUE PLAN ACT

The Lexington-Fayette Urban County Government (“LFUCG”) may use Federal funding to pay for the goods and/or services that are the subject matter of this bid. That Federal funding may include funds received by LFUCG under the American Rescue Plan Act of 2021. Expenditures using Federal funds require evidence of the contractor’s compliance with Federal law. Therefore, by the signature below of an authorized company representative, you certify that the information below is understood, agreed, and correct. 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.

The bidder (hereafter “bidder,” or “contractor”) agrees and understands that in addition to all conditions stated within the attached bid documents, the following conditions will also apply to any Agreement entered between bidder and LFUCG, if LFUCG uses Federal funds, including but not limited to funding received by LFUCG under the American Rescue Plan Act (“ARPA”), toward payment of goods and/or services referenced in this bid. The bidder also agrees and understands that if there is a conflict between the terms included elsewhere in this Request for Proposal and the terms of this Amendment 1, then the terms of Amendment 1 shall control. The bidder further certifies that it can and will comply with these conditions, if this bid is accepted and an Agreement is executed:

1. Any Agreement executed as a result of acceptance of this bid may be governed in accordance with 2 CFR Part 200 and all other applicable Federal law and regulations and guidance issued by the U.S. Department of the Treasury.

2. Pursuant to 24 CFR § 85.43, any Agreement executed as a result of acceptance of this bid can be terminated if the contractor fails to comply with any term of the award. This Agreement may be terminated for convenience in accordance with 24 CFR § 85.44 upon written notice by LFUCG. Either party may terminate this Agreement with thirty (30) days written notice to the other party, in which case the Agreement shall terminate on the thirtieth day. In the event of termination, the contractor shall be entitled to that portion of total compensation due under this Agreement as the services rendered bears to the services required. However, if LFUCG suspects a breach of the terms of the Agreement and/or that the contractor is violating the terms of any applicable law governing the use of Federal funds, LFUCG may suspend the contractor’s ability to receive payment by giving thirty (30) days’ advance written notice. Further, either party may terminate this Agreement for cause shown with thirty (30) days written notice, which shall explain the party’s cause for the termination. If the parties do not reach a settlement before the end of the 30 days, then the Agreement shall terminate on the thirtieth day. In the event of a breach, LFUCG reserves the right to pursue any and all applicable legal, equitable, and/or administrative remedies against the contractor.

3. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

- (1) 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 apprenticeship. The contractor agrees to post in conspicuous places, available to employees and

applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- (4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part, and the contractor may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

Provided, however, that in the event a contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

4. If fulfillment of the contract requires the contractor to employ mechanic's or laborers, the contractor further agrees that it can and will comply with the following:

- (1) *Overtime requirements: No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such a workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such a workweek.*

- (2) *Violation: liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.*
- (3) *Withholding for unpaid wages and liquidated damages. LFUCG shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.*
- (4) *Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower-tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.*

5. *The contractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.*

6. *The contractor shall report each violation to LFUCG and understands and agrees that LFUCG will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency Regional Office.*

7. *The contractor shall include these requirements in numerical paragraphs 5 and 6 in each subcontract exceeding \$100,000 financed in whole or in part with Federal funding.*

8. *The contractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.*

9. *The contractor shall report each violation to LFUCG and understands and agrees that LFUCG will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency Regional Office.*

10. *The contractor shall include these requirements in numerical paragraphs 8 and 9 in each subcontract exceeding \$100,000 financed in whole or in part with Federal funds.*

11. *The contractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.*

12. *The contractor shall report each violation to LFUCG and understands and agrees that LFUCG will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency regional office.*

13. *The contractor shall include these requirements in numerical paragraphs 11 and 12 in each subcontract exceeding \$100,000 financed in whole or in part with American Rescue Plan Act funds.*

14. The contractor shall include this language in any subcontract it executes to fulfill the terms of this bid: “the sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury’s Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with ‘Limited English Proficiency’ in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury’s Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.”

15. *Contractors who apply or bid for an award of \$100,000 or more shall file the required certification that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier, up to the recipient. The required certification is included here:*

- a. The undersigned certifies, to the best of his or her knowledge and belief, that:
 - (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.
 - (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
- b. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

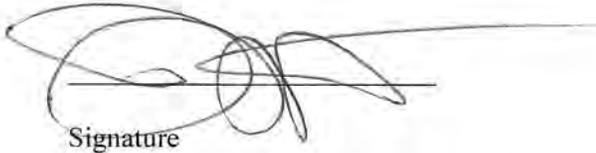
16. The contractor acknowledges and certifies that it has not been debarred or suspended and further acknowledges and agrees that it must comply with regulations regarding debarred or suspended entities in accordance with 24 CFR § 570.489(l). Funds may not be provided to excluded or disqualified persons.

17. The contractor agrees and certifies that to the greatest extent practicable, it will prefer the purchase, acquisition, and use of all applicable goods, products or materials produced in the United States, in

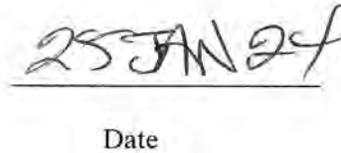
conformity with 2 CFR 200.322 and/or section 70914 of Public Law No. 117-58, §§ 70901-52, also known as the Infrastructure Investment and Jobs Act, whichever is applicable.

18. The contractor agrees and certifies that all activities performed pursuant to any Agreement entered as a result of the contractor's bid, and all goods and services procured under that Agreement, shall comply with 2 C.F.R. § 200.216 (Prohibition on certain telecommunications and video surveillance services and equipment) and 2 C.F.R. 200 § 200..323 (Procurement of recovered materials), to the extent either section is applicable.

19. If this bid involves construction work for a project totaling \$10 million or more, then the contractor further agrees that all laborers and mechanics, etc., employed in the construction of the public facility project assisted with funds provided under this Agreement, whether employed by contractor, or contractor's contractors, or subcontractors, shall be paid wages complying with the Davis-Bacon Act (40 U.S.C. 3141-3144). Contractor agrees that all of contractor's contractors and subcontractors will pay laborers and mechanics the prevailing wage as determined by the Secretary of Labor and that said laborers and mechanics will be paid not less than once a week. The contractor agrees to comply with the Copeland Anti- Kick Back Act (18 U.S.C. § 874) and its implementing regulations of the U.S. Department of Labor at 29 CFR part 3 and part 5. The contractor further agrees to comply with the applicable provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. Section 327-333), and the applicable provisions of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. et seq.). Contractor further agrees that it will report all suspected or reported violations of any of the laws identified in this paragraph to LFUCG.



Signature



Date

SELECTION CRITERIA:

Selection Criteria.

| | |
|--|----|
| Installer's Credentials and Experience (Response Form Part 1) | 25 |
| Proposal Cost Effectiveness (Response Form Parts 2 and 3) | 40 |
| Proposed Quality of Hardware, Warranty, and Service (Response Form Parts 4 and 5) | 30 |
| Installer's Community Benefits and Additional Offerings (Response Form Parts 6 and 7) | 5 |

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 submitted via IonWave at: <https://lexingtonky.ionwave.net>

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.

**EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE
ACTION POLICY
SOLAR ENERGY SOLUTIONS**

PAGE 1 OF 1

APPROVED BY
FRAN LOCKWOOD

DOCUMENT FILE NAME
AFFIRMATIVE ACTION

Purpose

The policy defines the requirements for ensuring Equal Employment Opportunity and Affirmative Action.

2. Scope

This policy applies to Solar Energy Solutions in the United States.

3. Policy

It is the policy of Solar Energy Solutions to employ and advance in employment qualified person without discrimination against any employee or applicant for employment because of race, creed, color, religion, sex, age, national origin, sexual orientation, marital status, disability status, status as a protected veteran, (including disabled veteran or special disabled veteran, veteran of the Vietnam era, recently separated veteran, armed force service medal veteran or other protected veteran) or other characteristic protected by national or state/provincial law.

To effectuate our commitment to this policy, the company has established affirmative action programs under which we will:

1. Recruit, hire, train and promote qualified persons in all job titles, and ensure that all other personnel actions are administered without regard to race, color, religion, sex, nation origin, disability, or status as a protected veteran.
2. Ensure that all employment decisions are based on valid job requirements to further the principle of equal employment opportunity.
3. Ensure that promotion decisions are in accord with principles of equal employment opportunities by imposing only valid requirements for promotional opportunities.
4. Ensure that all personnel actions, such as compensation, benefits, hiring, promotions, terminations, transfers, layoffs, return from layoff, company sponsored training, education, tuition assistance, social and recreational programs, will be administered without regard to race, color, religion, sex, or national origin.
5. Take affirmative action to employ and advance in employment women and minorities, qualified individuals with a disability and protected veterans at all levels of employment, including the executive.
6. Ensure employee and applicants shall not be subject to harassment, intimidation, threats, coercion, or discrimination because they have engaged in or may engage in any protected activity or exercised any protected right under equal employment opportunity or affirmation action laws or regulations.

The Human Resource Manager shall monitor the implementation and compliance to this policy.

Master files are stored electronically and are available to all team members. Printed copies of the master files are for reference only.

AFFIDAVIT

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

1. His/her name is Jeffery Nazarko and he/she is the individual submitting the proposal or is the authorized representative of Solar Energy Solutions, 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 Procurement 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 KENTUCKY

COUNTY OF FAYETTE

The foregoing instrument was subscribed, sworn to and acknowledged before me

by JEFF NAZARKO on this the 25th day
of JANUARY, 2024.

My Commission expires: 2/8/27

Patrick Thompson
NOTARY PUBLIC, STATE AT LARGE



EQUAL OPPORTUNITY AGREEMENT

Standard Title VI Assurance

The Lexington Fayette-Urban County Government, (hereinafter referred to as the "Recipient") hereby agrees that as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78Stat.252, 42 U.S.C. 2000d-4 (hereinafter referred to as the "Act"), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, (49 CFR, Part 21) Nondiscrimination in Federally Assisted Program of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the "Regulations") and other pertinent directives, no person in the United States shall, on the grounds of race, color, national origin, sex, age (over 40), religion, sexual orientation, gender identity, veteran status, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance from the U.S. Department of Transportation, including the Federal Highway Administration, and hereby gives assurance that will promptly take any necessary measures to effectuate this agreement. This assurance is required by subsection 21.7(a) (1) of the Regulations.

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:

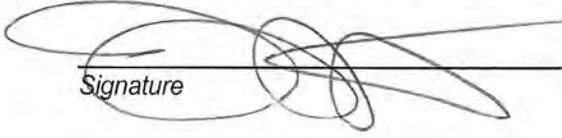
The Secretary of Labor may investigate the employment practices of any Government contractor or sub-contractor to determine whether or not the contractual provisions specified in Section 202 of this order have been violated.

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.

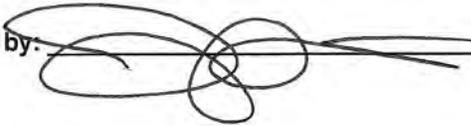

Signature

Solar Energy Solutions
Name of Business

WORKFORCE ANALYSIS FORM

Name of Organization: Solar Energy Solutions

| Categories | Total | White (Not Hispanic or Latino) | | Hispanic or Latino | | Black or African-American (Not Hispanic or Latino) | | Native Hawaiian and Other Pacific Islander (Not Hispanic or Latino) | | Asian (Not Hispanic or Latino) | | American Indian or Alaskan Native (not Hispanic or Latino) | | Two or more races (Not Hispanic or Latino) | | Total | |
|------------------|-----------|--------------------------------|---|--------------------|---|--|---|---|---|--------------------------------|---|--|---|--|---|-------|---|
| | | M | F | M | F | M | F | M | F | M | F | M | F | M | F | M | F |
| Administrators | 6 | 4 | 2 | | | | | | | | | | | | | | |
| Professionals | 26 | 22 | 4 | | | | | | | | | | | | | | |
| Superintendents | | | | | | | | | | | | | | | | | |
| Supervisors | 9 | 8 | | 1 | | | | | | | | | | | | | |
| Foremen | | | | | | | | | | | | | | | | | |
| Technicians | 2 | 2 | | | | | | | | | | | | | | | |
| Protective | | | | | | | | | | | | | | | | | |
| Para- | | | | | | | | | | | | | | | | | |
| Office/Clerical | | | | | | | | | | | | | | | | | |
| Skilled Craft | 29 | 24 | | 1 | | 2 | | | | 1 | | | | | | | |
| Service/Maintena | | | | | | | | | | | | | | | | | |
| Total: | 72 | | | | | | | | | | | | | | | | |

Prepared by:  Date: 9/25/24

(Name and Title)

Revised 2015-Dec-15

**DIRECTOR, DIVISION OF PROCUREMENT
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

Notice of requirement for Affirmative Action to ensure Equal Employment Opportunities and Disadvantaged Business Enterprises (DBE) Contract participation. Disadvantaged Business Enterprises (DBE) consists of Minority-Owned Business Enterprises (MBE) and Woman-Owned Business Enterprises (WBE).

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 Disadvantaged Business Enterprises, which is made up of MBEs and WBEs. The Lexington Fayette Urban County Government also has set a goal that not less than three percent (3%) of the total value of this Contract be subcontracted to Veteran-owned Small Businesses. The goal for the utilization of Disadvantaged Business Enterprises as well Veteran –owned Small Businesses as subcontractors is a recommended goal. Contractor(s) who fail to meet such goal will be expected to provide written explanations to the Director of the Division of Purchasing of efforts they have made to accomplish the recommended goal, and the extent to which they are successful in accomplishing the recommended goal will be a consideration in the procurement process. Depending on the funding source, other DBE goals may apply.

For assistance in locating Disadvantaged Business Enterprises Subcontractors contact:

Sherita Miller, MPA, Division of Procurement
Lexington-Fayette Urban County Government
200 East Main Street, 3rd Floor, Room 338
Lexington, Kentucky 40507
smiller@lexingtonky.gov

Firm Submitting Proposal: Solar Energy Solutions

Complete Address: 1038 Brentwood Court, Lexington, KY, 40511
Street City Zip

Contact Name: Jeffery Nazarko Title: VP, Sales & Marketing

Telephone Number: 502-649-2922 Fax Number: _____

Email address: Jeff@sesre.com

Lexington-Fayette Urban County Government
MWDBE PARTICIPATION GOALS

A. GENERAL

- 1) The LFUCG request all potential contractors to make a concerted effort to include Minority-Owned (MBE), Woman-Owned (WBE), Disadvantaged (DBE) Business Enterprises and Veteran-Owned Small Businesses (VOSB) as subcontractors or suppliers in their bids.
- 2) Toward that end, the LFUCG has established 10% of total procurement costs as a Goal for participation of Minority-Owned, Woman-Owned and Disadvantaged Businesses on this contract.
- 3) **It is therefore a request of each Bidder to include in its bid, the same goal (10%) for MWDBE participation and other requirements as outlined in this section.**
- 4) The LFUCG has also established a 3% of total procurement costs as a Goal for participation for of Veteran-Owned Businesses.
- 5) **It is therefore a request of each Bidder to include in its bid, the same goal (3%) for Veteran-Owned participation and other requirements as outlined in this section.**

B. PROCEDURES

- 1) The successful bidder will be required to report to the LFUCG, the dollar amounts of all payments submitted to Minority-Owned, Woman-Owned or Veteran-Owned subcontractors and suppliers for work done or materials purchased for this contract. (See Subcontractor Monthly Payment Report)
- 2) Replacement of a Minority-Owned, Woman-Owned or Veteran-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 MWDBE Firm; this is subject to approval by the LFUCG. (See LFUCG MWDBE Substitution Form)
- 3) For assistance in identifying qualified, certified businesses to solicit for potential contracting opportunities, bidders may contact:
 - a) The Lexington-Fayette Urban County Government, Division of Procurement (859-258-3320)
- 4) The LFUCG will make every effort to notify interested MWDBE and Veteran-Owned subcontractors and suppliers of each Bid Package, including information on the scope of work, the pre-bid meeting time and location, the bid date, and all other pertinent information regarding the project.

C. DEFINITIONS

- 1) A Minority-Owned Business Enterprise (MBE) is defined as a business which is certified as being at least 51% owned, managed and controlled by persons of African American, Hispanic, Asian, Pacific Islander, American Indian or Alaskan Native Heritage.
- 2) A Woman-Owned Business Enterprise (WBE) is defined as a business which is certified as being at least 51% owned, managed and controlled by one or more women.

- 3) A Disadvantaged Business (DBE) is defined as a business which is certified as being at least 51% owned, managed and controlled by a person(s) that are economically and socially disadvantaged.
- 4) A Veteran-Owned Small Business (VOSB) is defined as a business which is certified as being at least 51% owned, managed and controlled by a veteran and/or a service disabled veteran.
- 5) Good Faith Efforts are efforts that, given all relevant circumstances, a bidder or proposer actively and aggressively seeking to meet the goals, can reasonably be expected to make. In evaluating good faith efforts made toward achieving the goals, whether the bidder or proposer has performed the efforts outlined in the Obligations of Bidder for Good Faith Efforts outlined in this document will be considered, along with any other relevant factors.

D. OBLIGATION OF BIDDER FOR GOOD FAITH EFFORTS

- 1) **The bidder shall make a Good Faith Effort to achieve the Participation Goal for MWDBE and Veteran-Owned 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.**
- 2) Award of Contract shall be conditioned upon satisfaction of the requirements set forth herein.
- 3) The Form of Proposal includes a section entitled "MWDBE Participation Form". The applicable information must be completed and submitted as outlined below.
- 4) **Failure to submit this information as requested may be cause for rejection of bid or delay in contract award.**

E. DOCUMENTATION REQUIRED FOR GOOD FAITH EFFORTS

- 1) Bidders reaching the Goal are required to submit only the MWDBE Participation Form." The form must be fully completed including names and telephone number of participating MWDBE firm(s); type of work to be performed; estimated value of the contract and value expressed as a percentage of the total Lump Sum Bid Price. The form must be signed and dated, and is to be submitted with the bid.
- 2) Bidders not reaching the Goal must submit the "MWDBE Participation Form", the "Quote Summary Form" and a written statement documenting their Good Faith Effort to do so. If bid includes no MWDBE and/or Veteran participation, bidder shall enter "None" on the subcontractor / supplier form). In addition, the bidder must submit written proof of their Good Faith Efforts to meet the Participation Goal:
 - a. Advertised opportunities to participate in the contract in at least two (2) publications of general circulation media; trade and professional association publications; small and minority business or trade publications; and publications or trades targeting minority, women and disadvantaged businesses not less than fifteen (15) days prior to the deadline for submission of bids to allow MWDBE firms and Veteran-Owned businesses to participate.
 - b. Included documentation of advertising in the above publications with the bidders good faith efforts package

- c. Attended LFUCG Procurement Economic Inclusion Outreach event
- d. Attended pre-bid meetings that were scheduled by LFUCG to inform MWDBEs and/or Veteran-Owned businesses of subcontracting opportunities
- e. Sponsored Economic Inclusion event to provide networking opportunities for prime contractors and MWDBE firms and Veteran-Owned businesses.
- f. Requested a list of MWDBE and/or Veteran subcontractors or suppliers from LFUCG and showed evidence of contacting the companies on the list(s).
- g. Contacted organizations that work with MWDBE companies for assistance in finding certified MWDBE firms and Veteran-Owned businesses to work on this project. Those contacted and their responses should be a part of the bidder's good faith efforts documentation.
- d. Sent written notices, by certified mail, email or facsimile, to qualified, certified MWDBEs and/or Veteran-Owned businesses soliciting their participation in the contract not less than seven (7) days prior to the deadline for submission of bids to allow them to participate effectively.
- e. Followed up initial solicitations by contacting MWDBEs and Veteran-Owned Businesses to determine their level of interest.
- j. Provided the interested MWDBE firm and/or Veteran-Owned business with adequate and timely information about the plans, specifications, and requirements of the contract.
- k. Selected portions of the work to be performed by MWDBE firms and/or Veteran-Owned businesses in order to increase the likelihood of meeting the contract goals. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate MWDBE and Veteran participation, even when the prime contractor may otherwise perform these work items with its own workforce
- l. Negotiated in good faith with interested MWDBE firms and Veteran-Owned businesses not rejecting them as unqualified without sound reasons based on a thorough investigation of their capabilities. Any rejection should be so noted in writing with a description as to why an agreement could not be reached.
- m. Included documentation of quotations received from interested MWDBE firms and Veteran-Owned businesses which were not used due to uncompetitive pricing or were rejected as unacceptable and/or copies of responses from firms indicating that they would not be submitting a bid.
- n. Bidder has to submit sound reasons why the quotations were considered unacceptable. The fact that the bidder has the ability and/or desire to perform the contract work with its own forces will not be considered a sound reason for rejecting a MWDBE and/or Veteran-Owned business's quote. Nothing in this provision shall be construed to require the bidder to accept unreasonable quotes in order to satisfy MWDBE and Veteran goals.

- o. Made an effort to offer assistance to or refer interested MWDBE firms and Veteran-Owned businesses to obtain the necessary equipment, supplies, materials, insurance and/or bonding to satisfy the work requirements of the bid proposal
- p. Made efforts to expand the search for MWBE firms and Veteran-Owned businesses beyond the usual geographic boundaries.
- q. Other--any other evidence that the bidder submits which may show that the bidder has made reasonable good faith efforts to include MWDBE and Veteran participation.

Note: Failure to submit any of the documentation requested in this section may be cause for rejection of bid. Bidders may include any other documentation deemed relevant to this requirement which is subject to review by the MBE Liaison. Documentation of Good Faith Efforts must be submitted with the Bid, if the participation Goal is not met.



MINORITY BUSINESS ENTERPRISE PROGRAM

Sherita Miller, MPA
Minority Business Enterprise Liaison
Division of Procurement
Lexington-Fayette Urban County Government
200 East Main Street
Lexington, KY 40507
smiller@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 484-2017 – A Certified Minority, Women and Disadvantaged Business Enterprise ten percent (10%) minimum goal and a three (3%) minimum goal for Certified Veteran-Owned Small Businesses and Certified Service Disabled Veteran – Owned Businesses for government contracts.

The resolution states the following definitions shall be used for the purposes of reaching these goals (a full copy is available in Procurement):

Certified Disadvantaged Business Enterprise (DBE) – a business in which at least fifty-one percent (51%) is owned, managed and controlled by a person(s) who is socially and economically disadvantaged as define by 49 CFR subpart 26.

Certified Minority Business Enterprise (MBE) – a business in which at least fifty-one percent (51%) is owned, managed and controlled by an ethnic minority (i.e. African American, Asian American/Pacific Islander, Hispanic Islander, Native American/Native Alaskan Indian) as defined in federal law or regulation as it may be amended from time-to-time.

Certified Women Business Enterprise (WBE) – a business in which at least fifty-one percent (51%) is owned, managed and controlled by a woman.

Certified Veteran-Owned Small Business (VOSB) – a business in which at least fifty-one percent (51%) is owned, managed and controlled by a veteran who served on active duty with the U.S. Army, Air Force, Navy, Marines or Coast Guard.

Certified Service Disabled Veteran Owned Small Business (SDVOSB) – a business in which at least fifty-one percent (51%) is owned, managed and controlled by a disabled veteran who served on active duty with the U.S. Army, Air Force, Navy, Marines or Coast Guard.

The term “Certified” shall mean the business is appropriately certified, licensed, verified, or validated by an organization or entity recognized by the Division of Purchasing as having the appropriate credentials to make a determination as to the status of the business.

We have compiled the list below to help you locate certified MBE, WBE and DBE certified businesses. Below is a listing of contacts for LFUCG Certified MWDBEs and Veteran-Owned Small Businesses in (<https://lexingtonky.ionwave.net>)

| Business | Contact | Email Address | Phone |
|---|--|--|--------------|
| LFUCG | Sherita Miller | smiller@lexingtonky.gov | 859-258-3323 |
| Commerce Lexington – Minority Business Development | Tyrone Tyra | ttyra@commercelexington.com | 859-226-1625 |
| Tri-State Minority Supplier Diversity Council | Susan Marston | smarston@tsmsdc.com | 502-365-9762 |
| Small Business Development Council | Shawn Rogers UK SBDC | shawn.rogers@uky.edu | 859-257-7666 |
| Community Ventures Corporation | Phyllis Alcorn | palcorn@cvky.org | 859-231-0054 |
| KY Transportation Cabinet (KYTC) | Melvin Byne | Melvin.bynes2@ky.gov | 502-564-3601 |
| KYTC Pre-Qualification | Shella Eagle | Shella.Eagle@ky.gov | 502-782-4815 |
| Ohio River Valley Women’s Business Council (WBENC) | Sheila Mixon | smixon@orvwbc.org | 513-487-6537 |
| Kentucky MWBE Certification Program | Yvette Smith, Kentucky Finance Cabinet | Yvette.Smith@ky.gov | 502-564-8099 |
| National Women Business Owner’s Council (NWBOC) | Janet Harris-Lange | janet@nwbo.org | 800-675-5066 |
| Small Business Administration | Robert Coffey | robertcoffey@sba.gov | 502-582-5971 |
| LaVoz de Kentucky | Andres Cruz | lavozdeky@yahoo.com | 859-621-2106 |
| The Key News Journal | Patrice Muhammad | production@keynewsjournal.com | 859-685-8488 |



LFUCG MWDBE PARTICIPATION FORM

Bid/RFP/Quote Reference # _____

The MWDBE and/or veteran 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 Procurement for approval immediately. **Failure to submit a completed form may cause rejection of the bid.**

| MWDBE Company, Name, Address, Phone, Email | MBE WBE or DBE | 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 MWDBE 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

Company Representative

Date

Title

* SES will have no subcontractors on this project



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. The LFUCG also has a 3% goal plan adopted by cited council to increase the participation of veteran owned businesses in the procurement process. In order to measure that goal LFUCG will track spending with MWDBE and Veteran contractors 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 Procurement/ 200 East Main Street / Room 338 / Lexington, KY 40507.

Bid/RFP/Quote # _____

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

SES will have no subcontractors on this project.

LFUCG STATEMENT OF GOOD FAITH EFFORTS
Bid/RFP/Quote # _____

N/A

By the signature below of an authorized company representative, we certify that we have utilized the following Good Faith Efforts to obtain the maximum participation by MWDBE and Veteran-Owned business enterprises on the project and can supply the appropriate documentation.

_____ Advertised opportunities to participate in the contract in at least two (2) publications of general circulation media; trade and professional association publications; small and minority business or trade publications; and publications or trades targeting minority, women and disadvantaged businesses not less than fifteen (15) days prior to the deadline for submission of bids to allow MWDBE firms and Veteran-Owned businesses to participate.

_____ Included documentation of advertising in the above publications with the bidders good faith efforts package

_____ Attended LFUCG Procurement Economic Inclusion Outreach event

_____ Attended pre-bid meetings that were scheduled by LFUCG to inform MWDBEs and/or Veteran-Owned Businesses of subcontracting opportunities

_____ Sponsored Economic Inclusion event to provide networking opportunities for prime contractors and MWDBE firms and Veteran-Owned businesses

_____ Requested a list of MWDBE and/or Veteran subcontractors or suppliers from LFUCG and showed evidence of contacting the companies on the list(s).

_____ Contacted organizations that work with MWDBE companies for assistance in finding certified MWBDE firms and Veteran-Owned businesses to work on this project. Those contacted and their responses should be a part of the bidder's good faith efforts documentation.

_____ Sent written notices, by certified mail, email or facsimile, to qualified, certified MWDBEs soliciting their participation in the contract not less than seven (7) days prior to the deadline for submission of bids to allow them to participate effectively.

_____ Followed up initial solicitations by contacting MWDBEs and Veteran-Owned businesses to determine their level of interest.

_____ Provided the interested MWBDE firm and/or Veteran-Owned business with adequate and timely information about the plans, specifications, and requirements of the contract.

_____ Selected portions of the work to be performed by MWDBE firms and/or Veteran-Owned businesses in order to increase the likelihood of meeting the contract goals. This includes, where appropriate, breaking out contract work items

into economically feasible units to facilitate MWDBE and Veteran participation, even when the prime contractor may otherwise perform these work items with its own workforce

_____ Negotiated in good faith with interested MWDBE firms and Veteran-Owned businesses not rejecting them as unqualified without sound reasons based on a thorough investigation of their capabilities. Any rejection should be so noted in writing with a description as to why an agreement could not be reached.

_____ Included documentation of quotations received from interested MWDBE firms and Veteran-Owned businesses which were not used due to uncompetitive pricing or were rejected as unacceptable and/or copies of responses from firms indicating that they would not be submitting a bid.

_____ Bidder has to submit sound reasons why the quotations were considered unacceptable. The fact that the bidder has the ability and/or desire to perform the contract work with its own forces will not be considered a sound reason for rejecting a MWDBE and/or Veteran-Owned business's quote. Nothing in this provision shall be construed to require the bidder to accept unreasonable quotes in order to satisfy MWDBE and Veteran goals.

_____ Made an effort to offer assistance to or refer interested MWDBE firms and Veteran-Owned businesses to obtain the necessary equipment, supplies, materials, insurance and/or bonding to satisfy the work requirements of the bid proposal

_____ Made efforts to expand the search for MWBE firms and Veteran-Owned businesses beyond the usual geographic boundaries.

_____ Other--any other evidence that the bidder submits which may show that the bidder has made reasonable good faith efforts to include MWDBE and Veteran participation.

NOTE: Failure to submit any of the documentation requested in this section may be cause for rejection of bid. Bidders may include any other documentation deemed relevant to this requirement which is subject to approval by the MBE Liaison. Documentation of Good Faith Efforts must be submitted with the Bid, if the participation Goal is not met.

The undersigned acknowledges that all information is accurate. Any misrepresentations 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

SES will have no subcontractors on this project.

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 and IonWave Q&A, 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.

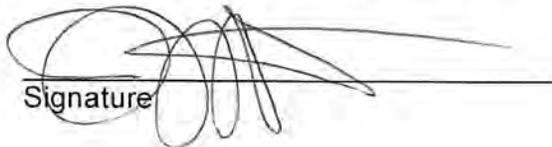
B. At Will Termination

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.
20. Contractor [or Vendor or Vendor's Employees] will not appropriate or make use of the Lexington-Fayette Urban County Government (LFUCG) name or any of its trade or service marks or property (including but not limited to any logo or seal), in any promotion, endorsement, advertisement, testimonial or similar use without the prior written consent of the government. If such consent is granted LFUCG reserves the unilateral right, in its sole discretion, to immediately terminate and revoke such use for any reason whatsoever. Contractor agrees that it shall cease and desist from any unauthorized use immediately upon being notified by LFUCG.


Signature


Date

Solarize Lexington 1. Installer Profile

Please fill in all blue cells with the requested information pertaining to the firm. If you need to provide explanatory notes, please use Column E.

Proposer Instructions

Date: 1/25/2024

| Proposer Contact Information | | | | Notes |
|---|---|---------|------|---|
| Name | River Fuchs | | | |
| Title | Regional Sales Director | | | |
| Phone Number | 859-270-7448 | | | |
| Email | river@sesre.com | | | |
| Firm Information | | | | Notes |
| Proposing Firm | Solar Energy Solutions | | | |
| Headquarters Address | 1038 Brentwood Ct, Lexington, Suite B, KY 40511 | | | |
| Local Address (where work will be completed for this project) | 1038 Brentwood Ct, Lexington, Suite B, KY 40511 | | | |
| FEIN | 20-496767 | | | |
| Kentucky License Number | CE64790 | | | |
| Subsidiaries & Affiliates Information | | | | Notes |
| | Name | Address | FEIN | |
| Company #1 | N/A | | | |
| Company #2 | N/A | | | |
| Company #3 | N/A | | | |
| Employee Information | | | | Notes |
| Number of Full Time Employees | 70 | | | |
| Number of Part Time Employees | 1 | | | |
| Number of Employees in Kentucky | 33 | | | |
| Number of Install Employees Permanently Based In Campaign Area | 13 | | | |
| Number of Sales Employees Permanently Based In Campaign Area | 5 | | | |
| Number of Employees with NAPCEP or UL Certification in Kentucky | 7 | | | |
| Number of Direct Employees with Kentucky Electricians License | 5 | | | Michael Nelson, Ezra Klarer, Dain Spurgeon, Jake Strong, Ben Jones, Rhodes Thompson |
| Number of Employees with Other Relevant Certifications | 4 | | | 2 PE, 1 KY Building and Construction License, 1 Drone License. |
| Firm Experience | | | | Notes |
| Years of Experience | | | | |
| Firm (total years) | 17 | | | |
| Firm (years in Kentucky) | 17 | | | |

| | | | | |
|--|-------------------------|----------------|-------------------|---|
| Project Manager (years) | Steven Riddle (2 years) | | | There are three additional Project Managers (PM) at SES and an O&M PM on staff. Steven primarily manages Lexington residential. |
| Lead Installer #1 (years) | Ezra Klarer (17 years) | | | |
| Lead Installer #2 (years) | Mike Nelson (10 years) | | | |
| Residential Solar PV Installations | 2021 | 2022 | 2023 | |
| Customer Owned Systems (in US) | 260 | 331 | 253 | |
| Customer Owned Systems (in Kentucky) | 143 | 222 | 170 | |
| Customer Owned Systems (in Lexington) | 19 | 40 | 95 | |
| Residential Energy Storage Installations | 2021 | 2022 | 2023 | |
| Customer Owned Systems (kWh in US) | 1795.5 | 1922.5 | 1323 | |
| Customer Owned Systems (kWh in Kentucky) | 1053 | 957 | 904.5 | |
| Customer Owned Systems (kWh in Lexington) | 148.5 | 187.5 | 283.5 | |
| Residential/Small Commercial Ground Mount Installs | 2021 | 2022 | 2023 | |
| Customer Owned Systems (# & kW in US) | 42 (1034.21) | 34 (886.72 KW) | 23 (358.34 kW) | |
| Site Evaluations | 2021 | 2022 | 2023 | |
| Estimated Number of Roofs Evaluated for Solar Remotely per Week (in Lexington) | 20 | 40 | 30 | |
| Estimated Number of Site Visits per Week (in Lexington) | 8 | 16 | 12 | |
| Lexington Area Residential Customer References | Name | Phone | Project Size (kW) | |
| Reference #1 | Edward Murner | 8595098235 | 10.8 | |
| Reference #2 | Patrick Mooney | 8595767729 | 8.8 | |
| Reference #3 | Andrew Bond | 5049058207 | 22.2 | |
| Financial Position | | | | Notes |
| Business Revenue & Profits | 2021 | 2022 | 2023 | |
| Annual Gross Revenues | | | | This can be provided separately with a signed NDA agreement. |
| Annual Net Profit | | | | This can be provided separately with a signed NDA agreement. |
| Financing Partners | 2021 | 2022 | 2023 | |
| Firm #1: Name | Sunlight Financial | | Credit Human | Credit Human was added in 2023 |
| Firm #1: Financing Product | Installment Loans | | | |
| Firm #1: # Customers That Used Product | 33 | 51 | 23 | |
| Firm #2: Name | Dividend* | | Sunlight/Dividend | We are onboarding Sunnova as financing options to provide more value to our customers. Sunnova loan products will give SES access to Aurora and offer extended warranties to customers. |
| Firm #2: Financing Product | Installment Loans | | | |

| Firm #2: # Customers That Used Product | | 8 | 3 SL / 6 Div | We are no longer offering Dividend Financial loan products. We are replacing that offering with Sunnova to provide customers with additional value. |
|--|--|-------------------------------|--------------|---|
| Insurance | | | | Notes |
| | Name | Coverage | Policy # | |
| Firm's Bank | Central Bank | N/A | N/A | |
| Entity Proving Bonding / Financial Backing | Travelers Insurance | | | \$15/30MM bond |
| Liability Insurer | West Bend Mutual Insurance Company | \$2MM General, \$4MM Umbrella | B216504 | |
| Worker's Compensation Insurer | KY AGC (100700) | \$4.5MM | | via Assured Partners |
| Is this business(local or parent company) or its management involved in any pending lawsuits, regulatory proceedings, or other legal proceedings involving the business? | Neither Solar Energy Solutions nor its management is involved in any pending lawsuits, regulatory proceedings, or other legal proceedings involving SES. | | | |
| Does the business conduct criminal background checks before hiring employees? | Solar Energy conducts background checks on all employees before hiring them. SES conducts a ten-year criminal background check and a five year motor vehicle check. <input type="checkbox"/> | | | |
| Is the business or any officer of the company involved in bankruptcy or insolvency proceedings? | Neither Solar Energy Solutions nor its officers are involved in bankruptcy or insolvency proceedings. | | | |

Solarize Lexington 2. Residential Solar PV Pricing

Please fill in all blue cells with the requested pricing information. Base pricing proposals should include total installation price, which includes system design, permitting, applicable materials and equipment, transportation, labor, and all equipment and workmanship warranties. The price should be independent of any tax credits or incentives available to the customers. Outline the specific process, electrical, mechanical, structural, equipment, site, or labor features that will result in cost reductions or increases above the Base Pricing Proposal. The Proposer should place \$0 for all applications that will not result in a cost modification and "N/A" if it is not offered.

Proposer Instructions

| Proposing Firm: | Solar Energy Solutions | | | | | | |
|---|----------------------------|-----------|-------------------------------|-----------|---------------|-----------|--|
| | Example Array Size (kW DC) | | | | | | Notes |
| Base Proposal | Tier 1: 5 kW | | Tier 2: 10 kW | | Tier 3: 20 kW | | |
| Standard Panel Price KY - NE Solar/ZNShine w/ Solaredge INV | 2.81 | \$/W | 2.58 | \$/W | 2.49 | \$/W | Full 'all component' turnkey install on single story roof. |
| Premium Panel Price KY - QCell Qtron 22% eff | 3.01 | \$/W | 2.78 | \$/W | 2.69 | \$/W | Tesla Inverter discount available - see below |
| Standard Panel Price Prior To Solarize Discount | 2.94 | \$/W | 2.63 | \$/W | 1.86 | \$/W | ZNShine + SolarEdge |
| Premium Panel Price Prior To Solarize Discount | 3.14 | \$/W | 2.83 | \$/W | 2.06 | \$/W | QCell + SolarEdge |
| Factor or Special Condition | | | | | | | |
| Microinverters | \$0.24 | \$/W | \$0.24 | \$/W | \$0.24 | \$/W | |
| Power Optimizers | \$0.00 | | \$0.00 | | \$0.00 | \$/Each | |
| Inverter Extended Warranty (each) | \$233.00 | \$ | \$386.00 | \$ | \$772.00 | \$ | SolarEdge 25 year warranty (20kW price assumes 2 inverters) |
| Extended Warranty Whole System (e.g.. SolarInsure) | \$0.10 | \$/W | \$0.10 | \$/W | \$0.10 | \$/W | Included at no charge for Grant Jobs, Optional at cost for others |
| Panels in Non-standard Orientation | \$0.35 | \$/W | \$0.27 | \$/W | \$0.22 | \$/W | |
| Roof Pitch > 7/12 to 12/12 | \$0.25 | \$/W | \$0.25 | \$/W | \$0.25 | \$/W | |
| Roof Pitch > 12/12 | \$0.50 | \$/W | \$0.50 | \$/W | \$0.50 | \$/W | |
| Additional Roof Surfaces (over 2) | \$325.00 | \$ | \$325.00 | \$ | \$325.00 | \$ | |
| Premium Roof Mount (rack free/low profile etc.) | \$0.10 | \$/W | \$0.10 | \$/W | \$0.10 | \$/W | |
| PVC Roof Vent Move | \$400.00 | \$ | \$400.00 | \$ | \$400.00 | \$ | |
| Ground Mount Adder (including 100' Trenching) | \$0.35 | \$/W | \$0.30 | \$/W | \$0.20 | \$/W | First 100 feet |
| Ground Mount Additional Trenching per 100' | \$0.02 | \$/w/10ft | \$0.02 | \$/w/10ft | \$0.017 | \$/w/10ft | Additional trenching beyond 100ft is added per watt/per 10ft section. (ex. 120 feet of trenching for 5 kW is \$0.35+\$0.02+\$0.02 = \$0.39 per watt) |
| Electrical Panel Upgrade (200A) | \$2,000.00 | \$ | \$2,000.00 | \$ | \$2,000.00 | \$ | Updating electric service at the same time is an additional \$1,000, |
| Critter Guards (\$/ft.) | \$3.15 | \$/ft | \$3.15 | \$/ft | \$3.15 | \$/ft | |
| Electric Service Upgrade - No new panel | \$2,000.00 | \$ | \$2,000.00 | \$ | \$2,000.00 | \$ | Updating the electric panel at the same time is an additional \$1,000 |
| Tesla Inverter Discount | -\$0.35 | \$/W | -\$0.28 | \$/W | -\$0.18 | \$/W | Discount available for using Tesla inverter in place of SolarEdge |
| Second Story Adder | \$1,000.00 | \$ | \$2,000.00 | \$ | \$3,000.00 | \$ | |
| Example Battery # | | | | | | | |
| Base Storage Proposal | 1 Battery | | 2 Battery | | 3 Battery | | Notes |
| Storage Capacity | 13.5 | kWh | 27 | kWh | 40.5 | kWh | Additional of batteries from same manufacturer to increase storage (kWh) size |
| Battery System Price - Tesla Powerwall basis of design | \$12,634 | \$ | \$24,403 | \$ | \$33,882 | \$ | |
| Battery System Price | \$1,232 | \$/kWh | \$1,089 | \$/kWh | \$1,034 | \$/kWh | Total cost/kWh |
| HVAC Compressor Soft Start Addition (if required) | n/a | \$ | n/a | \$ | n/a | \$ | |
| Add External Whole Home Disconnect if Not Already Present | 2000 | | 2000 | | 2000 | | Often needed for existing homes not built in recent years |
| Add AC Panelboard service wire changes | \$50/ft of wire | | | | | | Any replacement/re-routing of AC feeders from AC disconnect to backed-up panelboard |
| AC circuit Movement, 20A or less | \$300/first circuit | | \$100/each additional circuit | | | | Custom pricing for larger circuits |
| Powerwall 3 w/ array in lieu of SolarEdge w/ Optimizers | \$13,634 | | NA | | NA | | Only 1 PW3 currently allowed per home by Tesla, pending rollout (savings on no SolarEdge inv and optimizer). Other adders necessary |

Note: Battery system pricing must reflect standard full (turnkey) storage system install costs including battery, any required transformer, CT's, control, communication and partial or full load center install component additions. Pricing presumes no abnormal conduit/wiring runs and battery being adjacent to breaker panel

Note: Clearly indicate if there are variations in price offering, for example, for financed or cash purchases.

Solarize Lexington

3. Financing & Qualifications

Please fill in all blue cells with the requested information pertaining to your available financing products and qualifications. If you need to provide explanatory notes, please use Column D. If another company will be providing financing options, please provide a reference and contact information for a representative at the financing company you partner with and intend to offer to participants. If you propose to work with multiple lenders, please provide the information for each lender. Add more columns as necessary.

Proposer Instructions

| Proposing Firm: | | Solar Energy Solutions | | |
|---|--------------------------------------|--------------------------------------|--------------------------------------|---|
| Customer Ownership (Upfront Purchase) | | | | |
| Loan Terms | Offering #1 | Offering #2 | Offering #3 | Notes |
| Lender Company Name | Credit Human | Credit Human | Credit Human | |
| Lender Contact Name | Joe Hall | Joe Hall | Joe Hall | |
| Lender Contact Phone | 210-258-1983 | 210-258-1984 | 210-258-1985 | |
| Lender Contact Email | johall214@credithuman | johall214@credithuman | johall214@credithuman | |
| Product Name | Plan 4770 | Plan 4670 | Plan 4570 | |
| Term Length Range (Years) | 20 | 15 | 10 | Most common |
| Interest Rate Range (%) | 7.99 | 6.99 | 7.99 | Most common |
| Down Payment (\$ or %) | 0 | 0 | 0 | |
| Dealer fees | 0 | 0 | 0 | |
| How many customers have used this product in the past 12 months? | 7 | Relatively new loan product | Relatively new loan product | Others loan products that people have used have been discontinued as interest rate have shifted throughout the year |
| Qualifications | Offering #1 | Offering #2 | Offering #3 | Notes |
| Minimum FICO Score | 620 | 620 | 620 | |
| Maximum Debt-to-Income | Unsecured = 55% UCC Secured = 60% | Unsecured = 55% UCC Secured = 60% | Unsecured = 55% UCC Secured = 60% | |
| If selected, would this lender commit to piloting Energy Score as an alternative to FICO score? | No | No | No | |

Solarize Lexington

4. Equipment Specifications

Please fill in all blue cells with the requested information pertaining to the Standard PV System offering corresponding to the Base Pricing Proposal and Premium PV System offering corresponding to the Cost Increases in the "Pricing" tab. If you need to provide explanatory notes, please use Column D. If providing more than one type of standard equipment with the base pricing, provide the specifications below in "Additional Standard PV Equipment". Add rows to specify additional equipment, if needed.

Proposer Instructions

| Proposing Firm: | | | |
|---|-----------------------|--------------------|--|
| PV System Sizing | | Units | Notes |
| Minimum System Size Offered | No Minimum | kW-DC | Custom pricing below 4kW |
| Maximum System Size Offered | No Maximum | kW-DC | Custom pricing above 20kW |
| | | Units | Notes |
| Standard Panel | | | |
| Brand/Manufacturer | NE Solar/ ZNShine | | SES will supply NE Solar panels and then migrate to ZNShine panels. These are identical panels made at the same factory but name-plated differently for sale in different markets. This switch is due to capitalize on name recognition in the mid-west market, where ZNShine panels have greater recognition than NE Solar panels. We estimate these panels will be used on builds starting in June 2024. ZNShine is also on Sunnova's approved vendor list, creating opportunities for a loan product that offers its own extended warranty for those interested in financing options. |
| Wattage (W) | 410 | | |
| Country of Origin | Indonesia/Indones | Country | Indonesia after depletion of existing inventory, approx. May |
| Dimensions (H x W x D) | 67.8x44.6x1.18 | inches | |
| Efficiency | 20.97 | % | |
| Performance Warranty/Guarantee | 84.8% at 25yrs | % at X year | |
| Equipment Warranty/Guarantee | 12 | Years | |
| Output Degradation | 0.55% | % per year | 2% yr. one, 0.55% yr. to 25. |
| Premium Panel (higher Efficiency, Warranty Or Brand Quality) | | | |
| Brand/Manufacturer | QCell | | |
| Wattage (W) | 425 | | |
| Country of Origin | US | Country | |
| Dimensions (H x W x D) | 67.8x44.6x1.18 | inches | |
| Efficiency | 22.2 | % | |
| Performance Warranty/Guarantee | 90.58% at 25yrs | % at X year | |
| Equipment Warranty/Guarantee | 25 years | Years | |
| Output Degradation | 0.33% | % per year | 1.5% yr. one, 0.33% yr. to 25. |
| Inverter | | | |
| Brand/Manufacturer | Solar Edge | | Basis of design |
| Country of Origin | Vietnam | Country | |
| Model | E3000-11400H-US | | |
| CEC Efficiency | 99% | % | |
| Warranty | 12 | Coverage at X year | |
| Inverter | | | |
| Brand/Manufacturer | Tesla | | Where desired as deduct |
| Country of Origin | USA | Country | |
| Model | 1538000-xx-y | | |
| CEC Efficiency | 97.5% at 208 V | % | 98.0% at 240 V |
| Warranty | 12.5 | Coverage at X year | |
| Standard Roof Racking | | | |
| Racking Type/Description | Rail | | |
| Applicability for the Following Roof Types | Pitched Roofs | | |
| Brand/Manufacturer | Everest K2 Racking | | |
| Warranty | 12 | Years | |
| Country of Origin | Mexico | Country | |
| Flashing | | | |
| Flashing Type/Description | Roof Flashing | | |
| Brand/Manufacturer | Everest | | |
| Warranty | 12 | Years | |
| Country of Origin | Mexico | Country | |
| Premium Roof Racking Or Skirting, If Applicable (Array Skirting If Offered) | | | |

| | | | |
|--|---|---------|---|
| Racking Type/Description | SnapNRack | | |
| Applicability for the Following Roof Types | Pitched Roofs | | |
| Brand/Manufacturer | SnapNRack | | |
| Warranty | 25 | Years | |
| Country of Origin | USA | Country | |
| Ground Mount Racking | | | |
| Racking Type/Description | Fixed Tilt Racking | | |
| Brand/Manufacturer | Unirac | | |
| Warranty | 25 | Years | |
| Country of Origin | USA/Canada | Country | |
| Microinverter | | | |
| Brand/Manufacturer | Enphase | | |
| Type | IQ8 | | |
| Efficiency | 97.3 - 97.6 | % | |
| Warranty | 25 | Years | |
| Country of Origin | USA/Canada | Country | |
| Optimizer | | | |
| Brand/Manufacturer | Solar Edge | | |
| Type | S440 | | |
| Efficiency | 99.5 | % | |
| Warranty | 25 years | Years | |
| Country of Origin | Vietnam | Country | |
| Labor and Workmanship Warranties | | | |
| Describe the warranty provided for the installer's labor and workmanship? Must be no less than 5-years | system for five (5) years from date of installation. Solar Energy Solutions LLC warrants its system to be free from defects in workmanship and materials under installed service conditions. Solar Energy Solutions LLC warrants that it will replace or repair any faulty materials free of charge during the warranty period. Solar Energy Solutions LLC makes no claims to warrant any materials damaged by end user abuse or mismanagement. This warranty applies exclusively to system purchaser and is non-transferrable. Solar Energy Solutions LLC also bears no responsibility for damages resulting from system alterations performed by end user or other parties. | | |
| If provided describe the whole array warranty extension offering? | We will offer the SolarInsure extended warranty to customers for \$.10/watt. This will be added to all grant installations. Please note, SES 5 year warranty is a complete (full wrap) warranty. SolarInsure and most competitor warranties are limited warranties | | |
| Describe the roof penetration warranty provided. | Roof penetrations are covered under the 5 year installer warranty. Not to exceed the design life of the roof and assumes there is no issue with underlying roofing materials. Warranty on grant and for any customers that choose the Solar Insure extended warranty increases roof penetration warranty to 30 years. In 17 years, SES has not encountered roof penetration issues that did not materialize within first year. | | |
| Additional Equipment Offerings | | | |
| Other Standard Equipment Options (Specify): | Car charger 60A | \$1,200 | Emporia, may have adders for long wire runs |
| Other Standard Equipment Options (Specify): | Span Panel | \$8,785 | Smart 200A load center that replaces the electric panel |
| Other Standard Equipment Options (Specify): | | | |
| Other Standard Equipment Options (Specify): | | | |
| Other Standard Equipment Options (Specify): | | | |

Solarize Lexington

5. Battery Equipment Specifications

Please fill in all blue cells with the requested information pertaining to the complete energy storage system corresponding to the component costs in the "Pricing" tab. If you need to provide explanatory notes, please use Column D. If providing more than one type of standard equipment with the base pricing, provide the specifications below in "Additional Equipment Offerings". Add rows to specify additional equipment, if needed.

Proposer Instructions

| Proposing Firm: | | | |
|--|-----------------------------|----------------|--|
| Energy Storage System Equipment Offerings | | Units | Notes |
| Battery System 1 | | | |
| Brand/Manufacturer | Tesla | | Powerwall 2, Powerwall 3 is being phased in for integrated solar and battery systems in Q1/Q2. PW2 will continue to exist for battery only |
| Storage Capacity Total (kWh) | 14 | | |
| Usable Storage Capacity If Different (kWh) | 13.5 | | |
| Country of Origin | USA | Country | |
| AC or DC Coupled | AC | AC/DC | |
| Operating AC Voltage Options | 240 | 120V/208V/240V | |
| Dimensions (H x W x D) | 45.3 x 29.7 x 6.1 | inches | |
| Round Trip Efficiency % | 90 | % | |
| Maximum Supported Breaker Sizing | 30 | A | |
| Power Output (Peak kW and Duration) | 7 kW, 10s | | |
| Power Output (Continuous kW) | 5 kW | | |
| Performance Warranty/Guarantee | 10 Years | Years/Cycles | Tesla does not set cycle limit. |
| Mounting Options | Both | Wall/Floor | |
| Stackable | Yes | Yes/No | Up to 10 units on one Back Up Gateway |
| Battery System 2 (2nd Vendor Option If Available) | | | |
| Brand/Manufacturer | FranklinWH | | |
| Storage Capacity Total (kWh) | 13.6 | | Only usable listed on spec sheet |
| Usable Storage Capacity If Different (kWh) | 13.6 | | |
| Country of Origin | China | Country | HQ in USA, manufacturing in China |
| AC or DC Coupled | AC | AC/DC | |
| Operating AC Voltage Options | 120/240 | 120V/208V/240V | |
| Dimensions (H x W x D) | 45.3 x 29.5 x 11.4 | inches | |
| Round Trip Efficiency % | 89 | % | |
| Maximum Supported Breaker Sizing | 80 | A | |
| Power Output (Peak kW and Duration) | 10kW, 10s | kW/Time | |
| Power Output (Continuous kW) | 5 | kW | |
| Performance Warranty/Guarantee | 12 | Years/Cycles | FranklinWH does not set cycle limit |
| Mounting Options | Both | Wall/Floor | |
| Stackable | Yes | Yes/No | Up to 15 units on one aGate |
| Additional Equipment Offerings | | | |
| Other Standard Equipment Options (Specify) | SPAN Panel listed in adders | | |
| Other Standard Equipment Options (Specify) | | | |
| Other Standard Equipment Options (Specify) | | | |
| Other Standard Equipment Options (Specify) | | | |
| Other Standard Equipment Options (Specify) | | | |

Solarize Lexington

6. Services Provided

Proposer Instructions

Please include your answers in the blue cells to corresponding questions below pertaining to customer and campaign services.

| Proposing Firm: | Solar Energy Solutions |
|--|---|
| Customer Services Provided | |
| System Operation, Maintenance, and Monitoring | |
| Will the system include monitoring? If so, at what level (system wide or per panel)? If so, please specify the additional cost to the customer and also add this cost in the "Pricing" tab. | both Tesla, SolarEdge, Enphase, FranklinWH and others. SolarEdge, Enphase also include panel level monitoring. All require a Wi-Fi internet connection. If not available a cell card can be added at an additional charge |
| If applicable: For upfront purchased systems, describe any ongoing operations and maintenance services you provide and its associated cost. | SES provides a full five year wrap to Solarize participants up from our standard three year wrap. This includes any O&M labor and material cost at no charge to the participant. Past that point SES provides ongoing O&M services on a time and material rate through our skilled |
| Health / Safety | |
| Describe your company's practices and policies for ensuring safety for employees on site and customers who may be present on the worksite. | SES immediately trains new employees in OSHA 10 education and ensures their training before being on the job. SES has a safety manual that employees are expected to follow and employees are routinely advised of updated safety practices and training at monthly |
| Provide your company's Experience Modification Rate (EMR) for 2023. (Insurer Provided Accident Rate Index) | 0.8 |
| Provide a summary of your business health and safety protocols for installations and interacting with customers on site during the COVID-19 pandemic. | Solar Energy Solutions follows all COVID-19 related guidelines from the CDC. |
| Roof Related Services | |
| Will you be able to remove and reinstall the original PV installation should a customer need to complete roof repairs at a later date independent of the PV installation? If so, please specify the additional cost to the customer and also add this cost in the "Pricing" tab. | YES, SES will remove and reinstall roof mounted solar panel systems for participants if need arises in the future for roof repair, replacement etc. *Smaller systems that require two full team days for removal and replacing is estimated to be \$3,500* (plus taxes etc.) assuming no unusual conditions. Labor rate is effectively \$100/hr. SES sales, engineering, and installation staff are diligent not to install systems on roofs in poor condition. |

| | |
|---|---|
| Describe the methodology for weatherproofing all roof attachment points made during the installation. | SES uses proper roof flashing designed in accordance with roofing industry standards for all roofing attachments. SES installers follow manufacture installation instructions. SES selects different products in accordance with different roofing materials. |
| Are there any roof or ground install types or processes you will not work with? | Roofs other than shingle or metal pitched roofs will require a custom quote. |

Proposer Details

| Customer Relations | |
|--|--|
| Describe your intake process for customer leads, methods for screening and customer follow up, and any data tracking systems you use for installations. | SES has, for the last five years, managed its sales process through CRM software. Starting in 2024, we have upgraded that software to HubSpot which allow us to better track where customers are in their Journey. HubSpot has more filtering features, which also allow salespeople to better understand where their contacts are in the sales process. In this transition we have incorporated the work flow that was developed over the last 4-5 years with Job Nimbus. |
| What languages are your customer relations staff capable of communicating in? | English, Spanish, Italian, and German |
| Describe your strategies for a joint marketing strategy with the Lexington-Fayette Urban County Government and partners to expand the number of residential solar installations as part of this program. If applicable, include ideas about community outreach, community partners you would work with, and specific examples of marketing materials you would provide (lawn signs, flyers, mail, etc.). | SES has worked with other solarize and SUN programs to help expand marketing effort to residents eligible for the community solar offering. We will work with the city to design joint marketing media including yard signs, flyers and mailers. We also welcome the opportunity to present at information sessions with the city, both in person and/or virtual. We can promote those events and the program to Lexington area residents by directing Facebook and Google Ads specifically targeted to Lexington area residents. We would also recommend asking sustainability organizations in Lexington and Kentucky to share information with their members. These would include local EV clubs, the Kentucky Conservation Committee, etc. |
| Please basic bio details of sales and marketing staff who will support this campaign. Include name, position, location and time in solar sales role. | <ul style="list-style-type: none"> * Jeffrey Nazarko, VP Sales & Marketing, Lexington, KY, 2 years * River Fuchs, Regional Director of Sales, Lexington, KY, 2 years * Seth Boehman, Inside Sales, Lexington, KY 4 year sales & installation * Eli Gover, Sales Manager, Lexington, KY, 1 year * David Holland, Commercial Sales Director, 2 years |
| For standard unfiltered residential leads (excluding Solarize campaigns) what is your 2023 total company average lead to contract conversion rate? | Our close rate was down slightly in 2023 to 9%. We believe that was related to the increased cost of capital. In 2022, our close rate was 13%. We transitioned to HubSpot early in 2024 to give our salespeople more tools to improve their close rates from now forward. |

| | |
|---|---|
| What is your maximum capacity for number of remote roof evaluations you can conduct per week for this campaign? | 100+/week utilizing 4 dedicated sales people who could each produce 5-6 remote quotes a day to equal 100. Additionally, for remote quotes we can utilize additional sales staff and engineering staff across the company |
| What is your maximum capacity for number of in-person site visits you can conduct per week for this campaign? | 50 per week. Four residential sales people could do 2-3 site visits a day maximum, equally a max of 50 per week. |
| What is your maximum capacity for number of PV systems you can install per month for this campaign? Does this installation capacity assume new hires, and if so, how many new hires does it assume? | Maximum capacity depends on average system size. SES fields eight full-time installation teams capable of at least 30 kW/wk. of standard installs or 960kW of PV systems per month. If volume exceeds that, we look forward to bringing on new hires. |
| What is the maximum total number of systems you can install as contracted through the campaign? | 1000 |
| Describe your ability to handle a large number of leads and projects over a short timeframe. | Lexington is where SES was founded and is a core local market for us. SES can mobilize available resources in the region to support the Solarize Lexington campaign. |
| Describe a contingency plan if workload exceeds your expectations and capacity. | SES can mobilize resources from other markets, including Louisville, Cincinnati, Indianapolis, Richmond or affiliated other solar partners (Amicus). |
| Do you have any boundary limitations for providing service within the program area? | No, we serve all of the greater Lexington area and surrounding areas. |

Solarize Lexington 7. Additional System Offerings

Proposer Instructions

Please describe the types of additional non-solar PV offerings you or a sub-contractor can provide and the corresponding price in the blue cells.

| Proposing Firm: | |
|---|--|
| Electrical Services Offered | |
| Service | Description |
| Describe your or your sub-contractor's experience in providing electrical upgrade services. | SES has in-house Master and Journeyman Electricians to upgrade electrical panels and services. SES does not subcontract any electrical work. All work is performed in-house by SES electricians. |
| Roof Repair Services Offered | |
| Service | Description |
| Do you have roofing skills in-house? If yes, please specify roofing types covered | SES employees multiple installers with prior roofing experience including a lead installer with years in residential roofing (in 2023 our entire install team trained by completing a re-roof of an employee's home in a quarterly training session). SES employees have experience with asphalt, metal, standing-seam metal, TPO, EPDM, PVC, copper and other roof types. |
| If no, do you have a relationship with an approved roofing contractor? If so please provide name, address and contact point for your approved roofing contractor | SES seeks to work with existing project roofers for larger scopes where applicable. SES strives to not recommend any roofer or accept roof liability as this is not our core business |
| Other Equipment | |
| Please describe any other equipment that you might offer customers and the prices you will offer them at. (e.g., snow management systems, squirrel guards insulation etc.). | |
| SPAN Smart Electric Panel | \$8,785 |
| Electric Service Upgrade (no panel) | \$2,000 |
| Electric Panel Upgrade | Depends on panel size and site, \$2,000 is typical for 200A |
| SolarEdge Advanced Consumption vs. Production Monitoring | \$400 |
| Squirrel Guards | \$3.15 per foot |
| Snow Guards | Custom depending on roof type |
| Lightning Suppressor | \$117 |
| Analog Production Meter | \$113 |

**Solarize Lexington
8. Community Benefits**

Proposer Instructions

Please include your answers in the blue cells below pertaining to community benefits.

| | |
|--|---|
| Proposing Firm: | |
| Employees / Hiring | |
| Race and Gender Representation | |
| Is your business women or minority owned? | No. We are now Employee Owned. We were WBE for over 17 years. |
| What percentage of your staff are women? | 8% |
| What percentage of your leadership/executive team are women? | 37% |
| What percentage of your staff are people of color? | 7% |
| What percentage of your leadership/executive team are people of color? | 0% |
| Describe any significant efforts to employ women, minorities, residents from underemployed communities, or qualified individuals with criminal records. | SES evaluates all candidates based solely on their qualifications for the job they are applying for, and while no special programs are in place for this process, it is always our goal to have as inclusive a work place as possible. SES does not discriminate on the basis of race, religion, national origin, sex or sexual orientation/identification. |
| Describe any efforts you have made or will make to hire individuals from the local community in Lexington - Fayette County. | SES has 30 full-time employees working at our Lexington Headquarters, 21 of which live in Lexington. The company is currently advertising installer positions for our Lexington location. |
| Describe any processes you have in place to train and educate your operational and administrative staff on solar specific skills and to reduce employee turnover | SES is now part of the Kentucky Registered Apprenticeship Program (RAP). Our apprenticeship program will facilitate a highly trained workforce that will greatly impact Kentucky's workforce and economy. Benefits for career seekers in apprenticeship programs include; earning an income while learning, avoiding student debt, gaining workplace relevant skills in the field of their choice, and easing the transition from school to career while jump starting a career. SES continues to steer interested employees into IEC electrical apprenticeships. SES pays for all employee training and testing in pursuit of electrical licenses or NABCEP certification credentials as well as OSHA and other safety credentials. To reduce turnover SES offers above average industry wages, health insurance, 401k match, employee ownership after one year, profit sharing bonus, performance bonus, and other enticements. |
| Economic Impact | |
| Do you pay a living wage for all employees based on the city or county where you are located? (use http://livingwage.mit.edu/) | The living wage in Lexington-Fayette, KY for 1 adult with no children is \$15.62. The SES average wage for installers is \$23.15/hour |
| Is your staff unionized? | No, but we are employee owned. |
| Local Community Impact | |
| Describe your prior/current efforts making solar inclusive to moderate income residents and/or people of color. | SES has been awarded many communities solar/solarize programs; winning bids for Solarize Louisville, SUN Indianapolis, Solarize Lexington, Cincinnati Solarize, and Solarize Southwest Virginia. While we are a modest company looking to be more intentional about reaching LMI residents and POC, we welcome and encourage community solar programs to make solar more affordable and accessible. |
| Describe any prior community building efforts your business has provided to a local community that you work/worked in. | In 2022, SES donated time to help the flood victims. In 2023, SES worked with many orphaned systems and did not charge to get a system operational if the customer did not have the ability to pay, or at significantly reduced rates to help get solar online and reduce that stain on the industry. I can't put a quantity on this but know I did this many times during 2023, when the bankruptcy was first announced and several months after that. |
| Describe any community building commitments your firm will make if selected as the chosen installer (e.g., Community service, subsidizing LMI solar costs, donations to non-profits, offering internships or solar job training programs, etc.). | SES is part of the Kentucky Registered Apprenticeship Program (RAP) and is eager to employ more installers. SES is providing an offer to grant recipients to cover the costs associated with 30 year Solar Insure warranty. |

Solarize Lexington

9. Additional Information

Proposer Instructions

Please include any other additional information is relevant to your bid (300 word limit).

| | |
|--|---|
| Proposing Firm: | Solar Energy Solutions |
| Additional Information | |
| <p>Include any other additional information that is relevant to your bid (300 word limit).</p> | <p>Solar Energy Solutions was founded and has been operating in Kentucky for over 17 years. SES's primary warehouse (HQ) is in Lexington, with additional warehouses/sales offices in Louisville, Indianapolis, IN; Cincinnati, OH; Champaign, IL; and Richmond, VA. Having six total crews within 100 miles of Lexington, SES can rotate crews into the Lexington area as volume demands for installations. SES crews are dedicated, local, and experienced installers.</p> <p>In the last eight years, Solar Energy Solutions has installed 1686 solar systems and battery storage systems in Kentucky alone. Those installations include over 38,329 kW of solar. Between 2019 and 2023, SES has also installed over 6,993 kWh hours of backup storage, primarily Tesla Powerwall . Environmental Benefit: Over 25 years, the environmental benefits of our 38+ MW of installations are enormous. Those systems will produce approximately 51,603,413 kWh of clean energy, calculated with PVWatts.</p> <p>Solar Energy Solutions is dedicated to preparing for the future of solar in Lexington and beyond. With our new apprenticeship program, expanded project management, O&M, and the integration of HubSpot and Arrivy, we have positioned well for the Lexington Solarize Program and the future growth we expect in the industry with Solar for All.</p> |

Solarize Lexington 1. Installer Profile

Please fill in all blue cells with the requested information pertaining to the firm. If you need to provide explanatory notes, please use Column E.

Proposer Instructions

Date: 1/25/2024

| Proposer Contact Information | | | | Notes |
|---|---|---------|------|---|
| Name | River Fuchs | | | |
| Title | Regional Sales Director | | | |
| Phone Number | 859-270-7448 | | | |
| Email | river@sesre.com | | | |
| Firm Information | | | | Notes |
| Proposing Firm | Solar Energy Solutions | | | |
| Headquarters Address | 1038 Brentwood Ct, Lexington, Suite B, KY 40511 | | | |
| Local Address (where work will be completed for this project) | 1038 Brentwood Ct, Lexington, Suite B, KY 40511 | | | |
| FEIN | 20-496767 | | | |
| Kentucky License Number | CE64790 | | | |
| Subsidiaries & Affiliates Information | | | | Notes |
| | Name | Address | FEIN | |
| Company #1 | N/A | | | |
| Company #2 | N/A | | | |
| Company #3 | N/A | | | |
| Employee Information | | | | Notes |
| Number of Full Time Employees | 70 | | | |
| Number of Part Time Employees | 1 | | | |
| Number of Employees in Kentucky | 33 | | | |
| Number of Install Employees Permanently Based In Campaign Area | 13 | | | |
| Number of Sales Employees Permanently Based In Campaign Area | 5 | | | |
| Number of Employees with NAPCEP or UL Certification in Kentucky | 7 | | | |
| Number of Direct Employees with Kentucky Electricians License | 5 | | | Michael Nelson, Ezra Klarer, Dain Spurgeon, Jake Strong, Ben Jones, Rhodes Thompson |
| Number of Employees with Other Relevant Certifications | 4 | | | 2 PE, 1 KY Building and Construction License, 1 Drone License. |
| Firm Experience | | | | Notes |
| Years of Experience | | | | |
| Firm (total years) | 17 | | | |
| Firm (years in Kentucky) | 17 | | | |

| | | | | |
|--|-------------------------|----------------|-------------------|---|
| Project Manager (years) | Steven Riddle (2 years) | | | There are three additional Project Managers (PM) at SES and an O&M PM on staff. Steven primarily manages Lexington residential. |
| Lead Installer #1 (years) | Ezra Klarer (17 years) | | | |
| Lead Installer #2 (years) | Mike Nelson (10 years) | | | |
| Residential Solar PV Installations | 2021 | 2022 | 2023 | |
| Customer Owned Systems (in US) | 260 | 331 | 253 | |
| Customer Owned Systems (in Kentucky) | 143 | 222 | 170 | |
| Customer Owned Systems (in Lexington) | 19 | 40 | 95 | |
| Residential Energy Storage Installations | 2021 | 2022 | 2023 | |
| Customer Owned Systems (kWh in US) | 1795.5 | 1922.5 | 1323 | |
| Customer Owned Systems (kWh in Kentucky) | 1053 | 957 | 904.5 | |
| Customer Owned Systems (kWh in Lexington) | 148.5 | 187.5 | 283.5 | |
| Residential/Small Commercial Ground Mount Installs | 2021 | 2022 | 2023 | |
| Customer Owned Systems (# & kW in US) | 42 (1034.21) | 34 (886.72 KW) | 23 (358.34 kW) | |
| Site Evaluations | 2021 | 2022 | 2023 | |
| Estimated Number of Roofs Evaluated for Solar Remotely per Week (in Lexington) | 20 | 40 | 30 | |
| Estimated Number of Site Visits per Week (in Lexington) | 8 | 16 | 12 | |
| Lexington Area Residential Customer References | Name | Phone | Project Size (kW) | |
| Reference #1 | Edward Murner | 8595098235 | 10.8 | |
| Reference #2 | Patrick Mooney | 8595767729 | 8.8 | |
| Reference #3 | Andrew Bond | 5049058207 | 22.2 | |
| Financial Position | | | | Notes |
| Business Revenue & Profits | 2021 | 2022 | 2023 | |
| Annual Gross Revenues | | | | This can be provided separately with a signed NDA agreement. |
| Annual Net Profit | | | | This can be provided separately with a signed NDA agreement. |
| Financing Partners | 2021 | 2022 | 2023 | |
| Firm #1: Name | Sunlight Financial | | Credit Human | Credit Human was added in 2023 |
| Firm #1: Financing Product | Installment Loans | | | |
| Firm #1: # Customers That Used Product | 33 | 51 | 23 | |
| Firm #2: Name | Dividend* | | Sunlight/Dividend | We are onboarding Sunnova as financing options to provide more value to our customers. Sunnova loan products will give SES access to Aurora and offer extended warranties to customers. |
| Firm #2: Financing Product | Installment Loans | | | |

| Firm #2: # Customers That Used Product | | 8 | 3 SL / 6 Div | We are no longer offering Dividend Financial loan products. We are replacing that offering with Sunnova to provide customers with additional value. |
|--|---|-------------------------------|--------------|---|
| Insurance | | | | Notes |
| | Name | Coverage | Policy # | |
| Firm's Bank | Central Bank | N/A | N/A | |
| Entity Proving Bonding / Financial Backing | Travelers Insurance | | | \$15/30MM bond |
| Liability Insurer | West Bend Mutual Insurance Company | \$2MM General, \$4MM Umbrella | B216504 | |
| Worker's Compensation Insurer | KY AGC (100700) | \$4.5MM | | via Assured Partners |
| Is this business(local or parent company) or its management involved in any pending lawsuits, regulatory proceedings, or other legal proceedings involving the business? | Neither Solar Energy Solutions nor its management is involved in any pending lawsuits, regulatory proceedings, or other legal proceedings involving SES. | | | |
| Does the business conduct criminal background checks before hiring employees? | Solar Energy conducts background checks on all employees before hiring them. SES conducts a ten-year criminal background check and a five year motor vehicle check. | | | |
| Is the business or any officer of the company involved in bankruptcy or insolvency proceedings? | Neither Solar Energy Solutions nor its officers are involved in bankruptcy or insolvency proceedings. | | | |

**Solarize Lexington
2. Residential Solar PV Pricing**

Please fill in all blue cells with the requested pricing information. Base pricing proposals should include total installation price, which includes system design, permitting, applicable materials and equipment, transportation, labor, and all equipment and workmanship warranties. The price should be independent of any tax credits or incentives available to the customers. Outline the specific process, electrical, mechanical, structural, equipment, site, or labor features that will result in cost reductions or increases above the Base Pricing Proposal. The Proposer should place \$0 for all applications that will not result in a cost modification and "N/A" if it is not offered.

Proposer Instructions

| Proposing Firm: | Solar Energy Solutions | | | Notes |
|---|----------------------------|-------------------------------|---------------------|--|
| | Example Array Size (kW DC) | | | |
| Base Proposal | Tier 1: 5 kW | Tier 2: 10 kW | Tier 3: 20 kW | |
| Standard Panel Price KY - NE Solar/ZNShine w/ Solaredge IN\ | 2.74 \$/W | 2.54 \$/W | 2.45 \$/W | Full 'all component' turnkey install on single story roof |
| Premium Panel Price KY - QCell Qtron 22% eff | 3.01 \$/W | 2.78 \$/W | 2.69 \$/W | Tesla Inverter discount available - see below |
| Standard Panel Price Prior To Solarize Discoun | 3.22 \$/W | 2.89 \$/W | 2.86 \$/W | ZNShine + SolarEdge |
| Premium Panel Price Prior To Solarize Discoun | 3.42 \$/W | 3.09 \$/W | 3.06 \$/W | QCell + SolarEdge |
| Factor or Special Condition | | | | |
| Microinverters | \$0.24 \$/W | \$0.24 \$/W | \$0.24 \$/W | |
| Power Optimizers | \$0.00 | \$0.00 | \$0.00 \$/Each | |
| Inverter Extended Warranty (each) | \$233.00 \$ | \$386.00 \$ | \$772.00 \$ | SolarEdge 25 year warranty (20kW price assumes 2 inverters) |
| Extended Warranty Whole System (e.g., SolarInsure) | \$0.10 \$/W | \$0.10 \$/W | \$0.10 \$/W | Included at no charge for Grant Jobs, Optional at cost for other |
| Panels in Non-standard Orientation | \$0.35 \$/W | \$0.27 \$/W | \$0.22 \$/W | |
| Roof Pitch > 7/12 to 12/12 | \$0.25 \$/W | \$0.25 \$/W | \$0.25 \$/W | |
| Roof Pitch > 12/12 | \$0.50 \$/W | \$0.50 \$/W | \$0.50 \$/W | |
| Additional Roof Surfaces (over 2') | \$325.00 \$ | \$325.00 \$ | \$325.00 \$ | |
| Premium Roof Mount (rack free/low profile etc.) | \$0.10 \$/W | \$0.10 \$/W | \$0.10 \$/W | |
| PVC Roof Vent Move | \$400.00 \$ | \$400.00 \$ | \$400.00 \$ | |
| Ground Mount Adder (including 100' Trenching) | \$0.35 \$/W | \$0.30 \$/W | \$0.20 \$/W | First 100 feet |
| Ground Mount Additional Trenching per 100' | \$0.02 \$/w/10ft | \$0.02 \$/w/10ft | \$0.017 \$/w/10ft | Additional trenching beyond 100ft is added per watt/per 10ft section, (ex. 120 feet of trenching for 5 kW is \$0.35+\$0.02+\$0.02 = \$0.39 per watt) |
| Electrical Panel Upgrade (200A) | \$3,000.00 \$ | \$3,000.00 \$ | \$3,000.00 \$ | Updating electric service at the same time is an additional \$1,000 |
| Critter Guards (\$/ft.) | \$6.00 \$/ft | \$6.00 \$/ft | \$6.00 \$/ft | |
| Electric Service Upgrade - No new pane | \$2,000.00 \$ | \$2,000.00 \$ | \$2,000.00 \$ | Updating the electric panel at the same time is an additional \$1,00 |
| Tesla Inverter Discount | -\$0.35 \$/W | -\$0.28 \$/W | -\$0.18 \$/W | Discount available for using Tesla inverter in place of SolarEdge |
| Second Story Adder | \$1,000.00 \$ | \$2,000.00 \$ | \$3,000.00 \$ | |
| Example Battery # | | | | |
| Base Storage Proposal | 1 Battery | 2 Battery | 3 Battery | Notes |
| Storage Capacity | 13.5 kWh | 27 kWh | 40.5 kWh | Additional of batteries from same manufacturer to increase storage (kWh) size |
| Battery System Price - Tesla Powerwall basis of design | \$12,634 \$ | \$24,403 \$ | \$33,882 \$ | |
| Battery System Price | \$936 \$/kWh | \$904 \$/kWh | \$837 \$/kWh | Total cost/kWh |
| HVAC Compressor Soft Start Addition (if required) | n/a | \$ | n/a | |
| Add External Whole Home Disconnect if Not Already Presen | 2000 | 2000 | 2000 | Often needed for existing homes not built in recent year |
| Add AC Panelboard service wire changes: | \$50/ft of wire | | | Any replacement/re-routing of AC feeders from AC disconnect to backed-up panelboard |
| AC circuit Movement, 20A or less | \$300/first circuit | \$100/each additional circuit | | Custom pricing for larger circuit |
| Powerwall 3 w/ array in lieu of SolarEdge w/ Optimizer | \$11,634 | 23403 | 32882 | Up to 4 PW3 currently allowed per home by Tesla, pending rollout (savings on no SolarEdge inv and optimizer). Other adders necessary |

Note: Battery system pricing must reflect standard full (turnkey) storage system install costs including battery, any required transformer, CT's, control, communication and partial or full load center install component additions. Pricing presumes no abnormal conduit/wiring runs and battery being adjacent to breaker panel.
Note: Clearly indicate if there are variations in price offering, for example, for financed or cash purchases.

Prior Solarize

| | | |
|-----------|-----------|-----------|
| 2.91 \$/W | 2.58 \$/W | 2.49 \$/W |
|-----------|-----------|-----------|

Solarize Lexington

3. Financing & Qualifications

Please fill in all blue cells with the requested information pertaining to your available financing products and qualifications. If you need to provide explanatory notes, please use Column D. If another company will be providing financing options, please provide a reference and contact information for a representative at the financing company you partner with and intend to offer to participants. If you propose to work with multiple lenders, please provide the information for each lender. Add more columns as necessary.

Proposer Instructions

| Proposing Firm: | Solar Energy Solutions | | | |
|---|--------------------------------------|--------------------------------------|--------------------------------------|---|
| Customer Ownership (Upfront Purchase) | | | | |
| Loan Terms | Offering #1 | Offering #2 | Offering #3 | Notes |
| Lender Company Name | Credit Human | Credit Human | Credit Human | |
| Lender Contact Name | Joe Hall | Joe Hall | Joe Hall | |
| Lender Contact Phone | 210-258-1983 | 210-258-1984 | 210-258-1985 | |
| Lender Contact Email | johall214@credithuman.com | johall214@credithuman.com | johall214@credithuman.com | |
| Product Name | Plan 4770 | Plan 4670 | Plan 4570 | |
| Term Length Range (Years) | 20 | 15 | 10 | Most common |
| Interest Rate Range (%) | 7.99 | 6.99 | 7.99 | Most common |
| Down Payment (\$ or %) | 0 | 0 | 0 | |
| Dealer fees | 0 | 0 | 0 | |
| How many customers have used this product in the past 12 months? | 7 | Relatively new loan product | Relatively new loan product | Others loan products that people have used have been discontinued as interest rate have shifted throughout the year |
| Qualifications | Offering #1 | Offering #2 | Offering #3 | Notes |
| Minimum FICO Score | 620 | 620 | 620 | |
| Maximum Debt-to-Income | Unsecured = 55% UCC Secured = 60% | Unsecured = 55% UCC Secured = 60% | Unsecured = 55% UCC Secured = 60% | |
| If selected, would this lender commit to piloting Energy Score as an alternative to FICO score? | No | No | No | |

Solarize Lexington

4. Equipment Specifications

Please fill in all blue cells with the requested information pertaining to the Standard PV System offering corresponding to the Base Pricing Proposal and Premium PV System offering corresponding to the Cost Increases in the "Pricing" tab. If you need to provide explanatory notes, please use Column D. If providing more than one type of standard equipment with the base pricing, provide the specifications below in "Additional Standard PV Equipment". Add rows to specify additional equipment, if needed.

Proposer Instructions

| Proposing Firm: | | | |
|--|-----------------------|--------------------|--|
| PV System Sizing | | Units | Notes |
| Minimum System Size Offered | No Minimum | kW-DC | Custom pricing below 4kW |
| Maximum System Size Offered | No Maximum | kW-DC | Custom pricing above 20kW |
| | | Units | Notes |
| Standard Panel | | | |
| Brand/Manufacturer | NE Solar/ ZNShine | | SES will supply NE Solar panels and then migrate to ZNShine panels. These are identical panels made at the same factory but name-plated differently for sale in different markets. This switch is due to capitalize on name recognition in the mid-west market, where ZNShine panels have greater recognition than NE Solar panels. We estimate these panels will be used on builds starting in June 2024. ZNShine is also on Sunnova's approved vendor list, creating opportunities for a loan product that offers its own extended warranty for those interested in financing options. |
| Wattage (W) | 410 | | |
| Country of Origin | ambodia/Indones | Country | Indonesia after depletion of existing inventory, a |
| Dimensions (H x W x D) | 67.8x44.6x1.18 | inches | |
| Efficiency | 20.97 | % | |
| Performance Warranty/Guarantee | 84.8% at 25yrs | % at X year | |
| Equipment Warranty/Guarantee | 12 | Years | |
| Output Degradation | 0.55% | % per year | 2% yr. one, 0.55% yr. to 25. |
| Premium Panel (higher Efficiency, Warranty Or Brand Quality) | | | |
| Brand/Manufacturer | QCell | | |
| Wattage (W) | 425 | | |
| Country of Origin | US | Country | |
| Dimensions (H x W x D) | 67.8x44.6x1.18 | inches | |
| Efficiency | 22.2 | % | |
| Performance Warranty/Guarantee | 90.58% at 25yrs | % at X year | |
| Equipment Warranty/Guarantee | 25 years | Years | |
| Output Degradation | 0.33% | % per year | 1.5% yr. one, 0.33% yr. to 25. |
| Inverter | | | |
| Brand/Manufacturer | Solar Edge | | Basis of design |
| Country of Origin | Vietnam | Country | |
| Model | E3000-11400H-US | | |
| CEC Efficiency | 99% | % | |
| Warranty | 12 | Coverage at X year | |
| Inverter | | | |
| Brand/Manufacturer | Tesla | | Where desired as deduct |
| Country of Origin | USA | Country | |
| Model | 1538000-xx-y | | |
| CEC Efficiency | 97.5% at 208 V | % | 98.0% at 240 V |
| Warranty | 12.5 | Coverage at X year | |
| Standard Roof Racking | | | |
| Racking Type/Description | Rail | | |
| Applicability for the Following Roof Types | Pitched Roofs | | |
| Brand/Manufacturer | Everest K2 Racking | | |
| Warranty | 12 | Years | |
| Country of Origin | Mexico | Country | |
| Flashing | | | |

| | | | |
|--|--|---------|---|
| Flashing Type/Description | Roof Flashing | | |
| Brand/Manufacturer | Everest | | |
| Warranty | 12 | Years | |
| Country of Origin | Mexico | Country | |
| Premium Roof Racking Or Skirting, If Applicable (Array Skirting If Offered) | | | |
| Racking Type/Description | SnapNRack | | |
| Applicability for the Following Roof Types | Pitched Roofs | | |
| Brand/Manufacturer | SnapNRack | | |
| Warranty | 25 | Years | |
| Country of Origin | USA | Country | |
| Ground Mount Racking | | | |
| Racking Type/Description | Fixed Tilt Racking | | |
| Brand/Manufacturer | Unirac | | |
| Warranty | 25 | Years | |
| Country of Origin | USA/Canada | Country | |
| Microinverter | | | |
| Brand/Manufacturer | Enphase | | |
| Type | IQ8 | | |
| Efficiency | 97.3 - 97.6 | % | |
| Warranty | 25 | Years | |
| Country of Origin | USA/Canada | Country | |
| Optimizer | | | |
| Brand/Manufacturer | Solar Edge | | |
| Type | S440 | | |
| Efficiency | 99.5 | % | |
| Warranty | 25 years | Years | |
| Country of Origin | Vietnam | Country | |
| Labor and Workmanship Warranties | | | |
| Describe the warranty provided for the installer's labor and workmanship? Must be no less than 5-years | Solar Energy Solutions LLC warrants the installation of its Photovoltaic array system for five (5) years from date of installation. Solar Energy Solutions LLC warrants its system to be free from defects in workmanship and materials under installed service conditions. Solar Energy Solutions LLC warrants that it will replace or repair any faulty materials free of charge during the warranty period. Solar Energy Solutions LLC makes no claims to warrant any materials damaged by end user abuse or mismanagement. This warranty applies exclusively to system purchaser and is non-transferrable. Solar Energy Solutions LLC also bares no responsibility for | | |
| If provided describe the whole array warranty extension offering? | We will offer the SolarInsure extended warranty to customers for \$.10/watt. This will be added to all grant installations. Please note, SES 5 year warranty is a complete (full wrap) warranty. SolarInsure and most competitor warranties are limited warranties | | |
| Describe the roof penetration warranty provided. | Roof penetrations are covered under the 5 year installer warranty. Not to exceed the design life of the roof and assumes there is no issue with underlying roofing materials. Warranty on grant and for any customers that choose the Solar Insure extended warranty increases roof penetration warranty to 30 years. In 17 years, SES has not encountered roof penetration issues that did not materialize within first year. | | |
| Additional Equipment Offerings | | | |
| Other Standard Equipment Options (Specify): | Car charger 60A | \$1,200 | Emporia, may have adders for long wire runs |
| Other Standard Equipment Options (Specify): | Span Panel | \$8,785 | Smart 200A load center that replaces the electric panel |
| Other Standard Equipment Options (Specify): | | | |
| Other Standard Equipment Options (Specify): | | | |
| Other Standard Equipment Options (Specify): | | | |

prox. May

Solarize Lexington

5. Battery Equipment Specifications

Please fill in all blue cells with the requested information pertaining to the complete energy storage system corresponding to the component costs in the "Pricing" tab. If you need to provide explanatory notes, please use Column D. If providing more than one type of standard equipment with the base pricing, provide the specifications below in "Additional Equipment Offerings". Add rows to specify additional equipment, if needed.

Proposer Instructions

| Proposing Firm: | | | |
|--|-----------------------------|----------------|--|
| Energy Storage System Equipment Offerings | | Units | Notes |
| Battery System 1 | | | |
| Brand/Manufacturer | Tesla | | Powerwall 2, Powerwall 3 is being phased in for integrated solar and battery systems in Q1/Q2. PW2 will continue to exist for battery only |
| Storage Capacity Total (kWh) | 14 | | |
| Usable Storage Capacity If Different (kWh) | 13.5 | | |
| Country of Origin | USA | Country | |
| AC or DC Coupled | AC | AC/DC | |
| Operating AC Voltage Options | 240 | 120V/208V/240V | |
| Dimensions (H x W x D) | 45.3 x 29.7 x 6.1 | inches | |
| Round Trip Efficiency % | 90 | % | |
| Maximum Supported Breaker Sizing | 30 | A | |
| Power Output (Peak kW and Duration) | 7 kW, 10s | | |
| Power Output (Continuous kW) | 5 kW | | |
| Performance Warranty/Guarantee | 10 Years | Years/Cycles | Tesla does not set cycle limit. |
| Mounting Options | Both | Wall/Floor | |
| Stackable | Yes | Yes/No | Up to 10 units on one Back Up Gateway |
| Battery System 2 (2nd Vendor Option If Available) | | | |
| Brand/Manufacturer | FranklinWH | | |
| Storage Capacity Total (kWh) | 13.6 | | Only usable listed on spec sheet |
| Usable Storage Capacity If Different (kWh) | 13.6 | | |
| Country of Origin | China | Country | HQ in USA, manufacturing in China |
| AC or DC Coupled | AC | AC/DC | |
| Operating AC Voltage Options | 120/240 | 120V/208V/240V | |
| Dimensions (H x W x D) | 45.3 x 29.5 x 11.4 | inches | |
| Round Trip Efficiency % | 89 | % | |
| Maximum Supported Breaker Sizing | 80 | A | |
| Power Output (Peak kW and Duration) | 10kW, 10s | kW/Time | |
| Power Output (Continuous kW) | 5 | kW | |
| Performance Warranty/Guarantee | 12 | Years/Cycles | FranklinWH does not set cycle limit |
| Mounting Options | Both | Wall/Floor | |
| Stackable | Yes | Yes/No | Up to 15 units on one aGate |
| Additional Equipment Offerings | | | |
| Other Standard Equipment Options (Specify) | SPAN Panel listed in adders | | |
| Other Standard Equipment Options (Specify) | | | |
| Other Standard Equipment Options (Specify) | | | |
| Other Standard Equipment Options (Specify) | | | |
| Other Standard Equipment Options (Specify) | | | |

Solarize Lexington

6. Services Provided

Please include your answers in the blue cells to corresponding questions below pertaining to customer and campaign services.

Proposer Instructions

| | | |
|--|---|------------------------|
| Proposing Firm: | | Solar Energy Solutions |
| Customer Services Provided | | |
| System Operation, Maintenance, and Monitoring | | |
| Will the system include monitoring? If so, at what level (system wide or per panel)? If so, please specify the additional cost to the customer and also add this cost in the "Pricing" tab. | both Tesla, SolarEdge, Enphase, FranklinWH and others. SolarEdge, Enphase also include panel level monitoring. All require a Wi-Fi internet connection. If not available a cell card can be added at an additional charge | |
| If applicable: For upfront purchased systems, describe any ongoing operations and maintenance services you provide and its associated cost. | SES provides a full five year wrap to Solarize participants up from our standard three year wrap. This includes any O&M labor and material cost at no charge to the participant. Past that point SES provides ongoing O&M services on a time and material rate through | |
| Health / Safety | | |
| Describe your company's practices and policies for ensuring safety for employees on site and customers who may be present on the worksite. | ensures their training before being on the job. SES has a safety manual that employees are expected to follow and employees are routinely advised of updated safety practices and training at monthly | |
| Provide your company's Experience Modification Rate (EMR) for 2023. (Insurer Provided Accident Rate Index) | 0.8 | |
| Provide a summary of your business health and safety protocols for installations and interacting with customers on site during the COVID-19 pandemic. | Solar Energy Solutions follows all COVID-19 related guidelines from the CDC. | |
| Roof Related Services | | |
| Will you be able to remove and reinstall the original PV installation should a customer need to complete roof repairs at a later date independent of the PV installation? If so, please specify the additional cost to the customer and also add this cost in the "Pricing" tab. | YES, SES will remove and reinstall roof mounted solar panel systems for participants if need arises in the future for roof repair, replacement etc. *Smaller systems that require two full team days for removal and replacing is estimated to be \$3,500* (plus taxes etc.) assuming no unusual conditions. Labor rate is effectively \$100/hr. SES sales, engineering, and installation staff are diligent not to install systems on roofs in poor condition. | |

| | |
|---|---|
| Describe the methodology for weatherproofing all roof attachment points made during the installation. | SES uses proper roof flashing designed in accordance with roofing industry standards for all roofing attachments. SES installers follow manufacture installation instructions. SES selects different products in accordance with different roofing materials. |
| Are there any roof or ground install types or processes you will not work with? | Roofs other than shingle or metal pitched roofs will require a custom quote. |

Proposer Details

Customer Relations

| | |
|---|---|
| <p>Describe your intake process for customer leads, methods for screening and customer follow up, and any data tracking systems you use for installations.</p> | <p>SES has, for the last five years, managed its sales process through CRM software. Starting in 2024, we have upgraded that software to HubSpot which allow us to better track where customers are in their Journey. HubSpot has more filtering features, which also allow salespeople to better understand where their contacts are in the sales process. In this transition we have incorporated the work flow that was developed over the last 4-5 years with Job Nimbus.</p> |
| <p>What languages are your customer relations staff capable of communicating in?</p> | <p>English, Spanish, Italian, and German</p> |
| <p>Describe your strategies for a joint marketing strategy with the Lexington-Fayette Urban County Government and partners to expand the number of residential solar installations as part of this program. If applicable, include ideas about community outreach, community partners you would work with, and specific examples of marketing materials you would provide (lawn signs, flyers, mail, etc.).</p> | <p>SES has worked with other solarize and SUN programs to help expand marketing effort to residents eligible for the community solar offering. We will work with the city to design joint marketing media including yard signs, flyers and mailers. We also welcome the opportunity to present at information sessions with the city, both in person and/or virtual. We can promote those events and the program to Lexington area residents by directing Facebook and Google Ads specifically targeted to Lexington area residents. We would also recommend asking sustainability organizations in Lexington and Kentucky to share information with their members. These would include local EV clubs, the Kentucky Conservation Committee, etc.</p> |
| <p>Please basic bio details of sales and marketing staff who will support this campaign. Include name, position, location and time in solar sales role.</p> | <p>*Jeffrey Nazarko, VP Sales & Marketing, Lexington, KY, 2 years *River Fuchs, Regional Director of Sales, Lexington, KY, 2 years *Seth Boehman, Inside Sales, Lexington, KY 4 year sales & installation * Eli Gover, Sales Manager, Lexington, KY, 1 year * David Holland, Commercial Sales Director, 2 years</p> |

| | |
|---|---|
| For standard unfiltered residential leads (excluding Solarize campaigns) what is your 2023 total company average lead to contract conversion rate? | Our close rate was down slightly in 2023 to 9%. We believe that was related to the increased cost of capital. In 2022, our close rate was 13%. We transitioned to HubSpot early in 2024 to give our salespeople more tools to improve their close rates from now forward. |
| What is your maximum capacity for number of remote roof evaluations you can conduct per week for this campaign? | 100+/week utilizing 4 dedicated sales people who could each produce 5-6 remote quotes a day to equal 100. Additionally, for remote quotes we can utilize additional sales staff and engineering staff across the company |
| What is your maximum capacity for number of in-person site visits you can conduct per week for this campaign? | 50 per week. Four residential sales people could do 2-3 site visits a day maximum, equally a max of 50 per week. |
| What is your maximum capacity for number of PV systems you can install per month for this campaign? Does this installation capacity assume new hires, and if so, how many new hires does it assume? | Maximum capacity depends on average system size. SES fields eight full-time installation teams capable of at least 30 kW/wk. of standard installs or 960kW of PV systems per month. If volume exceeds that, we look forward to bringing on new hires. |
| What is the maximum total number of systems you can install as contracted through the campaign? | 1000 |
| Describe your ability to handle a large number of leads and projects over a short timeframe. | Lexington is where SES was founded and is a core local market for us. SES can mobilize available resources in the region to support the Solarize Lexington campaign. |
| Describe a contingency plan if workload exceeds your expectations and capacity. | SES can mobilize resources from other markets, including Louisville, Cincinnati, Indianapolis, Richmond or affiliated other solar partners (Amicus). |
| Do you have any boundary limitations for providing service within the program area? | No, we serve all of the greater Lexington area and surrounding areas. |

Solarize Lexington

7. Additional System Offerings

Proposer Instructions

Please describe the types of additional non-solar PV offerings you or a sub-contractor can provide and the corresponding price in the blue cells.

| Proposing Firm: | |
|---|--|
| Electrical Services Offered | |
| Service | Description |
| Describe your or your sub-contractor's experience in providing electrical upgrade services. | SES has in-house Master and Journeyman Electricians to upgrade electrical panels and services. SES does not subcontract any electrical work. All work is performed in-house by SES electricians. |
| Roof Repair Services Offered | |
| Service | Description |
| Do you have roofing skills in-house? If yes, please specify roofing types covered | SES employees multiple installers with prior roofing experience including a lead installer with years in residential roofing (in 2023 our entire install team trained by completing a re-roof of an employee's home in a quarterly training session). SES employees have experience with asphalt, metal, standing-seam metal, TPO, EPDM, PVC, copper and other roof types. |
| If no, do you have a relationship with an approved roofing contractor? If so please provide name, address and contact point for your approved roofing contractor | SES seeks to work with existing project roofers for larger scopes where applicable. SES strives to not recommend any roofer or accept roof liability as this is not our core business |
| Other Equipment | |
| Please describe any other equipment that you might offer customers and the prices you will offer them at. (e.g., snow management systems, squirrel guards insulation etc.). | |
| SPAN Smart Electric Panel | \$8,785 |
| Electric Service Upgrade (no panel) | \$2,000 |
| Electric Panel Upgrade | Depends on panel size and site, \$2,000 is typical for 200A |
| SolarEdge Advanced Consumption vs. Production Monitoring | \$400 |
| Squirrel Guards | \$3.15 per foot |
| Snow Guards | Custom depending on roof type |
| Lightning Suppressor | \$117 |
| Analog Production Meter | \$113 |

Solarize Lexington
8. Community Benefits

Proposer Instructions

Please include your answers in the blue cells below pertaining to community benefits.

| | |
|--|---|
| Proposing Firm: | |
| Employees / Hiring | |
| Race and Gender Representation | |
| Is your business women or minority owned? | No. We are now Employee Owned. We were WBE for over 17 years. |
| What percentage of your staff are women? | 8% |
| What percentage of your leadership/executive team are women? | 37% |
| What percentage of your staff are people of color? | 7% |
| What percentage of your leadership/executive team are people of color? | 0% |
| Describe any significant efforts to employ women, minorities, residents from underemployed communities, or qualified individuals with criminal records. | SES evaluates all candidates based solely on their qualifications for the job they are applying for, and while no special programs are in place for this process, it is always our goal to have as inclusive a work place as possible. SES does not discriminate on the basis of race, religion, national origin, sex or sexual orientation/identification. |
| Describe any efforts you have made or will make to hire individuals from the local community in Lexington - Fayette County. | SES has 30 full-time employees working at our Lexington Headquarters, 21 of which live in Lexington. The company is currently advertising installer positions for our Lexington location. |
| Describe any processes you have in place to train and educate your operational and administrative staff on solar specific skills and to reduce employee turnover | SES is now part of the Kentucky Registered Apprenticeship Program (RAP). Our apprenticeship program will facilitate a highly trained workforce that will greatly impact Kentucky's workforce and economy. Benefits for career seekers in apprenticeship programs include; earning an income while learning, avoiding student debt, gaining workplace relevant skills in the field of their choice, and easing the transition from school to career while jump starting a career. SES continues to steer interested employees into IEC electrical apprenticeships. SES pays for all employee training and testing in pursuit of electrical licenses or NABCEP certification credentials as well as OSHA and other safety credentials. To reduce turnover SES offers above average industry wages, health insurance, 401k match, employee ownership after one year, profit sharing bonus, performance bonus, and other enticements. |
| Economic Impact | |
| Do you pay a living wage for all employees based on the city or county where you are located? (use http://livingwage.mit.edu/) | The living wage in Lexington-Fayette, KY for 1 adult with no children is \$15.62. The SES average wage for installers is \$23.15/hour |
| Is your staff unionized? | No, but we are employee owned. |
| Local Community Impact | |
| Describe your prior/current efforts making solar inclusive to moderate income residents and/or people of color. | SES has been awarded many communities solar/solarize programs; winning bids for Solarize Louisville, SUN Indianapolis, Solarize Lexington, Cincinnati Solarize, and Solarize Southwest Virginia. While we are a modest company looking to be more intentional about reaching LMI residents and POC, we welcome and encourage community solar programs to make solar more affordable and accessible. |
| Describe any prior community building efforts your business has provided to a local community that you work/worked in. | In 2022, SES donated time to help the flood victims. In 2023, SES worked with many orphaned systems and did not charge to get a system operational if the customer did not have the ability to pay, or at significantly reduced rates to help get solar online and reduce that stain on the industry. I can't put a quantity on this but know I did this many times during 2023, when the bankruptcy was first announced and several months after that. |
| Describe any community building commitments your firm will make if selected as the chosen installer (e.g., Community service, subsidizing LMI solar costs, donations to non-profits, offering internships or solar job training programs, etc.). | SES is part of the Kentucky Registered Apprenticeship Program (RAP) and is eager to employ more installers. SES is providing an offer to grant recipients to cover the costs associated with 30 year Solar Insure warranty. |

Solarize Lexington

9. Additional Information

Proposer Instructions

Please include any other additional information is relevant to your bid (300 word limit).

| | |
|--|---|
| Proposing Firm: | Solar Energy Solutions |
| Additional Information | |
| <p>Include any other additional information that is relevant to your bid (300 word limit).</p> | <p>Solar Energy Solutions was founded and has been operating in Kentucky for over 17 years. SES's primary warehouse (HQ) is in Lexington, with additional warehouses/sales offices in Louisville, Indianapolis, IN; Cincinnati, OH; Champaign, IL; and Richmond, VA. Having six total crews within 100 miles of Lexington, SES can rotate crews into the Lexington area as volume demands for installations. SES crews are dedicated, local, and experienced installers.</p> <p>In the last eight years, Solar Energy Solutions has installed 1686 solar systems and battery storage systems in Kentucky alone. Those installations include over 38,329 kW of solar. Between 2019 and 2023, SES has also installed over 6,993 kWh hours of backup storage, primarily Tesla Powerwall . Environmental Benefit: Over 25 years, the environmental benefits of our 38+ MW of installations are enormous. Those systems will produce approximately 51,603,413 kWh of clean energy, calculated with PVWatts.</p> <p>Solar Energy Solutions is dedicated to preparing for the future of solar in Lexington and beyond. With our new apprenticeship program, expanded project management, O&M, and the integration of HubSpot and Arrivy, we have positioned well for the Lexington Solarize Program and the future growth we expect in the industry with Solar for All.</p> |

RESOLUTION NO. _____ - 2024

A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE A MEMORANDUM OF AGREEMENT (AWARDED PURSUANT TO RFP NO. 4-2024) WITH SOLAR ENERGY SOLUTIONS, LLC, FOR ITS PARTICIPATION AS INSTALLER IN THE SOLARIZE LEXINGTON PROGRAM, AT A COST NOT TO EXCEED \$1,088,733.30 FOR GRANTS AWARDED PURSUANT TO THE SOLARIZE LEXINGTON PROGRAM.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized and directed to execute the Memorandum of Agreement (awarded pursuant to RFP No. 4-2024), which is attached hereto and incorporated herein by reference, with Solar Energy Solutions, LLC, for its participation as installer in the Solarize Lexington Program.

Section 2 - That an amount, not to exceed the sum of \$1,088,733.30, be and hereby is approved for payment to Solar Energy Solutions, LLC, from account 3230-313201-3094-78112, for grants awarded pursuant to the terms of the Solarize Lexington Program.

Section 3 - That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL
0234-24:EPT_ 4853-5377-9882, v. 1

RESOLUTION NO. 096 - 2024

A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE A MEMORANDUM OF AGREEMENT (AWARDED PURSUANT TO RFP NO. 4-2024) WITH SOLAR ENERGY SOLUTIONS, LLC, FOR ITS PARTICIPATION AS INSTALLER IN THE SOLARIZE LEXINGTON PROGRAM, AT A COST NOT TO EXCEED \$1,088,733.30 FOR GRANTS AWARDED PURSUANT TO THE SOLARIZE LEXINGTON PROGRAM.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized and directed to execute the Memorandum of Agreement (awarded pursuant to RFP No. 4-2024), which is attached hereto and incorporated herein by reference, with Solar Energy Solutions, LLC, for its participation as installer in the Solarize Lexington Program.

Section 2 - That an amount, not to exceed the sum of \$1,088,733.30, be and hereby is approved for payment to Solar Energy Solutions, LLC, from account 3230-313201-3094-78112, for grants awarded pursuant to the terms of the Solarize Lexington Program.

Section 3 - That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: March 7, 2024


MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL
0234-24:EPT_4853-5377-9882, v. 1

MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT (hereinafter "MOA") is made and entered into as of the 8th day of March, 2024, by and between the **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT (LFUCG)**, an urban county government of the Commonwealth of Kentucky pursuant to Chapter 67A of the Kentucky Revised Statutes, 200 East Main Street, Lexington, Kentucky 40507 (hereinafter "LFUCG") acting by and through the Division of Environmental Services, and **SOLAR ENERGY SOLUTIONS (SES)**, whose office is located at 1038 Brentwood Court, Suite B, Lexington, KY 40511 (hereinafter referred to as "Installer") with regard to the specific roles and responsibilities of the **Solarize Lexington Program**.

WITNESSETH:

WHEREAS, LFUCG recognizes that becoming more energy efficient is key to Lexington-Fayette County becoming a more resilient and sustainable community; and

WHEREAS, LFUCG becoming more energy efficient will benefit our community by saving our citizens money, keeping money in our local economy, creating jobs, reducing emission and air pollution, improving public health and protecting the environment; and

WHEREAS, LFUCG recognizes the importance of programs to enhance sustainability of Lexington-Fayette County per Council Resolution 220-2012; and

WHEREAS, the Solarize Lexington Program is designed to promote and encourage the use of photovoltaic arrays (PV) on residential and non-residential properties; and

WHEREAS, the Installer will install PV on properties of property owners who sign-up through and qualify to participate in the Program;

NOW, THEREFORE, it is mutually agreed by and between the LFUCG and SES hereto as follows:

I. LFUCG'S SERVICES AND RESPONSIBILITIES:

LFUCG hereby agrees to:

- A. Designate the Sustainability Program Manager Senior as primary contact for Solarize Lexington;
- B. Arrange weekly check in meetings with Installer;
- C. Pre-screen Program applicants and forward qualifying applicants' information to the Installer;
- D. Assist in communicating with Program participants;
- E. Continually recruit participants to join the Program until the sign-up deadline;

- F. Installer acknowledges and agrees that LFUCG, KY Solar Energy Society and the Solarize Lexington Team are not parties to and have no obligations under the contracts between the Installer and the Program participants.

II. INSTALLER'S SERVICES AND RESPONSIBILITIES:

Installer hereby agrees to:

- A. Installer Proposal and Installation Services:** Installer agrees to
1. Honor the terms of the accepted Program proposal, including the participant pricing. Refer to Response Form Part 2 (Proposed PV Pricing) for participant pricing provided in the Program proposal. Any changes to the project design (pricing, equipment, service offering, etc.) must be submitted in writing to the Solarize Lexington Team. The Solarize Lexington Team must review and approve said changes.
 2. Call and schedule site visits with each qualifying applicant within one week of receiving participant information.
 3. Prepare individualized proposals for each of the participants based on the specifications (including equipment and warranties) and prices in Installer's approved proposal. It is understood that all proposals and contracts' base price include all elements necessary to design and construct the system including, but not limited to, engineering design, permitting, interconnection requirements, and, if desired by participant, assist with Solar Renewable Energy Credits ("SREC") registration. Each individualized proposal shall include the following:
 - a. The installed system cost and cost per Watt (\$/W);
 - b. Any milestone payments required, and clear indication of when payments are due;
 - c. System size expressed in kW (DC);
 - d. Proposed tilt and azimuth of the solar array(s);
 - e. Estimated annual production of the proposed solar array(s) and the resulting percentage of annual electricity consumption the system is expected to offset;
 - f. List of any applicable adders and description of reason/purpose for adder. Breakdown of available state and federal incentives; and
 - g. Who the system owner is.
 4. Provide a preliminary proposal to Program participants within one week of contact and schedule Installer's site visit for interested participants.
 5. Email the Solarize Lexington Team copies of the first three (3) proposals issued to Program participants and agree to share any other Program proposals or information that may be requested in the future for the duration of the Program.
 6. Respond to Program participants' questions and concerns in a reasonable timeframe;
 7. Prepare individualized contracts for Program participants.
 8. Implement the Project within the deadlines outlined in Section III of this

Agreement;

9. Obtain and maintain insurance coverage in amounts equal to or higher than what is required per the Program's requirements.
10. Complete all permits, registrations, interconnection agreements, and SREC registrations (if desired by participant) for each Program participant and assist the Program participant with acquiring the approved and final documentation for all inspections and interconnection;
11. Installer hereby consents to the disclosure, by each Program participant, to the Solarize Lexington Team of any and all contracts and/or communications between such Program participant and the Installer; and Solarize Lexington Team may communicate with the Installer about the status, progress, and/or implementation at each Program participant site. The Solarize Lexington Team may choose to conduct a third-party quality control assessment on one or more completed and interconnected installations chosen at random. Inspections would include a visual assessment of components and workmanship and be performed by an experienced inspection contractor selected independently by the Solarize Lexington Team. Any inspection costs would be at LFUCG's expense. The Solarize Lexington Team can provide assessment criteria to Installer upon request.

B. Information Sharing and Reporting: Installer agrees to

1. Designate a primary contact;
2. Participate in weekly check-in meetings organized by the Solarize Lexington Team;
3. Provide the Solarize Lexington Team with weekly summary reports of participant sign-ups and progress information including, but not limited to participant name, address, installation schedule, system size, contract amount, estimated annual production in kilowatt hours (kWh), and photographs of completed installations in advance of the weekly check-in calls.
4. Submit a full report to the Solarize Lexington Team at the close of the Program that clearly details the status and outcomes of the leads generated through the Program.

C. Marketing and Outreach: Installer agrees to assist the Solarize Lexington Team to drive community adoption of PV projects. Installer agrees to:

1. Work directly with the Solarize Lexington Team in the execution of outreach and marketing efforts used to increase attendance at educational workshops and participation in the Program;
2. Request approval from the Solarize Lexington Team for all marketing materials developed to promote the Solarize Lexington Program in advance of distribution. This includes, but is not limited to, flyers, blog posts, website content, social media posts, door hangers, press releases, the use of the Solarize Lexington's logo, or any other communications

related to the Program;

3. Notify the Solarize Lexington Team in advance and collaborate on any press releases, events, or news conference concerning the Program. All media produced by the Installer in promotion of the Program is subject to the Solarize Lexington Team approval.

D. Participant Sign-up and Tracking: Both Parties agree that all leads generated by campaign related outreach will be stored in a location accessible by both the Solarize Lexington Team and the Installer.

E. Use of Federal Funds: Installer understands that LFUCG may subsidize the installation of PV on eligible properties pursuant to a grant program utilizing federal funds. As such, Installer agrees to comply with all terms and conditions of RFP #4-2024, attached hereto and incorporated herein by reference, which includes the Certification of Compliance for Expenditures Using Federal Funds, Including the American Rescue Plan Act, and the Installer further acknowledges that by executing this Agreement, it is and will remain compliant with all terms and conditions included therein.

III. DURATION OF AGREEMENT:

- A. This Agreement shall cover work performed from March 12, 2024, through March 12, 2025.
- B. This Agreement may be terminated by submitting thirty (30) days' written notice to the non-terminating party of such intent to terminate. Should either Party terminate this Agreement, Installer's access to the Solarize Lexington Program participant sign-up information and leads shall be immediately revoked.

IV. RELATED DOCUMENTS. This Agreement shall consist of the terms herein as well as the following additional documents, which are attached hereto as exhibits and incorporated herein by reference as if fully stated:

- A. Exhibit "A" – RFP #4-2024
- B. Exhibit "B" – Installer's Response to RFP #4-2024

To the extent that there is any conflict between or among any of these documents, the terms and provisions of this Agreement shall prevail, followed by terms and provisions of Exhibit "A", and "B" in that order.

V. GOVERNING LAW:

This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky. In the event of any proceedings regarding this



Agreement, the Parties agree that the venue shall be the state courts of Kentucky 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 Agreement or any rights or obligations arising thereunder. Service of process may be accomplished by following the procedures prescribed by law.

VI. ENTIRE AGREEMENT:

This Agreement constitutes the entire agreement and understanding of the Parties with respect to the subject matter set forth herein and this Agreement supersedes any and all prior and contemporaneous oral or written agreements or understandings between the Parties relative thereto. No representation, promise, inducement, or statement of intention has been made by the Parties that are not embodied in this Agreement.

VII. MISCELLANEOUS PROVISIONS:

- A. Installer shall familiarize itself with and shall at all times comply with all federal, state, and local laws, ordinances, and regulations that in any manner affect the services of this agreement.
- B. Installer agrees to indemnify, defend, and hold harmless LFUCG for all claims and liabilities of whatever nature directly or indirectly arising out of, caused by, or attributable to the performance of this MOA by Installer, its employees, agents, representatives, and volunteers.
- C. This MOA shall not create a contractual relationship with or right of action in favor of any third party against either LFUCG or Installer.
- D. If any term or provision of this MOA shall be found illegal or unenforceable by a court of competent jurisdiction, such term or provision shall be deemed stricken and this MOA shall remain in full force.
- E. The failure of either Party to enforce any right reserved to it in this MOA shall not be a waiver of any such right to which the party is entitled, and a waiver by either Party of any breach of any provision of this MOA shall not constitute a continuing waiver or waiver of any subsequent breach by either Party of either the same or another provision of this MOA.

EXHIBIT A
REQUEST FOR PROPOSALS FOR
SOLARIZE LEXINGTON PROGRAM
RFP #4-2024

EXHIBIT B
INSTALLER'S RESPONSE TO RFP #4-2024



Lexington-Fayette Urban County Government

Master

200 E. Main St
Lexington, KY 40507

File Number: 0236-24

File ID: 0236-24

Type: Resolution

Status: Approved

Version: 1

Contract #: 056-2024

In Control: Urban County Council

File Created: 02/27/2024

File Name: Seiler Geospatial (Trimble) - Sales Quotation & Sole Source Certification

Final Action: 03/21/2024

Title: A Resolution authorizing the Div. of Police to purchase Trimble X7 Crime Scene Scanner T10 Tablet Control Panel and Forensics Suite software from Seiler Geospatial, a sole source provider, and authorizing the Mayor, on behalf of the Urban County Government, to execute any necessary Agreement with Seiler Geospatial, related to the procurement, at a cost not to exceed \$995. [Div. of Police, Weathers]

Notes: In office 3/4/2024. MS

Stamped and filed in the CCO. Returned to Renita 3/25/2024. MS

Sponsors:

Enactment Date: 03/21/2024

Attachments: Cover Memo - Seiler Geospatial, SEILER Geospatial - Quote #00095037, Sole Source Letter - Seiler (Trimble), SOLE SOURCE CERTIFICATION - Seiler Geospatial (Trimble Scanner), 236-24 4856-7018-7690 v.1.docx, R-121-2024, Contract #056-2024

Enactment Number: R-121-2024

Deed #:

Hearing Date:

Drafter: Renita Happy

Effective Date:

History of Legislative File

| Ver- sion: | Acting Body: | Date: | Action: | Sent To: | Due Date: | Return Date: | Result: |
|------------|-----------------------------------|------------|---------------------------------|----------------------|------------|--------------|---------|
| 1 | Urban County Council Work Session | 03/05/2024 | Approved and Referred to Docket | Urban County Council | 03/07/2024 | | Pass |
| 1 | Urban County Council | 03/07/2024 | Received First Reading | Urban County Council | 03/21/2024 | | |
| 1 | Urban County Council | 03/21/2024 | Approved | | | | Pass |

Text of Legislative File 0236-24

Title

A Resolution authorizing the Div. of Police to purchase Trimble X7 Crime Scene Scanner

T10 Tablet Control Panel and Forensics Suite software from Seiler Geospatial, a sole source provider, and authorizing the Mayor, on behalf of the Urban County Government, to execute any necessary Agreement with Seiler Geospatial, related to the procurement, at a cost not to exceed \$995. [Div. of Police, Weathers]

Summary

Authorization to establish Seiler Geospatial as a sole source vendor and accept the Sales Quotation for the Trimble X7 Crime Scene Scanner T10 Tablet Control Panel and Forensics Suite software, a mapping system for replicating crime scenes. The period is for twelve (12) months, for a cost of \$995. Funds are Budgeted. (L0236-24) (Weathers/Armstrong)

Budgetary Implications: YES

Advance Document Review:

Law: Yes, Michael Sanner, 1/30/2024

Risk Management: No

Fully Budgeted: Funds are Budgeted

Account Number: 1101-505506-5561-76102

Year Impact: \$995

Annual Impact: \$ -0-

Project:

Activity:

Budget Reference:

Current Balance: \$395,182.63



Lexington-Fayette Urban County Government
DEPARTMENT OF PUBLIC SAFETY

Linda Gorton
Mayor

Kenneth Armstrong
Commissioner

TO: Mayor Linda Gorton
Urban County Council

Lawrence B. Weathers

FROM: Chief Lawrence B. Weathers
Lexington Police Department

CC: Commissioner Kenneth Armstrong
Department of Public Safety

DATE: February 27, 2024

SUBJECT: Seiler Geospatial – Sales Quotation & Sole Source Certification

Request

Authorization to establish Seiler Geospatial as a sole source vendor and accept the attached Sales Quotation for the Trimble Software.

Why are you requesting?

The Trimble X7 Crime Scene Scanner T10 Tablet Control Panel and Forensics Suite software form an indispensable mapping system for replicating crime scenes. This integrated setup serves as the primary equipment for this purpose, facilitating accurate reconstruction and analysis. The software is the sole compatible program for the scanner. Thus, maintaining the software subscription is necessary in enabling efficient processing of scanned images crucial for thorough forensic investigations.

The coverage period is for twelve (12) months. The annual cost is \$995. This is also to establish Seiler Geospatial as a sole source vendor. The attached quotation requires Council approval and Mayor Gorton's signature.

What is the cost in this budget year and future budget years?

Funds are budgeted - \$995

Are the funds budgeted? Yes – 1101-505506-5561-76102

File Number: 0236-24

Director/Commissioner: Lawrence B. Weathers, Chief
Lexington Police Department

LBW/rmh



Sales Quotation

Quote Number: 00095037

Contact Name: Chris Sizemore
E-mail: csizemore@lexingtonpolice.ky.gov
Phone: (859) 258-3541

Date Issued: 01/09/24
Expiration Date: 03/31/24

Ship To: Lexington Metro Police Department (KY)

Bill To: Lexington Metro Police Department (KY)
150 East Main Street
Lexington, KY 40507
United States

NEW EXP MAR 2025

| Quantity | Part Number | Description | Sale Price | Subtotal |
|----------|-----------------|--|------------|----------|
| 1.00 | EWFOR-TFC-STOCK | TPP - Software - Trimble Forensics Capture (12m expiration) Serial Number: 01YTТА6X1232173 | \$520.00 | \$520.00 |
| 1.00 | FOR-03-0313-NR | Trimble Forensics Suite (Subscription) (Reveal + TRW Forensics) Trimble Forensics Suite (ONE YEAR SUBSCRIPTION) Serial Number: csizemore@lexingtonpolice.ky.gov | \$475.00 | \$475.00 |

Total Price: \$995.00

This is not an invoice: Applicable sales tax and/or shipping charges will apply. This product and/or associated accessories may be subject to export controls under United States law and must not be exported or re-exported without prior authorization from either the United States Department of State or Commerce, as applicable.

Scheduled delivery times could be delayed due to vendor supply. Please communicate with your Seiler sales representative to ensure your timeline needs can be met before signing this quotation.

Please Contact Us:

Name: Tony Barber
Address: 3433 Tree Court Industrial Blvd
St. Louis
Missouri, 63122
United States
Phone: 314-218-6352
Mobile: 314-203-1635
E-mail: tbarber@seilerinst.com



Sales Quotation

Quote Number: 00095037

Terms: Net 30 Days Credit Card Financing

Net 30 upon approved credit application. Please inquire to sales rep on financing options available.

All credit card transactions will be charged a 3% surcharge.

This Sales Quotation is subject to and governed by the Terms and Conditions of Sale referred to at, attached, which are hereby incorporated into this Quotation by reference. Any terms and conditions contained in any purchase order, order confirmation, or other document or communication you send or provide to Seiler which are in addition to or different from those set forth in said Terms and Conditions of Sale found at the above-link which are not separately agreed to by Seiler in writing are hereby considered material, objected to, and shall be null, void, and of no force or effect.

This Sales Quotation is subject to the Seiler Maximum Liability and Indemnification Agreement, attached, version 041421. By signing this Sales Quotation, you are also agreeing to be bound by the terms and conditions of that Agreement.

Your signature below acknowledges acceptance of terms and conditions of this quote. Please sign and return via email or fax.

Signature: _____

Date: _____

Name: _____

Title: _____

General Terms and Conditions

Seiler Instrument and Manufacturing Company, Inc. (“Seiler”) has always had a “complete satisfaction” purchase policy and we will try to work with you to resolve any merchandise issues that you may have.

Seiler’s acceptance of an order from you is expressly made conditional and contingent upon your agreement to these General Terms and Conditions of Sale, and Seiler agrees to furnish the products to you only upon these terms and conditions. Notwithstanding delivery of goods, no term or condition in communications from you shall be binding on Seiler unless specifically accepted in writing by Seiler. Any terms and conditions which are in addition to or different from those contained herein are hereby considered material, objected to, and shall be of no force or effect.

Any amounts not paid when due shall bear interest at a rate equal to the lesser of: (a) 18% per annum, or (b) the highest rate allowed by law. If, in Seiler’s judgment, your financial situation becomes unsatisfactory, Seiler may require full or partial payment in advance of manufacturing and/or delivery, or cash payments or delivery by you of satisfactory security before the goods are shipped. In addition, Seiler reserves the right, among other remedies, to suspend further deliveries. In the event it becomes necessary for Seiler to employ legal counsel or to bring an action at law, in equity, or other proceeding to enforce any provision of this order and/or these General Terms and Conditions of Sale, Seiler shall be entitled to recover its costs and attorney’s fees from you if Seiler is the prevailing party on any or all of its claims in such action or proceeding.

Except for your obligations as to payment for the goods, neither party shall be in default by reason of any failure in performance under this order in accordance with its terms and conditions if such failure arises out of causes beyond the control and without the negligence of the party involved. Such causes include, but are not restricted in any way to, acts of God, acts of government, war, riot, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or unusually severe weather.

This order shall in all respects be subject to, governed by, and interpreted in accordance with the laws of the State of Missouri, without giving effect to any choice of law or conflicts of law rules or principles that could cause application of the law of a jurisdiction other than the State of Missouri. You expressly agree to submit and consent to the jurisdiction of any federal, state or local court located in St. Louis, Missouri, with respect to any controversy arising out of or relating to this order or any amendment, supplement or transactions in connection with this order.

This order may not be amended or modified except by a written agreement signed by Seiler and you.

Rental Terms: [See attached](#) or contact us at 888-263-8918 or [email us](#).

Blogs: When you subscribe to our Mapping/GIS and or Survey Blogs you will automatically be subscribed to our News|Press.

Seiler Shipping and Return Policy:

Shipping

Most orders received M-F before 2 p.m. CST will ship the same day if the item is in stock. If an item is on back-order, you will receive notification via email or the delay and expected time of shipment. Title and risk of loss in all goods sold to you shall pass to you upon Seiler's delivery to the carrier at your delivery point. Seiler assumes no liability for loss, damage, or consequential damages due to delays in shipment.

Tracking

Seiler will send an email at time of package shipping which will include a UPS tracking number. You can track your shipment progress online at <https://www.ups.com/track>.

Sales Tax

All prices quoted to you are exclusive of any taxes, the sole responsibility for the payment of which shall be yours. Seiler is required to collect tax in the following states: Arkansas, California, Missouri, Florida, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Missouri, Nebraska, South Carolina and Wisconsin.

Shipping charges

There is a minimum \$5.00 charge on all shipments. The freight charges will be calculated using the current UPS rates, rounded up to the next \$5.00 increment to cover any handling and packaging charges.

Seiler Return Policy:

Non-returnable items: Any consumable supply items including, but not limited to; spray paints, lathes, tape, some types of software, etc. Also, software is not returnable after 30 days from the date the customer receives access to the software.

Return Procedure

If you choose to return merchandise you must request a Return Merchandise Authorization (RMA) via email to returns@seilerinst.com before making a return.

1. Requests for return authorization must be made within seven (7) calendar days of receipt of the product and must be returned "pre-paid freight" within 7 days of return authorization. **Customers wishing to return items please call 800-489-2282, ext. 120 and ask for a return authorization number or you may email us at returns@seilerinst.com**

1. Requests for return authorization must be made within seven (7) calendar days of your receipt of the product, and the goods must be returned “pre-paid freight” within seven (7) calendar days of issuance of a RMA; otherwise, you will be deemed to have accepted all of the goods without qualification.

Note: If you request a RMA via e-mail, please reference your order number and company name in the subject line. Once you receive instructions from Seiler that include your RMA, please ship or return the goods (freight prepaid) to the office from where they were purchased, unless otherwise notified by Seiler. Please retain a copy of the RMA number and shipping receipts for your records until the return has been completely processed because this information and these documents are your proof that your return request was approved. Merchandise which is: returned without authorization, or in used condition, or not in its original packaging, will be refused and returned to you, and the carrier will charge you (and you agree to pay) freight in both directions. All returns will be subject to Seiler’s inspection prior to credit. Returns must be in new condition for credit. Returns for items that show any wear-and-tear require Seiler management approval.

2. Returned items that are received prepaid within twelve (12) working days of our shipping date and in new condition are subject to the following **Restocking Fees**:

Mis-shipments – 0%
Special order items – 25%
All other items – 10%

Please Note: The Restocking Fees will be waived if an upgraded product is ordered.

3. Returns must be shipped in their original condition in which they were received with sale tags, invoices/packing slips and packaging intact. Returns must be packaged securely for shipment and must be returned pre-paid shipment.

Damaged Merchandise/Insurance

Please note that “damaged merchandise” is not “defective merchandise.” “Defective merchandise” represents a basic flaw in the design or construction of the item and these claims are handled directly with the manufacturer under the manufacturer’s warranty.

Notification: If you receive a package that is damaged, you should (1) refuse to accept the package; (2) immediately contact the carrier so as not to void any claim, and (3) contact Seiler in writing within three (3) business days of attempted delivery so Seiler can assist with a claim against the carrier. Returning your item to Seiler could void your insurance by the carrier and Seiler will not be able to take back your merchandise and issue store credit or replacement. Seiler cannot assist with packages that you have accepted and then later claim as being damaged. If you receive an item that is defective, please contact Seiler in writing within three (3) business days of delivery with notice of the problem. Seiler will gladly correct the problem directly and/or work with the manufacturer to resolve your issue.

Insurance: Items damaged during shipping should be covered by insurance (automatic up to \$100 with UPS). Seiler encourages all customers to obtain insurance protection if they have concerns. Simply note your request for insurance on your order and Seiler will charge or bill you accordingly.

You acknowledge and agree that the goods shall be used only for the use or uses intended by the manufacturer, that it is your sole responsibility to install the goods safely and correctly, and in conformity with any and all federal, state and local laws, regulations, rules and ordinances. You, your parent, affiliates or subsidiaries (if any) jointly and severally agree to defend, indemnify and hold harmless Seiler, and its parent, affiliates, subsidiaries and suppliers, and their respective members, managers, officers, directors, employees, shareholders, partners, agents, representatives, successors and assigns, and each of them (collectively the “Indemnified Parties”) from and against any and all actions, claims, costs, damages, debts, expenses, fines, interest, judgments, liabilities, penalties and suits of whatever nature or description (including, but not limited to, attorney’s fees, court costs, expert witness fees and other costs of litigation) imposed upon, incurred by, or asserted against one or more of the Indemnified Parties which directly or indirectly arise out of or are related to your breach or violation of any federal, state or local law, statute, rule, regulation or ordinance regarding your installation and/or use of the goods.

You warrant and represent that you have full power and authority to deliver this order and to bind yourself to pay for said products and to perform any and all of your obligations arising out of this order.

Please note that damaged merchandise is not defective merchandise. Defective merchandise represents a basic flaw in the design or construction of the item and these claims are handled directly with the manufacturer under the manufacturer’s warranty.

Maximum Liability. This agreement shall be governed by and interpreted in accordance with the laws of the state of Commonwealth of Kentucky. Seiler’s maximum liability to Customer for any and all claims, losses, expenses, costs or damages, caused by, or arising directly or indirectly under or in connection in any way with its Services or the sale or delivery thereof, however caused, and on any theory of liability (including contract, strict liability, negligence or other tort, inclusive of third-party claims), shall not exceed the price paid by Customer for such Services. TO THE EXTENT PERMITTED BY APPLICABLE KENTUCKY LAW, IN NO EVENT WILL SEILER BE LIABLE FOR ANY INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY, INCIDENTAL OR CONSEQUENTIAL LOSS, DAMAGE, COST OR EXPENSE OF ANY KIND WHATSOEVER, HOWEVER CAUSED INCLUDING SEILER’S OWN NEGLIGENCE, OR ANY LOSS OF SERVICE, COST OF PROCUREMENT OF SUBSTITUTE SERVICES, LOSS OF DATA, LOSS OF CAPITAL, LOSS OF REVENUES, LOSS OF PROFIT, LOSS OF CONTRACTS, LOSS OF BUSINESS, LOSS OF GOODWILL OR ANTICIPATED SAVINGS, WASTED EXPENSES, OR WASTED MANAGEMENT TIME, EVEN IF SEILER HAS BEEN NOTIFIED OF THEIR POSSIBILITY OR THEY ARE FORESEEABLE, AND WHETHER THIS LIABILITY ARISES FROM A CLAIM BASED ON CONTRACT, WARRANTY, REPRESENTATION, TORT (INCLUDING NEGLIGENCE OR BREACH OF STATUTORY DUTY), STRICT LIABILITY, INDEMNITY, CONTRIBUTION OR OTHERWISE, AND CUSTOMER HEREBY SPECIFICALLY DISCLAIMS ALL RIGHTS

TO, AND WAIVES THE RECOVERY OF, THESE ITEMS. SEILER MAKES NO WARRANTY OR GUARANTEE OF ANY KIND, EXPRESS OF IMPLIED, INCLUDING MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE. CUSTOMER ACKNOWLEDGES THAT THE LIMITATIONS SET FORTH IN THIS SECTION ARE INTEGRAL TO THE PRICES CHARGED BY SEILER FOR ITS SERVICES AND THAT, WERE SEILER TO ASSUME ANY LIABILITY IN EXCESS OF THAT SET FORTH HEREIN, SUCH PRICES WOULD, OF NECESSITY, BE SUBSTANTIALLY HIGHER. THUS, THE PARTIES AGREE THAT SUCH LIMITATIONS AND EXCLUSIONS ARE NEITHER UNREASONABLE NOR UNCONSCIONABLE. SEILER IS RESPONSIBLE FOR PERSONAL INJURY AND PROPERTY DAMAGE CAUSED BY ITS EMPLOYEES WILLFUL OR NEGLIGENT CONDUCT WHILE ON THE PROPERTY OF THE CUSTOMER.

Seiler Maximum Liability and Indemnification

Seiler's maximum liability to you ("Customer") for any and all claims, losses, liabilities, expenses, costs or damages, directly or indirectly caused by, arising out of or under, related to, or in connection in any way with any products or services provided by Seiler to Customer, or the sale or delivery thereof, however caused, based, in whole or in part, on any theory of liability (including contract, strict liability, negligence (including gross negligence) or other tort, inclusive of third-party claims), shall not exceed the price paid by Customer to Seiler for such products and/or services. Seiler is responsible for personal injury and property damage caused by its employees willful or negligent conduct while on the property of Customer.

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL SEILER BE LIABLE FOR: ANY INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY, INCIDENTAL, OR CONSEQUENTIAL LOSS, DAMAGE, COST OR EXPENSE OF ANY KIND WHATSOEVER, HOWEVER CAUSED (INCLUDING SEILER'S OWN NEGLIGENCE); OR COST OF PROCUREMENT OF SUBSTITUTE SERVICES; OR ANY LOSS OF: SERVICE, DATA, CAPITAL, REVENUES, PROFIT, CONTRACTS, BUSINESS, GOODWILL OR ANTICIPATED SAVINGS; WASTED EXPENSES, OR WASTED MANAGEMENT TIME, EVEN IF SEILER HAS BEEN NOTIFIED OF THEIR POSSIBILITY OR THEY ARE FORESEEABLE, AND WHETHER THIS LIABILITY ARISES FROM A CLAIM BASED ON CONTRACT, WARRANTY, REPRESENTATION, TORT (INCLUDING NEGLIGENCE OR BREACH OF STATUTORY DUTY), STRICT LIABILITY, INDEMNITY, CONTRIBUTION OR OTHERWISE, AND CUSTOMER HEREBY SPECIFICALLY DISCLAIMS ALL RIGHTS TO, AND WAIVES THE RECOVERY OF, THESE ITEMS.

SEILER MAKES NO WARRANTY OR GUARANTEE OF ANY KIND, EXPRESS OF IMPLIED, INCLUDING MERCHANTABILITY AND FITNESS FOR PARTICULAR USE OR PURPOSE.

CUSTOMER ACKNOWLEDGES THAT THE LIMITATIONS SET FORTH IN THIS SECTION ARE INTEGRAL TO THE PRICES CHARGED BY SEILER FOR ITS PRODUCTS AND SERVICES AND THAT, WERE SEILER TO ASSUME ANY LIABILITY IN EXCESS OF THAT SET FORTH HEREIN, SUCH PRICES WOULD, OF NECESSITY, BE SUBSTANTIALLY HIGHER. THUS, CUSTOMER ACKNOWLEDGES, UNDERSTANDS, AND AGREES THAT SUCH LIMITATIONS AND EXCLUSIONS ARE NEITHER UNREASONABLE NOR UNCONSCIONABLE. SEILER IS RESPONSIBLE FOR PERSONAL INJURY AND PROPERTY DAMAGE CAUSED BY ITS EMPLOYEES WILLFUL OR NEGLIGENT CONDUCT WHILE ON THE PROPERTY OF CUSTOMER.

To the extent allowable by law, Customer shall defend and indemnify Seiler and its affiliates, successors, and assigns (the "Seiler Parties") against, and save and hold the Seiler Parties forever harmless from, any and all actions, causes of action, claims, counterclaims, controversies, costs, damages, demands, expenses, judgments, liabilities, liens, penalties, sums of money, and suits whatsoever, including reasonable attorneys' and expert witness fees and expenses of litigation, directly or indirectly imposed upon, incurred or sustained by, or asserted against the Seiler Parties, or any of them, as

a direct or indirect result of or directly or indirectly arising out of, related to, or by virtue of: (a) any claims of product liability regarding any product, and (b) Customer's (or its customers') use or utilization of any product provided by Seiler to Customer, or the sale or delivery thereof. Customer covenants and agrees to comply with all applicable federal, state, local, and municipal laws in connection with its use, utilization, or resale of all products provided by Seiler to Customer, or the sale or delivery thereof. This shall not be deemed a waiver of sovereign immunity or any other third-party defense available to Customer.

These agreements shall be governed by and interpreted in accordance with the laws of the state of Missouri, without giving effect to any choice of law or conflicts of law rules or principles that could cause application of the law of a jurisdiction other than the State of Commonwealth of Kentucky.



Trimble Navigation Limited
10368 Westmoor Drive
Westminster, CO 80021
United States

January 2nd, 2024

To Whom It May Concern:

This letter is to confirm that Seiler Instrument is the authorized dealer for Trimble's Survey, Mapping and GIS portfolio of products in Illinois, Indiana, Wisconsin, Kansas, Missouri, Michigan, Nebraska, Kentucky and Iowa. With multiple locations across the Midwest and a full staff of technical support personnel in addition to their knowledgeable sales team, we at Trimble feel that Seiler Instrument is the optimum choice for the Midwest Survey, Mapping, GIS and Utilities market.

Seiler Instrument is Trimble's only full service Trimble dealer in these aforementioned states. No other Trimble dealers are authorized by Trimble to resell our Survey, Mapping, GIS and Utilities Solutions into the Illinois, Indiana, Wisconsin, Kansas, Missouri, Michigan, Nebraska, Kentucky and Iowa region. To verify if a company is authorized to resell in any state, please contact me at any time.

Trimble products are strongly recommended to be purchased directly from an authorized Trimble Dealer/Service Provider for the best support of the customer. Additionally, Seiler Instrument is Trimble's Certified service center for the Midwest and therefore performs all warranty repairs on Trimble's, Survey and MGIS products. Seiler Instrument also employs Trimble Certified Trainers to provide first-rate GPS training to our customers.

Please feel free to contact me if further information should be required.

Regards,

A handwritten signature in black ink, appearing to read "Bob Lenz". The signature is fluid and cursive, with a large loop at the end.

Thank you,
Bob Lenz
Geospatial Sales Director – Americas
Trimble Navigation Limited
331.442.0431



JUSTIFICATION FOR SOLE SOURCE CERTIFICATION

Sole Source Purchases are defined clearly, based upon a legitimate need, and are limited to a single supplier. Sole source purchases are normally not allowed except when based upon strong technological grounds such as operational compatibility with existing equipment and related parts or upon a clearly unique and/or cost effective feature requirement. The use of sole source purchases must be justified and shall be limited only to those specific instances in which compatibility or technical performance needs are being satisfied.

Sole Source Services are defined as a service provider providing technical expertise of such a unique nature that the service provider is clearly and justifiably the only practicable source available to provide the service. The justification shall be based on the uniqueness of the service, sole availability at the location required, or warranty or defect correction service obligations of the service provider.

This form must be filled out for the request to purchase any good or non-professional service that requires a competitive procurement process (informal quotes (\$1001-\$10,000), formal quotes (\$10,001 - \$19,999.99), or formal bid (\$20,000 or more) as defined in the LFUCG's Purchasing Manual. This form must be completed in its entirety and attached to the purchase requisition.

Note: Sole Source Purchase requests for goods exceeding \$20,000 will require approval by the Urban County Council by submitting an Administrative Review Form. A copy of this form must be signed off by Central Purchasing and attached to the Administrative Review Form.

Requesting Division

Name Lieutenant Chris Sizemore Division/Dept: Police / Public Safety

Phone: 859-258-3541 Email csizemore@lexingtonpolice.ky.gov

Type of Purchase: () Goods/Materials/Equipment (✓) Services

Cost: \$995.00

Sole Source Request for the Purchase of: FARO Scanner Maintenance & License.

One Time Purchase

✓ To Establish Sole Source Provider Contract
(subject to annual review and approval by Central Purchasing and/or Urban County Council)

Vendor Information

Business Name: Seiler Instrument

Contact Name: Tony Barber

Address: 3433 Tree Ct. Ind. Blvd., St. Lous, MO 63122

Phone: 314-218-6352 Email: tbarber@seilerinst.com

STATEMENT OF NEED: (Add additional pages as needed)

My division/department's recommendation for sole source is based upon an objective review of the product/service required and appears to be in the best interest of the LFUCG. I know of no conflict of



JUSTIFICATION FOR SOLE SOURCE CERTIFICATION

interest on my part, and I have no personal involvement in any way with this request. No gratuities, favors, or compromising actions have taken place. Neither has my personal familiarity with particular brands, types of equipment, materials, persons or firms been a deciding influence on my request to sole source this purchase when there are other known suppliers to exist.

1. Describe the product or service and list the necessary features this product provides that are not available from any other option.

The Trimble X7 Crime Scene Scanner T10 Tablet Control Panel and Forensics Suite software form an indispensable mapping system for replicating crime scenes. This integrated setup serves as the primary equipment for this purpose, facilitating accurate reconstruction and analysis. The software is the sole compatible program for the scanner. Thus, maintaining the software subscription is necessary in enabling efficient processing of scanned images crucial for thorough forensic investigations.

2. Below are eligible reasons for sole source. Check one and describe.

Licensed or patented product or service. No other vendor provides this. Warranty or defect correction service obligations to the consultant. Describe why it is mandatory to use this licensed or patented product or service.

Existing LFUCG equipment, inventory, custom-built information system, custom-built data inventory system, or similar products or programs. Describe. If product is off-the-shelf, list efforts to find other vendors (i.e. web site search, contacting the manufacturer to see if other dealers are available to service this region, etc.)

Uniqueness of the service. Describe.

The LFUCG has established a standard for this manufacturer, supplier, or provider and there is only one vendor. Attach documentation from manufacturer to confirm that only one dealer provides the product.

Factory-authorized warranty service available only from this single dealer. Sole availability at the location required. Describe: Leica has unique re-calibration equipment needed to service this particular 3D scanner.

Used item with bargain price (describe what a new item would cost). Describe.

Other – The above reasons are the most common and established causes for an eligible sole source. If you have a different reason, please describe:

-



JUSTIFICATION FOR SOLE SOURCE CERTIFICATION

3. Describe efforts to find other vendors or consultants (i.e. phone inquires, web site search, contacting the manufacturer to see if other dealers are available to service region, etc.).

I have been in contact with Seiler Instrument who advised they are the authorized dealer of the Trimble products and software support in our region. I have also conducted internet research which confirms this assertion.

4. How was the price offered determined to be fair and reasonable?

(Explain what the basis was for comparison and include cost analyses as applicable.)

The price for this maintenance agreement is consistent with maintenance agreements for similar systems.

5. Describe any cost savings realized or costs avoided by acquiring the goods/services from this supplier.

The cost of the Trimble X7 Crime Scene Scanner system was approximately \$44,000. Without the maintaining the software subscription, the scanner would be rendered ineffective.

RESOLUTION NO. _____ - 2024

A RESOLUTION AUTHORIZING THE DIVISION OF POLICE TO PURCHASE TRIMBLE X7 CRIME SCENE SCANNER T10 TABLET CONTROL PANEL AND FORENSICS SUITE SOFTWARE FROM SEILER GEOSPATIAL, A SOLE SOURCE PROVIDER, AND AUTHORIZING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE ANY NECESSARY AGREEMENT WITH SEILER GEOSPATIAL, RELATED TO THE PROCUREMENT, AT A COST NOT TO EXCEED \$995.00.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the Division of Police is authorized to purchase Trimble X7 Crime Scene Scanner T10 Tablet Control Panel and Forensics Suite software from Seiler Geospatial, a sole source provider, and the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized to execute any necessary agreement with Seiler Geospatial, related to the procurement.

Section 2 – That an amount, estimated not to exceed the sum of \$995.00 be and hereby is approved for payment to Seiler Geospatial, from account #1101-505506-76102.

Section 3 – That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL

0236-24:MRS:4856-7018-7690, v. 1

RESOLUTION NO. 121 - 2024

A RESOLUTION AUTHORIZING THE DIVISION OF POLICE TO PURCHASE TRIMBLE X7 CRIME SCENE SCANNER T10 TABLET CONTROL PANEL AND FORENSICS SUITE SOFTWARE FROM SEILER GEOSPATIAL, A SOLE SOURCE PROVIDER, AND AUTHORIZING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE ANY NECESSARY AGREEMENT WITH SEILER GEOSPATIAL, RELATED TO THE PROCUREMENT, AT A COST NOT TO EXCEED \$995.00.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the Division of Police is authorized to purchase Trimble X7 Crime Scene Scanner T10 Tablet Control Panel and Forensics Suite software from Seiler Geospatial, a sole source provider, and the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized to execute any necessary agreement with Seiler Geospatial, related to the procurement.

Section 2 – That an amount, estimated not to exceed the sum of \$995.00 be and hereby is approved for payment to Seiler Geospatial, from account #1101-505506-76102.

Section 3 – That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: March 21, 2024


MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL
0236-24:MRS:4856-7018-7690, v. 1



Sales Quotation

Quote Number: 00095037

Terms: Net 30 Days Credit Card Financing

Net 30 upon approved credit application. Please inquire to sales rep on financing options available.

All credit card transactions will be charged a 3% surcharge.

This Sales Quotation is subject to and governed by the Terms and Conditions of Sale referred to at, attached, which are hereby incorporated into this Quotation by reference. Any terms and conditions contained in any purchase order, order confirmation, or other document or communication you send or provide to Seiler which are in addition to or different from those set forth in said Terms and Conditions of Sale found at the above-link which are not separately agreed to by Seiler in writing are hereby considered material, objected to, and shall be null, void, and of no force or effect.

This Sales Quotation is subject to the Seiler Maximum Liability and Indemnification Agreement, attached, version 041421. By signing this Sales Quotation, you are also agreeing to be bound by the terms and conditions of that Agreement.

Your signature below acknowledges acceptance of terms and conditions of this quote. Please sign and return via email or fax.

Signature: Linda Gorton

Date: 3/25/2024

Name: Linda Gorton

Title: Mayor

General Terms and Conditions

Seiler Instrument and Manufacturing Company, Inc. (“Seiler”) has always had a “complete satisfaction” purchase policy and we will try to work with you to resolve any merchandise issues that you may have.

Seiler’s acceptance of an order from you is expressly made conditional and contingent upon your agreement to these General Terms and Conditions of Sale, and Seiler agrees to furnish the products to you only upon these terms and conditions. Notwithstanding delivery of goods, no term or condition in communications from you shall be binding on Seiler unless specifically accepted in writing by Seiler. Any terms and conditions which are in addition to or different from those contained herein are hereby considered material, objected to, and shall be of no force or effect.

Any amounts not paid when due shall bear interest at a rate equal to the lesser of: (a) 18% per annum, or (b) the highest rate allowed by law. If, in Seiler’s judgment, your financial situation becomes unsatisfactory, Seiler may require full or partial payment in advance of manufacturing and/or delivery, or cash payments or delivery by you of satisfactory security before the goods are shipped. In addition, Seiler reserves the right, among other remedies, to suspend further deliveries. In the event it becomes necessary for Seiler to employ legal counsel or to bring an action at law, in equity, or other proceeding to enforce any provision of this order and/or these General Terms and Conditions of Sale, Seiler shall be entitled to recover its costs and attorney’s fees from you if Seiler is the prevailing party on any or all of its claims in such action or proceeding.

Except for your obligations as to payment for the goods, neither party shall be in default by reason of any failure in performance under this order in accordance with its terms and conditions if such failure arises out of causes beyond the control and without the negligence of the party involved. Such causes include, but are not restricted in any way to, acts of God, acts of government, war, riot, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or unusually severe weather.

This order shall in all respects be subject to, governed by, and interpreted in accordance with the laws of the State of Missouri, without giving effect to any choice of law or conflicts of law rules or principles that could cause application of the law of a jurisdiction other than the State of Missouri. You expressly agree to submit and consent to the jurisdiction of any federal, state or local court located in St. Louis, Missouri, with respect to any controversy arising out of or relating to this order or any amendment, supplement or transactions in connection with this order.

This order may not be amended or modified except by a written agreement signed by Seiler and you.

Rental Terms: [See attached](#) or contact us at 888-263-8918 or [email us](#).

Blogs: When you subscribe to our Mapping/GIS and or Survey Blogs you will automatically be subscribed to our News|Press.

Seiler Shipping and Return Policy:

Shipping

Most orders received M-F before 2 p.m. CST will ship the same day if the item is in stock. If an item is on back-order, you will receive notification via email or the delay and expected time of shipment. Title and risk of loss in all goods sold to you shall pass to you upon Seiler's delivery to the carrier at your delivery point. Seiler assumes no liability for loss, damage, or consequential damages due to delays in shipment.

Tracking

Seiler will send an email at time of package shipping which will include a UPS tracking number. You can track your shipment progress online at <https://www.ups.com/track>.

Sales Tax

All prices quoted to you are exclusive of any taxes, the sole responsibility for the payment of which shall be yours. Seiler is required to collect tax in the following states: Arkansas, California, Missouri, Florida, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Missouri, Nebraska, South Carolina and Wisconsin.

Shipping charges

There is a minimum \$5.00 charge on all shipments. The freight charges will be calculated using the current UPS rates, rounded up to the next \$5.00 increment to cover any handling and packaging charges.

Seiler Return Policy:

Non-returnable items: Any consumable supply items including, but not limited to; spray paints, lathes, tape, some types of software, etc. Also, software is not returnable after 30 days from the date the customer receives access to the software.

Return Procedure

If you choose to return merchandise you must request a Return Merchandise Authorization (RMA) via email to returns@seilerinst.com before making a return.

1. Requests for return authorization must be made within seven (7) calendar days of receipt of the product and must be returned "pre-paid freight" within 7 days of return authorization. **Customers wishing to return items please call 800-489-2282, ext. 120 and ask for a return authorization number or you may email us at returns@seilerinst.com**

1. Requests for return authorization must be made within seven (7) calendar days of your receipt of the product, and the goods must be returned “pre-paid freight” within seven (7) calendar days of issuance of a RMA; otherwise, you will be deemed to have accepted all of the goods without qualification.

Note: If you request a RMA via e-mail, please reference your order number and company name in the subject line. Once you receive instructions from Seiler that include your RMA, please ship or return the goods (freight prepaid) to the office from where they were purchased, unless otherwise notified by Seiler. Please retain a copy of the RMA number and shipping receipts for your records until the return has been completely processed because this information and these documents are your proof that your return request was approved. Merchandise which is: returned without authorization, or in used condition, or not in its original packaging, will be refused and returned to you, and the carrier will charge you (and you agree to pay) freight in both directions. All returns will be subject to Seiler’s inspection prior to credit. Returns must be in new condition for credit. Returns for items that show any wear-and-tear require Seiler management approval.

2. Returned items that are received prepaid within twelve (12) working days of our shipping date and in new condition are subject to the following **Restocking Fees**:

Mis-shipments – 0%
Special order items – 25%
All other items – 10%

Please Note: The Restocking Fees will be waived if an upgraded product is ordered.

3. Returns must be shipped in their original condition in which they were received with sale tags, invoices/packing slips and packaging intact. Returns must be packaged securely for shipment and must be returned pre-paid shipment.

Damaged Merchandise/Insurance

Please note that “damaged merchandise” is not “defective merchandise.” “Defective merchandise” represents a basic flaw in the design or construction of the item and these claims are handled directly with the manufacturer under the manufacturer’s warranty.

Notification: If you receive a package that is damaged, you should (1) refuse to accept the package; (2) immediately contact the carrier so as not to void any claim, and (3) contact Seiler in writing within three (3) business days of attempted delivery so Seiler can assist with a claim against the carrier. Returning your item to Seiler could void your insurance by the carrier and Seiler will not be able to take back your merchandise and issue store credit or replacement. Seiler cannot assist with packages that you have accepted and then later claim as being damaged. If you receive an item that is defective, please contact Seiler in writing within three (3) business days of delivery with notice of the problem. Seiler will gladly correct the problem directly and/or work with the manufacturer to resolve your issue.

Insurance: Items damaged during shipping should be covered by insurance (automatic up to \$100 with UPS). Seiler encourages all customers to obtain insurance protection if they have concerns. Simply note your request for insurance on your order and Seiler will charge or bill you accordingly.

You acknowledge and agree that the goods shall be used only for the use or uses intended by the manufacturer, that it is your sole responsibility to install the goods safely and correctly, and in conformity with any and all federal, state and local laws, regulations, rules and ordinances. You, your parent, affiliates or subsidiaries (if any) jointly and severally agree to defend, indemnify and hold harmless Seiler, and its parent, affiliates, subsidiaries and suppliers, and their respective members, managers, officers, directors, employees, shareholders, partners, agents, representatives, successors and assigns, and each of them (collectively the "Indemnified Parties") from and against any and all actions, claims, costs, damages, debts, expenses, fines, interest, judgments, liabilities, penalties and suits of whatever nature or description (including, but not limited to, attorney's fees, court costs, expert witness fees and other costs of litigation) imposed upon, incurred by, or asserted against one or more of the Indemnified Parties which directly or indirectly arise out of or are related to your breach or violation of any federal, state or local law, statute, rule, regulation or ordinance regarding your installation and/or use of the goods.

You warrant and represent that you have full power and authority to deliver this order and to bind yourself to pay for said products and to perform any and all of your obligations arising out of this order.

Please note that damaged merchandise is not defective merchandise. Defective merchandise represents a basic flaw in the design or construction of the item and these claims are handled directly with the manufacturer under the manufacturer's warranty.

Maximum Liability. This agreement shall be governed by and interpreted in accordance with the laws of the state of Commonwealth of Kentucky. Seiler's maximum liability to Customer for any and all claims, losses, expenses, costs or damages, caused by, or arising directly or indirectly under or in connection in any way with its Services or the sale or delivery thereof, however caused, and on any theory of liability (including contract, strict liability, negligence or other tort, inclusive of third-party claims), shall not exceed the price paid by Customer for such Services. TO THE EXTENT PERMITTED BY APPLICABLE KENTUCKY LAW, IN NO EVENT WILL SEILER BE LIABLE FOR ANY INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY, INCIDENTAL OR CONSEQUENTIAL LOSS, DAMAGE, COST OR EXPENSE OF ANY KIND WHATSOEVER, HOWEVER CAUSED INCLUDING SEILER'S OWN NEGLIGENCE, OR ANY LOSS OF SERVICE, COST OF PROCUREMENT OF SUBSTITUTE SERVICES, LOSS OF DATA, LOSS OF CAPITAL, LOSS OF REVENUES, LOSS OF PROFIT, LOSS OF CONTRACTS, LOSS OF BUSINESS, LOSS OF GOODWILL OR ANTICIPATED SAVINGS, WASTED EXPENSES, OR WASTED MANAGEMENT TIME, EVEN IF SEILER HAS BEEN NOTIFIED OF THEIR POSSIBILITY OR THEY ARE FORESEEABLE, AND WHETHER THIS LIABILITY ARISES FROM A CLAIM BASED ON CONTRACT, WARRANTY, REPRESENTATION, TORT (INCLUDING NEGLIGENCE OR BREACH OF STATUTORY DUTY), STRICT LIABILITY, INDEMNITY, CONTRIBUTION OR OTHERWISE, AND CUSTOMER HEREBY SPECIFICALLY DISCLAIMS ALL RIGHTS

TO, AND WAIVES THE RECOVERY OF, THESE ITEMS. SEILER MAKES NO WARRANTY OR GUARANTEE OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE. CUSTOMER ACKNOWLEDGES THAT THE LIMITATIONS SET FORTH IN THIS SECTION ARE INTEGRAL TO THE PRICES CHARGED BY SEILER FOR ITS SERVICES AND THAT, WERE SEILER TO ASSUME ANY LIABILITY IN EXCESS OF THAT SET FORTH HEREIN, SUCH PRICES WOULD, OF NECESSITY, BE SUBSTANTIALLY HIGHER. THUS, THE PARTIES AGREE THAT SUCH LIMITATIONS AND EXCLUSIONS ARE NEITHER UNREASONABLE NOR UNCONSCIONABLE. SEILER IS RESPONSIBLE FOR PERSONAL INJURY AND PROPERTY DAMAGE CAUSED BY ITS EMPLOYEES WILLFUL OR NEGLIGENT CONDUCT WHILE ON THE PROPERTY OF THE CUSTOMER.

Seiler Maximum Liability and Indemnification

Seiler's maximum liability to you ("Customer") for any and all claims, losses, liabilities, expenses, costs or damages, directly or indirectly caused by, arising out of or under, related to, or in connection in any way with any products or services provided by Seiler to Customer, or the sale or delivery thereof, however caused, based, in whole or in part, on any theory of liability (including contract, strict liability, negligence (including gross negligence) or other tort, inclusive of third-party claims), shall not exceed the price paid by Customer to Seiler for such products and/or services. Seiler is responsible for personal injury and property damage caused by its employees willful or negligent conduct while on the property of Customer.

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL SEILER BE LIABLE FOR: ANY INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY, INCIDENTAL, OR CONSEQUENTIAL LOSS, DAMAGE, COST OR EXPENSE OF ANY KIND WHATSOEVER, HOWEVER CAUSED (INCLUDING SEILER'S OWN NEGLIGENCE); OR COST OF PROCUREMENT OF SUBSTITUTE SERVICES; OR ANY LOSS OF: SERVICE, DATA, CAPITAL, REVENUES, PROFIT, CONTRACTS, BUSINESS, GOODWILL OR ANTICIPATED SAVINGS; WASTED EXPENSES, OR WASTED MANAGEMENT TIME, EVEN IF SEILER HAS BEEN NOTIFIED OF THEIR POSSIBILITY OR THEY ARE FORESEEABLE, AND WHETHER THIS LIABILITY ARISES FROM A CLAIM BASED ON CONTRACT, WARRANTY, REPRESENTATION, TORT (INCLUDING NEGLIGENCE OR BREACH OF STATUTORY DUTY), STRICT LIABILITY, INDEMNITY, CONTRIBUTION OR OTHERWISE, AND CUSTOMER HEREBY SPECIFICALLY DISCLAIMS ALL RIGHTS TO, AND WAIVES THE RECOVERY OF, THESE ITEMS.

SEILER MAKES NO WARRANTY OR GUARANTEE OF ANY KIND, EXPRESS OF IMPLIED, INCLUDING MERCHANTABILITY AND FITNESS FOR PARTICULAR USE OR PURPOSE.

CUSTOMER ACKNOWLEDGES THAT THE LIMITATIONS SET FORTH IN THIS SECTION ARE INTEGRAL TO THE PRICES CHARGED BY SEILER FOR ITS PRODUCTS AND SERVICES AND THAT, WERE SEILER TO ASSUME ANY LIABILITY IN EXCESS OF THAT SET FORTH HEREIN, SUCH PRICES WOULD, OF NECESSITY, BE SUBSTANTIALLY HIGHER. THUS, CUSTOMER ACKNOWLEDGES, UNDERSTANDS, AND AGREES THAT SUCH LIMITATIONS AND EXCLUSIONS ARE NEITHER UNREASONABLE NOR UNCONSCIONABLE. SEILER IS RESPONSIBLE FOR PERSONAL INJURY AND PROPERTY DAMAGE CAUSED BY ITS EMPLOYEES WILLFUL OR NEGLIGENT CONDUCT WHILE ON THE PROPERTY OF CUSTOMER.

To the extent allowable by law, Customer shall defend and indemnify Seiler and its affiliates, successors, and assigns (the "Seiler Parties") against, and save and hold the Seiler Parties forever harmless from, any and all actions, causes of action, claims, counterclaims, controversies, costs, damages, demands, expenses, judgments, liabilities, liens, penalties, sums of money, and suits whatsoever, including reasonable attorneys' and expert witness fees and expenses of litigation, directly or indirectly imposed upon, incurred or sustained by, or asserted against the Seiler Parties, or any of them, as

Seiler Maximum Liability and Indemnification - Version 041421

a direct or indirect result of or directly or indirectly arising out of, related to, or by virtue of: (a) any claims of product liability regarding any product, and (b) Customer's (or its customers') use or utilization of any product provided by Seiler to Customer, or the sale or delivery thereof. Customer covenants and agrees to comply with all applicable federal, state, local, and municipal laws in connection with its use, utilization, or resale of all products provided by Seiler to Customer, or the sale or delivery thereof. This shall not be deemed a waiver of sovereign immunity or any other third-party defense available to Customer.

These agreements shall be governed by and interpreted in accordance with the laws of the state of Missouri, without giving effect to any choice of law or conflicts of law rules or principles that could cause application of the law of a jurisdiction other than the State of Commonwealth of Kentucky.

FAYETTE COUNTY
INNOVATION DRIVE
GEORGETOWN ROAD
ITEM NO. 7-80253
\$426,648 – FD04 FUNDS

**AGREEMENT BETWEEN
COMMONWEALTH OF KENTUCKY
TRANSPORTATION CABINET
DEPARTMENT OF HIGHWAYS
AND LEXINGTON-FAYETTE
URBAN COUNTY GOVERNMENT**

THIS AGREEMENT, entered into by and between the Commonwealth of Kentucky, Transportation Cabinet, Department of Highways, hereinafter referred to as the “**Department**,” and the Lexington-Fayette Urban County Government, 200 East Main Street, Lexington, KY 40507, hereinafter referred to as the “**LPA**.”

WITNESSETH:

WHEREAS, the parties hereto desire to complete improvements to the intersection of Innovation Drive (CS 1185) and Georgetown Road (US 25) in the city of Lexington, which shall hereinafter be referred to as the “**Project**;”

WHEREAS, the **LPA** desires to be the lead agency and perform this **Project**;

WHEREAS, the **LPA** shall refer to the applicable state requirements listed in the Project Development Guide for Local Public Agencies and any future revisions for assistance in complying with this Agreement;

WHEREAS, the **LPA** has asked the **Department** for funding assistance for costs incurred during this **Project**;

WHEREAS, the **Department** agrees this is a worthwhile **Project** and is willing to reimburse the **LPA** up to \$426,648 in state reimbursable funding (FD04) for the completion of this **Project**; and

FAYETTE COUNTY
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\$426,648 – FD04 FUNDS

WHEREAS, any cost in excess of the reimbursement funding (\$426,648) for this **Project** will be the responsibility of the **LPA**.

NOW, THEREFORE, in consideration of these premises and the mutual covenants contained herein, the parties hereby agree as follows:

1. The **Department** agrees to reimburse the **LPA** up to \$426,648 for completion of work by the **LPA**, or consultants, contractors, or subcontractors hired by the **LPA** for all Phases, under the obligations of this Agreement to complete safety improvements to the intersection of Innovation Drive (CS 1185) and Georgetown Road (US 25) in the city of Lexington. This project is listed in the current Highway Plan as Item no. 7-80253.
2. The **Department** has authorized up to \$426,648 in state reimbursable funding (FD04) for all eligible expenses for this **Project**. *This funding shall be made available for reimbursement following the expenditure of \$200,000 of local funds by the LPA for the Project.* This state reimbursable funding (FD04) shall be made available for reimbursement to the **LPA** for all eligible expenses to the **Project**. The **LPA** shall be responsible for all eligible costs above the \$426,648 as well as any costs deemed ineligible for reimbursement from this **Project**. Any additional funding obligated for the completion of this **Project** shall be evidenced in writing by both parties with a Supplemental Agreement.
3. This Agreement is contingent upon the continued availability of appropriated funding. If the funding appropriated for the **Project** becomes unavailable for any reason including: the Kentucky General Assembly's failure to appropriate the funding, by operation of law or as the result of a reduction in funding, further reimbursement of **Project** expenditures may be denied, the **Project** may be cancelled, the timeline extended or the scope amended by the **Department** either in whole or in part without penalty. Denial of further reimbursement, **Project** cancellation, extension or amendment because of an interruption in the appropriated funding

FAYETTE COUNTY
INNOVATION DRIVE
GEORGETOWN ROAD
ITEM NO. 7-80253
\$426,648 – FD04 FUNDS

is not a default or breach of this Agreement by the **Department** nor may such denial, cancellation, extension or amendment give rise to any claim against the **Department**.

4. The effective date of this Agreement is the date of signature by the Secretary of the Transportation Cabinet. The Term of Eligible Reimbursement under this Agreement shall be three (3) years from the date of its execution unless extended or amended by written Agreement in accordance with the provisions of KRS 45A. Any and all funding obligated for any phase of this **Project** shall be available to reimburse the **LPA** for eligible work activities completed and costs incurred prior to expiration.
5. The **LPA** shall follow state specifications for each necessary phase of this **Project**. The **LPA** shall adhere to all state regulations, including KRS 45A, KRS 176, KRS 177, and all terms of this Agreement for activities related to this **Project** as lead agency. The **LPA** will obtain any required permits, licenses or easements required to initiate, perform, and complete work and provide documentation to the **Department's** District 7 Office in Lexington. In addition, the **LPA** is responsible to meet all other requirements and adhere to all regulations necessary to qualify for the receipt of these state funds. Concurrence must be obtained by the **LPA** through the **Department's** District 7 Chief District Engineer in Lexington prior to the awarding of any contract for work or materials to be used on this **Project**.
6. Should the **Project** require any design services, the **LPA** agrees to use only licensed consultants who are pre-qualified to do work for the **Department** or to use a licensed Professional Engineer registered in the Commonwealth of Kentucky that demonstrates sufficient experience and knowledge in the type of work and receives the approval of the **Department's** District 7 Chief District Engineer in Lexington. The **LPA** shall be responsible for all **Project** design activities, which may be completed either by the **LPA's** staff or a consultant that is to be selected based on qualifications. All design work to be contracted must comply with all legal advertisement and selection requirements including, but not limited to, the Model Procurement Code provisions of KRS 45A and KRS 424. The **LPA** shall submit

FAYETTE COUNTY
INNOVATION DRIVE
GEORGETOWN ROAD
ITEM NO. 7-80253
\$426,648 – FD04 FUNDS

and obtain concurrences to the **Department's** District 7 Chief District Engineer in Lexington final design plans, specifications, and a total estimate prior to any construction. When applicable, the **LPA** must obtain any necessary permits or easements to allow for work to be accomplished on this **Project** and adhere to the Uniform Relocation Assistance (URA) and Real Property Acquisitions Policies Act.

7. Should the **Project** require the acquisition of any interest in real property by the **LPA**, the **LPA** shall ensure that all real property acquisition, relocation assistance, and property management are completed in a fair, equitable and approved manner consistent with all state laws and regulations governing the acquisition of real property for public use using highway funding. In all real property acquisitions, concurrence must be obtained through the **Department's** Division of Right of Way and Utilities and shall be subject to review and approval by the **Department**.
8. The **LPA** must obtain encroachment permits to allow for work to be accomplished on state owned right-of-way from the **Department's** District 7 Office in Lexington. The **LPA** acknowledges that the **Department** will require the placement of a restrictive easement approved by and in favor of the **Department** in the chain of title of any real property acquired or improved pursuant to the **Project**. If the owner of any real property acquired or improved pursuant to the **Project** is not the **Department** or the **LPA**, the owner shall sign and be made a party to this Agreement and the owner hereby acknowledges, covenants and consents to the placement of a restrictive easement for perpetual maintenance of the property acquired or improved pursuant to the **Project** in the chain of title in favor of the **Department** prior to final reimbursement by the **Department**.
9. The **LPA** shall either adopt in writing the **Department's** written Policies and Procedures for Right of Way Acquisition and Relocation Assistance or present its own written Policies and Procedures for approval by the **Department's** Division of Right of Way and Utilities. The **LPA** shall conduct all appraisals and appraisal reviews using personnel meeting the

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Department's minimum qualifications and listed on the **Department's** pre-qualified appraiser and reviewer list. If the **LPA** chooses to use an acquisition consultant on all or any portion of the **Project**, the selection of the consultant shall be in accordance with the **Department's** Division of Right of Way Guidance Manual. All appraisals must be reviewed and approved by the **Department's** Central Office review appraisers, failure to do so will result in the **Project** being ineligible for funding reimbursement. The **LPA** shall provide property management in accordance with approved procedures and be responsible for the abatement of any asbestos containing materials and removal of contaminated soils pursuant to applicable state laws and regulations. The **LPA** shall provide the **Department** necessary assurance that all real property has been acquired and all displaced individuals, businesses, non-profit organizations and farms have been offered relocation assistance according to applicable state laws and regulations. The **LPA** shall provide the **Department** necessary documentation for review and approval at various stages of the acquisition process, as described in the **Department's** Right of Way Guidance Manual.

10. When conducting a utility relocation, KRS 177.035 and KRS 179.265 determine the necessity of payment for utility companies. Identification of utility or railroad facilities in conflict with the **Project**, the execution of a remedy for said conflict and oversight of the execution, and all work related to the **Project** shall be done in accordance with the Cabinet's Standards, Specifications, Standard Drawings, and Utilities and Rails Manual. Utility relocations shall be designed by the utility company and shown on the **Project's** survey and general plan sheets. The impacted utility company, with its regular construction or maintenance personnel, and/or with an approved contractor or subcontractor, will furnish all engineering, administration, labor, and materials to make and complete all necessary adjustments of its facilities to accommodate the **Project**. Correspondence pertaining to utility or railroad coordination must be provided to both contracted parties. If a conflict of interest arises between the obligated party and a utility company, the unobligated party shall intercede to provide the utility coordination. The completed relocation shall be inspected to document the proper installation of the facilities. Upon full execution of the utility relocation for the **Project**, three (3) sets of

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as-built plans for each utility company that completes facility relocation on the project prior to the construction letting, a utility impact note defining the utilities identified in the **Project**, relocations that have been performed, incomplete relocations, and completion schedules for the incomplete work must be provided.

11. State construction criteria for the type of work shall be followed, including but not limited to the **Department's** Highway Design Manual, the **Department's** Standard Drawings, the **Department's** Standard Specifications for Road and Bridge Construction, the **Department's** Drainage Manual, the **Department's** Structural Design Manual, the American Association of State Highway Transportation Officials' (AASHTO) "Policy on Geometric Design of Highways and Streets", and the FHWA Manual on Uniform Traffic Control Devices (MUTCD). All work performed shall be in accordance with the **Department's** Standard Specifications for Road and Bridge Construction, edition 2019, and as provided in Subsection 105.01 of said Specifications. All materials furnished shall be in accordance with Subsection 106 of said Specifications to include all **Department** List of Approved Materials. These standards, specifications, and criteria are incorporated in this Agreement by this reference.

12. The **LPA** agrees to use only licensed contractors and subcontractors who are pre-qualified to do work for the **Department** for any necessary construction services. The **LPA** shall be responsible for all **Project** construction activities, which may be completed either by the **LPA's** staff or through the advertisement, opening of bids, selection, and contracting for contractor services in accordance with the Model Procurement Code provisions of KRS 45A and KRS 424. Specific requirements defined within KRS 45A require that the award be made to the lowest responsive bidder meeting the criteria of responsibility established by the **Department**. The contractor affirms that it is properly authorized under the laws of the Commonwealth of Kentucky to conduct business in this state and will remain in good standing to do business in the Commonwealth of Kentucky for the duration of any contract awarded. The contractor shall maintain certification of authority to conduct business in the Commonwealth of Kentucky during the term of this contract. Such registration is obtained

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from the Secretary of State, who will also provide the certification thereof. The **LPA** must receive **Department** approval for all change orders and shall have approval of the appropriate governing authority, but shall not increase the funding obligated to the **LPA** as a result of this Agreement.

13. Discrimination (because of race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability) is prohibited. During the performance of this contract, the **LPA** agrees as follows:

a. The **LPA** will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity, or age. The **LPA** further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The **LPA** agrees to provide, upon request, needed reasonable accommodations. The **LPA** will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability. 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 compensations; and selection for training, including apprenticeship. The **LPA** agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

b. The **LPA** will, in all solicitations or advertisements for employees placed by or on behalf of the **LPA**; state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability.

c. The **LPA** will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the **LPA**'s commitments under this section, and shall

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post copies of the notice in conspicuous places available to employees and applicants for employment. The **LPA** will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

d. The **LPA** will comply with all provisions of Executive Order No. 11246 of September 24, 1965 as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.

e. The **LPA** will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

f. In the event of the **LPA's** noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be cancelled, terminated or suspended in whole or in part and the **LPA** may be declared ineligible for further government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.

g. The **LPA** will include the provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor, issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each sub-contractor or vendor. The **LPA** will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance.

14. The **LPA** shall be responsible for all aspects of administration, measuring, testing, and inspections to ensure the materials and work meets the **Department's** specifications of the construction contract. This includes providing daily, on-site inspection of the contractor's

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work activities and processing all of the paper work associated with the construction contract, including any change orders. The **Department** shall have access to the **Project** area and may conduct field reviews of the **Project** at any time. These field reviews are intended to verify status of the **Project**, performance of the contractor, adequacy of the **LPA** oversight, conformance with all laws, regulations, and policies and provide assistance to the **LPA** as may be necessary.

15. The **LPA** may submit to the **Department's** District 7 Office in Lexington current billings reflecting the actual cost of work incurred during any given work period, which will be paid within a reasonable time after receipt by the **Department**; however, in no event is the **LPA** to submit billings for work performed for less than a thirty (30) day period. All charges to the **Project** shall be supported by properly executed invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of the charge. The **Department** may require additional documentation at their discretion.

16. The **LPA** is responsible for ensuring that all **Project** construction activities have been completed and are responsible for providing all of the necessary paperwork as required by the construction contract. The **LPA** will conduct a field inspection to verify completion of the work in conformance with the Agreement. This documentation must be provided to the **Department's** District 7 Chief District Engineer in Lexington prior to final payment of the **Project**. When both the **LPA** and the **Department** accept the field work as complete, the **LPA's** project manager shall certify the **Project** was constructed in accordance with the plans and specifications and that all funding authorized on this **Project** has been used to reimburse for materials, equipment, or labor as intended and at the location agreed herein by both parties. Upon receipt of the **Department's** Final Acceptance Report, the **LPA** will issue the final payment to the contractor with an official Release of Contractor form for signature. Within 30 days, the **LPA** shall provide the **Department** with a copy of the official Release of Contractor form, as well as proof of payment, which includes cancelled checks.

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17. This Agreement and the maintenance responsibilities herein shall survive in perpetuity the cancellation or termination of all or any portion of the **Project**, and shall survive the completion of and acceptance of the **Project**. To protect the public interest and maintain the original intent, the **LPA** agrees to maintain in an acceptable condition all facilities improved by the **Project** to the condition existing at the time of the Final Acceptance Report in perpetuity. In the event that the **Project** improvements are not maintained as a public facility, the **LPA** shall reimburse the **Department** for all costs incurred and for all funding expended pursuant to the **Project**, including any applicable interest.
18. The **LPA** shall maintain for a period of three (3) years all records of materials, equipment, and labor costs involved in the performance of work of said **Project**. In order to obtain reimbursement from the **Department** for constructing said **Project**, the **LPA** shall submit to the **Department's** District 7 Office in Lexington documented invoices of materials, equipment, and labor used on the **Project**, including certification that the work was accomplished on a publicly maintained facility.
19. No member, officer, or employee of the **Department** or the **LPA** during his tenure or for one (1) year thereafter shall have any financial interest, direct or indirect, in this Agreement or the proceeds thereof as identified in KRS 45A.340. The **Department** and the **LPA** shall comply with the requirements of the Executive Branch Code of Ethics KRS Chapter 11A. The **LPA** warrants that no person, elected official, selling agency or other organization has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee. No member, officer, or employee of the **Department** or **LPA** shall collude or lobby on behalf of this **Project** without penalty, including but not limited to suspension or debarment.
20. To the extent permitted by law, the **LPA** shall indemnify and hold harmless the **Department** and all of its officers, agents, and employees from all suits, actions, or claims of any character arising from any injuries, payments or damages received or claimed by any person, persons,

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or property resulting from implementation of any phase of the **Project** or occurring on or near the **Project** site.

21. Either party may cancel the contract at any time for cause or may cancel without cause on 30 days written notice.
 - a. The **Department** reserves the right to cancel all reimbursements under this Agreement at any time deemed to be in the best interest of the **Department** by giving thirty (30) days written notice of such cancellation to the **LPA**. If reimbursement under this Agreement is canceled under this section by reason other than violation of this Agreement or any applicable law by the **LPA**, its agents, employees and contractors, the **Department** shall reimburse the **LPA** according to the terms hereof for all expenses incurred under this Agreement to the date of such cancellation of reimbursement.
 - b. The **LPA** may seek to cancel its obligations under this Agreement at any time deemed to be in the best interest of the **LPA** by giving thirty (30) days written notice of such request to the **Department**. If the **Department** agrees to allow the **LPA** to cancel the Project or cancel its obligations under this Agreement, the **LPA** shall reimburse the **Department** for all funding reimbursements made under this Agreement.
 - c. Any dispute concerning a question of fact in connection with the work not disposed of by Agreement between the **LPA** and the **Department** shall be referred to the Secretary of the Transportation Cabinet of the Commonwealth of Kentucky, or his duly authorized representative, whose decision shall be final. Any proposed change or extension to this Agreement shall be at the mutual consent of the **LPA** and the **Department** and be evidenced in writing.

22. The Kentucky General Assembly may allow for a reduction in a contract worker hours in conjunction with a budget balancing measure for some professional and non-professional service contracts. If under such authority the agency is required by Executive Order or otherwise to reduce contract hours, the contract will be reduced by the amount specified in that document.

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23. The **Department** certifies that it is in compliance with the provisions of KRS 45A.695. “Access to contractor's books, documents, papers, records, or other evidence directly pertinent to the contract.” The **LPA** hereby acknowledges it is responsible to inform any entity it intends to hire or use as a contractor, as defined in KRS 45A.030(9), that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this contract for the purpose of financial audit or program review. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the contract and shall be exempt from disclosure as provided in KRS 61.878(1)(c). The contractor also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884.
24. KRS 45A.485 requires the **LPA** to certify that all contractors shall reveal to the **Department**, any final determination of a violation by the contractor within the previous five (5) year period of the provisions of KRS chapters 136, 139, 141, 337, 338, 341, and 342. These statutes relate to the state sales and use tax, corporate and utility tax, income tax, wages and hours laws, occupational safety and health laws, unemployment insurance laws, and workers compensation insurance laws, respectively.

The **LPA** shall certify that all contractors agree to be in continuous compliance with the provisions of those statutes which apply to the contractor's operations. Failure to reveal a final determination or failure to comply with the above statutes for the duration of the contract, shall be grounds for the **LPA's** cancellation of the contract and the contractor's disqualification from eligibility for future state contracts for a period of two (2) years.

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25. It is understood and agreed by these parties that if any part of this contract is held by the courts to be illegal or in conflict with any law of the Commonwealth of Kentucky, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular part, term, or provision held to be invalid.
26. The **LPA** will pass a resolution authorizing the Mayor to sign this Agreement on behalf of the **LPA**. An acceptable Resolution shall contain the project name, description, amount of funds being provided and an acknowledgement that the **LPA** agrees to ratify and adopt all statements, representations, warranties, covenants, and agreements contained in the Agreement. Furthermore, by accepting the funds the **LPA** agrees to all terms and conditions stated in the Agreement. A copy of that resolution shall be attached to and made a part of this Agreement.

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IN WITNESS WHEREOF, the parties have caused these presents to be executed by their officers thereunto duly authorized.

LEXINGTON-FAYETTE COUNTY
URBAN COUNTY GOVERNMENT

COMMONWEALTH OF KENTUCKY
TRANSPORTATION CABINET

Linda Gorton
Mayor

Jim Gray
Secretary

DATE: _____

DATE: _____

APPROVED AS TO FORM & LEGALITY

DocuSigned by:
Todd Shipp
68A0A3EBA82646E...

Todd Shipp
Office of Legal Services

DATE: 10/25/2023
