

ENGINEERING SERVICES AGREEMENT

THIS IS AN AGREEMENT made as of December 11th, 2019, between the **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, an urban county government of the Commonwealth of Kentucky pursuant to KRS Chapter 67A (“**OWNER**”) and **STRAND ASSOCIATES** with offices located at 651 Perimeter Drive, Suite 220, Lexington, Kentucky 40517 (“**CONSULTANT**”). **OWNER** intends to proceed with the Sanitary Sewer Collection and Conveyance System Watershed Design Consulting Services as described in the attached **EXHIBIT A**, Scope of Engineering Services and Related Matters RFQ #38-2019 (the “**PROJECT**”). The **CONSULTANT** shall perform professional engineering services and deliverables as described in **EXHIBIT A** which include customary master planning, civil, geotechnical, electrical, mechanical, structural, programming, water quality and sanitary engineering services as related to providing the deliverables specific to this agreement—that will assist the **OWNER** in successfully implementing the **PROJECT** and complying with any requirements which are related to the Consent Decree entered in a case styled *United States & Commonwealth of Kentucky v. Lexington Fayette Urban County Government*, United States District Court for the Eastern District of Kentucky, Civil Action No. 5:06-cv-386-KSF (the “**CONSENT DECREE**”). The services are hereinafter referred to as the **PROJECT**. **The primary goal of the PROJECT is to provide the OWNER with the technical support necessary to successfully meet the obligations and deadlines of the CONSENT DECREE.** **OWNER** and **CONSULTANT** in consideration of their mutual covenants herein agree in respect of the performance of professional engineering services by **CONSULTANT** and the payment for those services by **OWNER** as set forth below.

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

SECTION 1 - BASIC SERVICES OF CONSULTANT

1.1. General

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

1.2. Incorporated Documents

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

1. The **CONSENT DECREE**, as may be amended, including all appendices.
2. **EXHIBIT A** – Scope of Engineering Services and Related Matters RFQ #38-2019 (Including Addendums).
3. **EXHIBIT B** – Certificate of Insurance and Evidence of Insurability.
4. **EXHIBIT C** – Proposal of Engineering Services and Related Matters (the **CONSULTANT**'s response to RFQ #38-2019).

5. **EXHIBIT D** – Further Description of Basic Engineering Services and Related Matters.

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

1.3 Project Phase

A complete description of the duties and responsibilities of the **CONSULTANT** are as indicated in **EXHIBIT A**, Scope of Engineering Services and Related Matters RFQ #38-2019, **EXHIBIT C** Proposal of Engineering Services and Related Matters, and **Exhibit D** Further Description of Basic Engineering Services and Related Matters. After written authorization to proceed from the **OWNER**, **CONSULTANT** shall:

- 1.3.1. Notify the **OWNER** in writing of its authorized representative who shall act as Project Engineer and liaison representative between the **CONSULTANT** and the **OWNER**. **OWNER** has the right to approve the Project Engineer, or any change thereto, which approval shall not be unreasonably withheld.
- 1.3.2. The **CONSULTANT** **must perform all duties** necessary to fully complete the deliverables as further described in attached **EXHIBIT A**, Scope of Engineering Services and Related Matters RFQ #38-2019, attached **EXHIBIT C**, Proposal of Engineering Services and Related Matters, and attached **EXHIBIT D** Further Description of Basic Engineering Services and Related Matters **unless otherwise agreed to in writing by the parties**.
- 1.3.3. The **CONSULTANT** shall provide written documentation of all meetings and be responsible for incorporating all comments and changes resulting therefrom in final work product.
- 1.3.4. The **CONSULTANT** shall submit five (5) copies (hardcover) of all initial draft final work products for this **PROJECT** unless otherwise described in Exhibit A. The copies of the initial draft final reports are submitted for review and comment by the **OWNER**, and should be presented in person to the **OWNER**.
- 1.3.5. After the **OWNER'S** detailed review, the **CONSULTANT** will revise the initial draft final for all work products for this **PROJECT**, and the **CONSULTANT** shall submit five (5) copies (hardcover) unless otherwise described in Exhibit A. One electronic copy of the all work products for this **PROJECT**, including all appendices, shall be provided and prepared in such a manner that it can readily be converted to a quick-link accessible form for the **OWNER'S** Website. The **OWNER** shall have ten (10) business days within which to accept or deny each such final draft. If it is denied, the **OWNER** shall provide a detailed explanation in writing for the basis of such denial. Once the **OWNER** accepts the draft as final, a total of ten (10) final copies (hardcover) are required in addition to an electronic copy unless otherwise described in Exhibit A.
- 1.3.6. Immediately notify **OWNER** of any delay in the delivery of a work product or deliverable, regardless of cause. Give written notice to **OWNER** within five (5) business days whenever **CONSULTANT** observes or otherwise becomes aware of

any development that affects the scope or timing of **CONSULTANT'S** services, or any defect in the work of Contractor(s).

SECTION 2 - EXTRA WORK BY CONSULTANT

- 2.1. The **OWNER** may desire to have the **CONSULTANT** perform work or render services in connection with this **PROJECT** other than provided by the expressed intent of this Agreement. Such work shall be considered as Extra Work, subject to a change order, supplemental to this Agreement, setting forth the character and scope thereof and the compensation therefore. Work under such change order shall not proceed until the **OWNER** gives written authorization. Should the **OWNER** find it desirable to have previously satisfactorily completed and accepted plans or parts thereof revised, the **CONSULTANT** shall make such revisions as directed, in writing, by the **OWNER**. This work shall be considered as Extra Work and shall be paid as such.
- 2.2. All Extra Work is subject to prior written authorization of **OWNER** and necessary appropriations made by the Urban County Council.

SECTION 3 - OWNER'S RESPONSIBILITIES

OWNER shall:

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

SECTION 4 - PERIOD OF SERVICES

- 4.1. Time is of the essence in the performance of this Agreement. **CONSULTANT** is aware that the **OWNER** is subject to penalties for non-compliance with the **CONSENT DECREE** deadlines. See attached **EXHIBIT A** for the overall current project schedule.
- 4.2. The provisions of this Section Four (4) and the various rates of compensation for **CONSULTANT'S** services provided for elsewhere in this Agreement have been agreed to

in anticipation of the orderly and continuous progress of the **PROJECT** through completion.

4.3. If a delay results from the acts of **OWNER** or another entity that is required to permit or approve the work or services, an extension of time for such delay will be considered by **OWNER**.

4.3.1. If the above type of delay occurs and **CONSULTANT** wants an extension of time, it must, within ten (10) days from the date of the delay, apply in writing to **OWNER** for an extension of time for a reasonable period, which must be agreed upon by **OWNER**.

4.3.2. If the extension of time is approved by **OWNER**, the **PROJECT** schedule 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** within sixty (60) days of the time specified therein, **OWNER** shall have the option of cancelling the **PROJECT** or otherwise adjusting the scope of the services or work.

4.3.4. If the parties cannot mutually agree to an extension of time or an adjustment, Section 6.5 under “**DISPUTES**” of this Agreement shall apply.

4.4. If delays result solely by reason of acts of the **CONSULTANT**, the **CONSULTANT** shall be held liable for any financial penalties incurred by the **OWNER** as a result of the delay, **including but not limited to those assessed pursuant to the CONSENT DECREE**. Section 6.5 of this Agreement (**Disputes**), shall apply in the event the parties cannot mutually agree upon the cause(s) associated with delays in completing project deliverables. The **CONSULTANT** must immediately notify the **OWNER** in the event of such delay, and provide the **OWNER** a written action plan within five (5) business days on how it will attempt to resolve the delay.

SECTION 5 - PAYMENTS TO CONSULTANT

5.1. Methods of Payment for Services of CONSULTANT.

5.1.1. For Basic Services

OWNER shall issue individual task orders for each work assignment performed under this Agreement by **CONSULTANT** or its sub-consultant/s. Each task order shall contain scope of work, fee, and schedule for performance of the work. Individual task orders shall be of the form included in **EXHIBIT D**.

5.1.1.a Fee payable to **CONSULTANT** under individual task order shall be developed using hourly rates included in **EXHIBIT D** or as amended in accordance with provisions therein.

5.1.1.b Terms of payment to **CONSULTANT** shall be specified in each task order. For assignments with defined scope, lump sum task orders shall be issued. Otherwise, task orders shall include time and materials payment terms.

5.1.1.c Each task order issued shall receive prior written approval of **OWNER** prior to **CONSULTANT** proceeding with said work. The **OWNER's** designated agent in Section 8.1.1. shall be the only person authorized to provide such approval.

5.1.2. For Extra Work

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

5.2. Times of Payment

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

5.3. Other Provisions Concerning Payments

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

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

SECTION 6 - GENERAL CONSIDERATIONS

6.1. Termination

6.1.1. **CONSULTANT** may only terminate this Agreement due to **OWNER'S** material breach of the terms hereof which breach causes **CONSULTANT** to be

unable to perform its duties and responsibilities under this Agreement and upon forty-five (45) days written advance notice to **OWNER**.

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

6.2. Ownership and Reuse of Documents

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

6.3. Legal Responsibilities and Legal Relations

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

6.4. Successors and Assigns

- 6.4.1.** **CONSULTANT** binds itself and its partners, successors, assigns and legal representatives to this Agreement. **CONSULTANT** shall not assign any interest in this Agreement without prior written consent of **OWNER**. **OWNER'S** consent shall not relieve the **CONSULTANT** of any responsibility for compliance with the provisions of this Agreement.
- 6.4.2.** **In no event shall the CONSULTANT subcontract more than fifty percent (50%) of the work, based upon dollar value of the work.**

6.4.3. Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than **OWNER** and **CONSULTANT**.

6.5. Disputes

Except as otherwise provided in this Agreement, any dispute hereunder may be resolved by agreement of the **OWNER'S** Agent (Section 8.1.1) and the **CONSULTANT**. In the absence of such an agreement, the dispute shall be submitted to the **OWNER'S** Commissioner, Department of Environmental Quality, whose decision shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary, or so grossly erroneous as necessarily to imply bad faith. Pending a final decision of a dispute hereunder, the **CONSULTANT** shall proceed diligently with the performance of the Agreement in accordance with the directions of the **OWNER**.

6.6. Accuracy of Consultant's Work

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

6.7. Security Clause

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

6.8. Access to Records

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

6.9. Risk Management Provisions, Insurance and Indemnification

6.9.1. DEFINITIONS

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

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

- a. **CONSULTANT** means the consultant and its employees, agents, servants, owners, principals, licensees, assigns and subcontractors of any tier.
- b. **OWNER** means the Lexington-Fayette Urban County Government and its elected and appointed officials, employees, agents, boards, assigns, volunteers, and successors in interest.

6.9.2. INDEMNIFICATION AND HOLD HARMLESS PROVISION

- 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. DAMAGES RELATED TO NONPERFORMANCE OR DELAY BY CONSULTANT

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

6.9.4. FINANCIAL RESPONSIBILITY

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

6.9.5. INSURANCE REQUIREMENTS

6.9.5.1. Required Insurance Coverage

CONSULTANT shall procure and maintain for the duration of this Agreement the following or equivalent insurance policies at no less than the limits shown below and cause its subcontractors to maintain similar insurance with limits acceptable to **OWNER** in order to protect **OWNER** against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by **CONSULTANT**. The cost of such insurance shall be included in any proposal:

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

The policies above shall contain the following conditions:

- a. **OWNER** shall be named as an additional insured in the General Liability Policy and Commercial Automobile Liability Policy.
- b. The General Liability Policy shall be primary to any insurance or self-insurance retained by **OWNER**.
- c. The General Liability Policy shall include Business Interruption coverage.
- d. ~~The 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.

6.9.5.2. Renewals

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

6.9.5.3. Right to Review, Audit and Inspect

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

6.9.6. SAFETY AND LOSS CONTROL

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

6.9.7. DEFINITION OF DEFAULT

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

SECTION 7 - EQUAL EMPLOYMENT OPPORTUNITY

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

- 7.1. The **CONSULTANT** will not discriminate against any employee or application for employment because of race, color, religion, national origin, sex, age, or handicap. The **CONSULTANT** will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, national origin, sex, age, or handicap. Such action shall include, but not be limited to the following: employment upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and

selection for training, including apprenticeships. The **CONSULTANT** agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this non-discrimination clause.

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

SECTION 8 - SPECIAL PROVISIONS, EXHIBITS, AND SCHEDULES

- 8.1. This Agreement is subject to the following provisions.
- 8.1.1. Pursuant to subparagraph 3.4 of this Agreement, **OWNER** has assigned Charles H. Martin, P.E., Director of the Division of Water Quality (the "**OWNER'S** Agent"), as the authorized agent of **OWNER**, to monitor, direct and review the performance of work of the **CONSULTANT**. Documents, data, reports, and all matters associated with carrying out this Agreement shall be addressed to the **OWNER'S** Agent or his designee. Questions by the **CONSULTANT** regarding interpretations of the terms, provisions and requirements under this Agreement shall be addressed to the **OWNER'S** Agent or his designee. The **CONSULTANT** shall look only to the **OWNER'S** Agent or his designee for direction in its performance under this Agreement; no other direction shall be binding upon **OWNER**. **OWNER** shall respond to written requests by **CONSULTANT** within thirty (30) days.
- 8.2. This Agreement, together with the Incorporated Documents (Section 1.2) constitutes the entire Agreement between **OWNER** and **CONSULTANT** and supersedes all prior written or oral understandings. This Agreement and **EXHIBITS A, B, C and D** and any related schedules or documents may only be amended, supplemented, modified or canceled by a duly executed written instrument.
- 8.3. **NO THIRD PARTY RIGHTS.** This agreement does not create a contractual relationship with or right of action in favor of a third party against either **OWNER** or **CONSULTANT**.
- 8.4. **UNENFORCEABLE TERMS/SURVIVABILITY.** If any term or provision of this Agreement shall be found to be illegal or unenforceable, this Agreement shall remain in full force and such term or provision shall be deemed stricken. The provisions of Section 6 of this Agreement shall survive its termination.
- 8.5. **NON-WAIVER.** The failure of either party to enforce any right reserved to it in this Agreement shall not be a waiver of any such right to which the party is entitled.

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

OWNER:
LEXINGTON-FAYETTE URBAN
COUNTY GOVERNMENT

CONSULTANT:
STRAND ASSOCIATES, INC.

BY: *Linda Gorton*
LINDA GORTON, MAYOR

BY: *Joseph M Bunker*

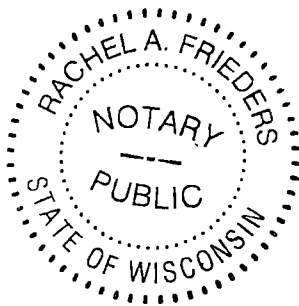
ATTEST:

Mackenzie Sommer
Deputy URBAN COUNTY COUNCIL CLERK
STATE OF WISCONSIN
COMMONWEALTH OF KENTUCKY)
DANE)
COUNTY OF FAYETTE)

The foregoing Agreement was subscribed, sworn to and acknowledged before me by Joseph M. Bunker, as the duly authorized representative for and on behalf of Strand Associates, Inc., on this the 9th day of December, 2019.

My commission expires: 3/21/21.

Rachula Frieders
NOTARY PUBLIC



Small cabinet

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION AT LEXINGTON**

**Eastern District of Kentucky
FILED**

JAN 03 2011

**AT LEXINGTON
LESLIE G WHITMER
CLERK U S DISTRICT COURT**

**UNITED STATES OF AMERICA
and THE COMMONWEALTH OF
KENTUCKY,**

Plaintiffs,

v.

**LEXINGTON-FAYETTE URBAN
COUNTY GOVERNMENT,**

Defendant.

Civil Action No. 5:06-cv-386

CONSENT DECREE

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INTRODUCTION

A. WHEREAS, Plaintiff, the United States of America (“United States”), by the authority of the Attorney General of the United States and through its undersigned counsel, acting at the request and on behalf of the Administrator of the United States Environmental Protection Agency (“EPA”), has filed the Complaint in this action in November 2006 seeking injunctive relief and civil penalties pursuant to Section 309 of the Clean Water Act, 33 U.S.C. § 1319, naming as defendant Lexington-Fayette Urban County Government (“LFUCG”);

B. WHEREAS, Plaintiff, the Commonwealth of Kentucky (“Commonwealth”), on behalf of its Environmental and Public Protection Cabinet (“EPPC”), has joined in the Complaint and seeks injunctive relief and civil penalties for LFUCG’s alleged violations of Kentucky Revised Statutes (“KRS”) Chapter 224 and the regulations promulgated pursuant thereto;

C. WHEREAS, LFUCG is an urban county government organized pursuant to KRS Chapter 67A, which is defined as a “municipality” pursuant to 33 U.S.C. § 1362, and owns and operates a wastewater collection and transmission system and a separate storm sewer system in Lexington, Kentucky and Fayette County, Kentucky;

D. WHEREAS, the United States and the Commonwealth’s Complaint alleges that Defendant LFUCG violated the Federal Water Pollution Control Act, also known as the Clean Water Act, 33 U.S.C. §§ 1251-1387 (“Clean Water Act”, “CWA”, or “Act”);

E. WHEREAS, the Commonwealth is a plaintiff in this action and is joined as a party under Section 309(e) of the CWA, 33 U.S.C. § 1319(e). Whenever a municipality is a party to a civil action brought by the United States under Section 309, the CWA requires the State in which the municipality is located to be joined as a party;

F. WHEREAS, LFUCG's Sanitary Sewer System is (except for certain illicit cross-connections) separate from the LFUCG's storm water collection system. The Sanitary Sewer System transports wastewater to two publicly owned wastewater treatment plants, West Hickman Creek WWTP, and Town Branch WWTP, which are operated by LFUCG pursuant to KPDES Permit Numbers KY0021504 and KY0021491. In addition, LFUCG has been operating the Blue Sky WWTP (KPDES Permit Number KY0027286) under receivership obligations. The Blue Sky WWTP is a poorly-designed and inadequate facility which has experienced permit exceedances.

G. WHEREAS, LFUCG has reported to EPA and EPPC that it has identified 111 recurring locations, set forth in Appendix A, at which SSOs (including illicit cross-connections) and Unpermitted Discharges have been documented. In addition, LFUCG has reported to EPA and EPPC that a number of Unpermitted Bypasses, in which the Town Branch WWTP has discharged wastewater without required secondary treatment, have occurred as set forth in Appendix B. LFUCG has also reported to EPA and EPPC that a number of Exceedances have occurred at LFUCG's WWTPs as set forth on Appendix C. The United States and the Commonwealth contend that these SSOs, Unpermitted Discharges, Unpermitted Bypasses, and Exceedances are violations of the CWA, the Commonwealth's regulations implementing the CWA, and the relevant KPDES permits;

H. WHEREAS, this Consent Decree requires LFUCG to develop, submit, finalize and implement plans for the continued improvement of its wastewater collection and transmission system and the WWTPs, to eliminate Recurring SSOs, Unpermitted Discharges, Unpermitted Bypasses, and Exceedances;

I. WHEREAS, on November 12, 1999, EPPC issued LFUCG National Pollutant Discharge Elimination System ("NPDES") Permit No. KYS000002 ("MS4 Permit"), with an effective date of January 1, 2000. This permit authorized discharges from LFUCG's municipal separate storm sewer system ("MS4"), in accordance with certain specified conditions;

J. WHEREAS, in January 2004, EPA conducted a performance evaluation of LFUCG's MS4 program. Based on information developed by EPA during the inspection, and information developed by EPA as a result of information requests issued by EPA to LFUCG, pursuant to Section 308 of the CWA, EPA has identified various violations by LFUCG of its MS4 permit. EPA has further determined, that LFUCG's program for managing its MS4, as presently constituted, is inadequate to reduce the discharge of pollutants to the maximum extent practicable, as required by Section 402(p)(3)(B) of the CWA, 33 U.S.C. § 1342(p)(3)(B);

K. WHEREAS, this Consent Decree requires LFUCG to improve its MS4 program to ensure that it includes controls to reduce the discharge of pollutants to the maximum extent practicable, as required by the CWA, to implement the MS4 program, and to implement measures to comply with its MS4 permit;

L. WHEREAS, Fayette County Neighborhood Council (FCNC) filed a complaint in intervention in July 2007, and Lexington filed an answer in August 2007;

M. WHEREAS, the Parties to this Consent Decree have negotiated in good faith and have reached a settlement of the issues raised in the Complaint;

N. WHEREAS, LFUCG's agreement to this Consent Decree is not an admission of liability, and except for LFUCG's consent to jurisdiction and venue as provided in Paragraph 1 of this Consent Decree, nor is it an adjudication or admission of any fact or law;

O. WHEREAS, the Parties agree, and the Court finds, that settlement of the claims alleged in the Complaint without further litigation or trial of any issues is fair, reasonable and in the public interest;

NOW THEREFORE, it is hereby ORDERED, ADJUDGED and DECREED as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1345, 1355, and 1367; Section 309(b) of the Clean Water Act, 33 U.S.C. § 1319(b); and over the Parties. Venue lies in this District pursuant to Sections 309(b) of the Clean Water Act, 33 U.S.C. § 1319(b); and pursuant to 28 U.S.C. § 1391(b) and 28 U.S.C. § 1395(a); because LFUCG is, and, at the time the action was commenced, was, located in, residing in, and doing business in this judicial district, and because the violations that are the subject of this action, and a substantial part of the events or omissions giving rise to the claims, occurred in this judicial district. For purposes of this Decree or any action to enforce this Decree, LFUCG consents to the Court's jurisdiction over this Decree or such action and over LFUCG, and consents to venue in this judicial district.

2. Notice of commencement of this action has been given to the Commonwealth of Kentucky pursuant to Section 309(b) of the Clean Water Act, 33 U.S.C. § 1319(b).

II. APPLICABILITY

3. The obligations of this Consent Decree apply to and are binding upon the United States, the Commonwealth, and LFUCG and any successor or other entities or persons otherwise bound by law.

4. LFUCG shall provide a written notice, either by hard-copy or by electronic mail, that a copy of this Consent Decree is posted on LFUCG's intranet or internet site, to appropriate officers, employees, and agents whose duties include compliance with any provision of this Decree, including, without limitation, the Mayor and LFUCG Council members, the Mayor's Chief of Staff, the LFUCG Commissioners, and non-clerical personnel of the Department of Environmental Quality. LFUCG shall also provide a hard copy or electronic copy of this Consent Decree to all successful bidders retained to perform work required under this Consent Decree. After the Effective Date of this Consent Decree, LFUCG shall condition any contract to perform such work upon performance of the work in conformity with the terms of this Consent Decree.

5. In any action to enforce this Consent Decree, LFUCG shall not raise as a defense the failure by any of its officers, directors, LFUCG Council members, employees, agents, or contractors to take any actions necessary to comply with the provisions of this Consent Decree.

6. No transfer of ownership or operation of any of the facilities governed by this Decree, whether in compliance with this Section or otherwise, shall relieve LFUCG of its obligation to ensure that the terms of the Decree are implemented, unless (a) the transferee agrees to undertake the obligations required by Sections VI and VII of the Decree and to be substituted for the Defendant as a Party under the Decree and thus be bound by the terms thereof and (b) Plaintiffs consent to the relieve Defendant of its obligations. The decision to refuse to approve the substitution of the transferee for the Defendant shall not be subject to judicial review. If LFUCG proposes to sell or transfer part or all of its ownership or operation of any facilities governed by this Decree, it shall advise the purchaser or transferee in writing of the

existence of this Consent Decree and provide a copy of the Consent Decree prior to such sale or transfer. LFUCG shall send a copy of such written notification to the United States and EPPC pursuant to Section XVII of this Decree (Notices) by certified mail, return receipt requested, at least forty-five (45) days (or a shorter period if the United States and LFUCG so agree in writing) before such sale or transfer. Any attempt to transfer ownership or operation of any facility governed by this Decree without complying with this Paragraph constitutes a violation of this Decree.

III. OBJECTIVES

7. It is the express purpose of the Parties in entering this Consent Decree to further the objectives of the CWA, as stated in Section 101 of the CWA, 33 U.S.C. § 1251, and to eliminate SSOs, Unpermitted Discharges, Unpermitted Bypasses and Exceedances, to eliminate and prevent CWA permit violations, and, specifically with respect to LFUCG's Storm Water Quality Management Program ("SWQMP"), ensure implementation of a SWQMP that reduces the discharge of pollutants to the maximum extent practicable, and require implementation of measures to ensure compliance with LFUCG's MS4 Permit.

IV. DEFINITIONS

8. Unless otherwise provided in this Decree, terms used in this Consent Decree that are defined in the CWA, or in regulations promulgated pursuant to that Act, shall have the meanings assigned to them in the CWA, or such regulations. Whenever the terms set forth below are used in this Consent Decree, the following definitions shall apply:

"Blue Sky WWTP" shall mean the wastewater treatment plant located at Blue Sky Parkway, Lexington, Kentucky, currently operated by LFUCG, which discharges to the

Boone Creek watershed, from outfall 001, pursuant to KPDES Permit No. KY0027286 issued to Blue Sky Sewer Service Company, Inc. The plant is being operated by LFUCG staff under receivership obligation provisions, established in an order entered on November 15, 2004 by the Franklin Circuit Court, Civil Action #01-C1-0162.

“Building Backup” shall mean a subcategory of SSOs which occurs when a wastewater backup occurs into a building and is caused by blockages, malfunctions, or flow conditions in the Sanitary Sewer System. A wastewater backup that is caused by a blockage or other malfunction of a Private Lateral is not a Building Backup.

“Capacity, Management, Operations, and Maintenance” or “CMOM” shall mean, for the purpose of this Consent Decree only, a flexible program of accepted industry practices to properly manage, operate and maintain sanitary wastewater collection, transmission and treatment systems, investigate capacity-constrained areas of these systems, and respond to SSO events.

“Clean Water Act” or “CWA” shall mean the Clean Water Act, formally entitled the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251-1387.

“Commonwealth” shall mean the Commonwealth of Kentucky.

“Complaint” shall mean the United States and the Commonwealth’s Complaint.

“Consent Decree” or “Decree” shall mean this Decree and all its attachments.

“Day” (whether or not capitalized) shall mean a calendar day unless expressly stated to be a working day. In computing due dates under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.

“Effective Date” is defined in Section XVIII of this Decree.

“Eligible SEP Costs” include the costs of planning and implementing a Supplemental Environmental Project (SEP), but do not include overhead, administrative expenses, legal fees, or oversight by LFUCG staff of contractors.

“EPA” shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

“EPPC” shall mean the Environmental and Public Protection Cabinet of the Commonwealth of Kentucky.

“Exceedance” shall mean any discharge from one of LFUCG’s WWTPs which contains any pollutant at a level which exceeds an effluent limit in the KPDES Permit for such WWTP, and which is not otherwise authorized under such KPDES Permit.

“Excessive Inflow/Infiltration” or “Excessive I/I” shall mean the Inflow/Infiltration (“I/I”) that LFUCG determines can be cost-effectively eliminated as determined by a cost-effectiveness analysis that compares the costs of eliminating the I/I with the total costs for transportation and treatment of the I/I (including capital costs of increasing transmission and treatment capacity, and resulting operating costs).

“Force Main” shall mean all sanitary sewer lines that operate under pressure due to pumping of sanitary wastewater at a pump station except for those sanitary sewer lines that serve a single structure or building.

“Gravity Sewer Line” shall mean a pipe that receives, contains and conveys wastewater not normally under pressure, but is intended to flow unassisted under the influence of gravity. Gravity sewers are typically not intended to flow full under normal operating

conditions.

"IT" shall mean the total quantity of water from Infiltration and Inflow without distinguishing the source.

"Infiltration" as defined by 40 C.F.R. § 35.2005(b)(20) shall mean water other than wastewater that enters a sanitary sewer system (including sewer service connections and foundation drains) from the ground through such means as defective pipes, pipe joints, connections, or manholes.

"Inflow" as defined by 40 C.F.R. § 35.2005(b)(21) shall mean water other than wastewater that enters a sanitary sewer system (including sewer service connections) from sources such as, but not limited to, roof leaders, cellar drains, yard drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm water, surface runoff, street wash waters, or drainage.

"KPDES" shall mean Kentucky Pollutant Discharge Elimination System, as established by 401 KAR Chapter 5 and KRS Chapter 224.

"LFUCG" shall mean the Lexington-Fayette Urban County Government, a municipality within the meaning of that term in CWA, established under the laws of the Commonwealth of Kentucky.

"LFUCG's WWTPs" shall mean West Hickman Creek WWTP and the Town Branch WWTP.

"Major Gravity Line" shall mean any of the following: all Gravity Sewer Lines that are twelve inches in diameter or larger; all eight-inch Gravity Sewer Lines that are necessary

to accurately represent flow attributable to a service area in each of the Sewersheds; all Gravity Sewer Lines that convey wastewater from one Pumping Station service area to another pumping station service area; and all Gravity Sewer Lines that substantially contribute, or that LFUCG knows will likely substantially contribute, to Recurring SSOs.

"MS4" shall mean LFUCG's municipal separate storm sewer system, as that term is defined in 40 C.F.R. § 122.26 (b)(8).

"MS4 Permit" shall mean KPDES Permit No. KYS000002 ("MS4 Permit"), with an effective date of January 1, 2000, and any subsequently issued permit, which authorizes discharges from LFUCG's MS4 in accordance with conditions specified therein.

"NPDES" shall mean National Pollutant Discharge Elimination System, as established by 33 U.S.C. § 1342.

"One Hour Peak Flow" as that term is used in Paragraph 16.B for the CMOM Capacity Assurance Program only, shall mean the greatest flow in a sewer averaged over a sixty (60) minute period at a specific location expected to occur as a result of a representative 2-year 24-hour storm event.

"Paragraph" shall mean a portion of this Consent Decree identified by an Arabic numeral.

"Parties" shall mean the parties to this Consent Decree: the United States, the Commonwealth, and LFUCG.

"Peak Flow" as that term is used in Subparagraphs 15.D- 15.G, shall be determined based upon sound engineering judgment and commonly accepted design practice.

"Private Lateral" shall mean that portion of a sanitary sewer conveyance pipe,

including that portion in the public right of way, that extends from the wastewater main to the single-family, multi-family, apartment, other dwelling unit, business, industry, institution or structure to which wastewater service is or has been provided. Private Laterals do not include connector joints at LFUCG's sewer line.

"Pumping Station" shall mean all pumping stations owned or operated by LFUCG except for pump stations that serve a single structure or building, and except for the pump station serving Southland Christian Church in Jessamine County.

"Recurring SSO" shall mean, for the purpose of this Consent Decree only, an SSO that occurs in the same location more than once per twelve (12) month rolling period.

"Reporting Year" shall mean each annual period commencing at the start of LFUCG's fiscal year on July 1 of each year.

"Reporting Year Covered by this Consent Decree." A Reporting Year is covered by this Consent Decree if any part of the Reporting Year falls after the Effective Date of, and before the termination of, this Decree.

"Sanitary Sewer Overflow" or "SSO" shall mean, for the purpose of this Consent Decree only, any discharge to waters of the United States from the Sanitary Sewer System through point sources not specified in any KPDES permit (otherwise known as "Unpermitted Discharges"), as well as any release of wastewater from the Sanitary Sewer System to public or private property that does not reach waters of the United States, such as a release to a land surface or structure that does not reach waters of the United States; provided, however, that releases or wastewater backups into buildings that are caused by blockages, flow conditions, or malfunctions in a Private Lateral, or other piping or conveyance system that is not owned or

operationally controlled by LFUCG are not SSOs. SSOs include any cross-connections between LFUCG's Sewer System and its MS4 which allow wastewater to pass from the Sanitary Sewer System to the MS4, but does not include exfiltration that does not reach waters of the United States, or land surface or structures.

"Sanitary Sewer System" shall mean the WCTS owned or operated by LFUCG designed to collect and convey municipal sewage (domestic, commercial and industrial) to a WWTP. The Sanitary Sewer System does not include LFUCG's MS4.

"Satisfactory Completion" shall mean that LFUCG shall timely complete the required work on supplemental environmental projects ("SEPs") in accordance with the SEP descriptions and specifications set forth in Appendix J and subsequently approved statements of work or work plans for the SEPs.

"Section" shall mean a portion of this Consent Decree identified by a Roman numeral.

"Sewershed" shall mean a section of LFUCG's WCTS that is a distinct drainage or wastewater collection area and designated as such by LFUCG. For purposes of this Consent Decree, the Sewersheds have been grouped as follows: Group One consists of West Hickman, East Hickman, and Wolf Run Sewersheds; Group Two consists of Cane Run and Town Branch Sewersheds; and Group Three consists of North Elkhorn and South Elkhorn Sewersheds.

"Storm Water Quality Management Program" or "SWQMP" shall mean LFUCG's proposed program to manage municipal storm water quality as described in Appendix D to this Consent Decree, which may be modified from time to time pursuant to LFUCG's MS4 Permit as referenced herein.

“Ten States Standards” shall mean the applicable edition, incorporated by reference by Kentucky Regulation 401 KAR 5:005 § 29, of the “Recommended Standards for Wastewater Facilities: Policies for the Design, Review, and Approval of Plans and Specifications for Wastewater Collection and Treatment Facilities, Wastewater Committee of the Great Lakes - Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers.”

“Town Branch WWTP” shall mean the wastewater treatment plant located at 301 Lisle Industrial Avenue, Lexington, Kentucky, owned and operated by LFUCG, which discharges to Town Branch Creek from outfall 001 and pursuant to KPDES Permit No. KY0021491.

“United States” shall mean the United States of America, acting on behalf of EPA.

“Unpermitted Bypass” shall mean any discharge to the waters of the United States from any of LFUCG’s WWTPs which constitutes a prohibited bypass as defined in 40 C.F.R. § 122.41(m), and 401 KAR 5:065 Section 1(13).

“Wastewater Collection and Transmission Systems” or “WCTS” shall mean the municipal sanitary wastewater collection and transmission systems, including all pipes, force mains, gravity sewer lines, lift stations, pumping stations, manholes and appurtenances thereto, which are owned or operated by LFUCG.

“WWTP” shall mean wastewater treatment plant.

“West Hickman Creek WWTP” shall mean the wastewater treatment plant located

at 645 West Hickman Plant Road/Ash Grove Pike, Nicholasville, Jessamine County, Kentucky, owned and operated by LFUCG, which discharges to West Hickman Creek from outfall 001 and pursuant to KPDES Permit No. KY0021504.

V. CIVIL PENALTY

9. Within thirty (30) days after the Effective Date of this Consent Decree, LFUCG shall pay a civil penalty to the United States of \$425,000, plus interest accruing from the date on which this Decree is entered with the Court, at the rate specified in 28 U.S.C. § 1961, as of the Effective Date. Payment to the United States shall be made by FedWire Electronic Funds Transfer ("EFT") to the U.S. Department of Justice in accordance with instructions to be provided to LFUCG following lodging of the Consent Decree by the Financial Litigation Unit of the U.S. Attorney's Office for the Eastern District of Kentucky.

10. At the time of payment required by this Section, LFUCG shall simultaneously send written notice of payment and a copy of any transmittal documentation to the United States and to EPPC in accordance with Section XVII of this Decree (Notices). The notices shall reference Civil Action Number 5:06-cv-386.

VI. COMPLIANCE MEASURES RELATING TO STORM SEWER SYSTEM

11. SWQMP. LFUCG shall implement the SWQMP attached as Appendix D to this Consent Decree, or as subsequently amended pursuant to the KPDES permitting process. The SWQMP will be proposed by LFUCG as a component program of its KPDES Permit for its MS4. The SWQMP contains lists of "Measurable Goals," which describe a variety of activities to be implemented by LFUCG pursuant to its KPDES Permit in order to reduce pollution levels in its municipal storm water. Selected Measurable Goals from the SWQMP are listed on

Appendix E attached to this Consent Decree as "Performance Standards" for purposes of this Consent Decree. Notwithstanding any changes to the SWQMP in the KPDES permitting process, for purposes of compliance with this Consent Decree, LFUCG shall during the term of this Section VI of the Consent Decree, continue to comply with the Performance Standards listed on Appendix E to this Consent Decree. The Performance Standards listed on Appendix E shall be enforceable under this Consent Decree. Any failure to comply with a Performance Standard listed on Appendix E shall be subject to stipulated penalties as provided in Section XI of this Consent Decree. The Performance Standards listed on Appendix E to this Consent Decree shall continue to be complied with by LFUCG during the term of this Section VI of the Consent Decree unless EPA and EPPC both agree in writing to the amendment or deletion of a Performance Standard. Except for the Performance Standards, the detailed requirements of the SWQMP are not specifically enforceable under this Consent Decree; however, a broad failure to implement programs described in the SWQMP shall be subject to enforcement under this Consent Decree. In addition to implementation of the SWQMP and compliance with those Performance Standards identified above, LFUCG shall also, during the term of this Section VI of the Consent Decree, comply with the requirements of Paragraphs 12 through 14 of this Consent Decree.

12. Legal Authority. No later than fifteen (15) months from the Effective Date of this Consent Decree, LFUCG shall adopt and/or maintain in force ordinances that:

A. Confer authority on LFUCG to assess penalties for violation of any Illicit Discharge Program, Industrial Storm Water Management Program, Construction Site Storm Water Management Program, and Post-Construction Storm Water Management Program

requirement. Maximum penalties that may be assessed under such ordinances for each such violation shall be at least \$10,000 per day of violation.

B. Confer authority on LFUCG to issue stop-work orders compelling the cessation of construction activity at any Active Construction Site as defined in the SWQMP that is in violation of any LFUCG ordinance relating to storm water management at Active Construction Sites. LFUCG shall be authorized by such ordinances to issue such stop-work orders without first appearing before a judge.

C. Confer authority on LFUCG to issue enforceable orders compelling the elimination of any illicit connections to its MS4 without first appearing before a judge.

D. Confer authority on LFUCG to require Industrial Facilities, and High Risk Commercial Facilities as defined in the SWQMP, to develop and implement storm water pollution prevention plans ("SWPPPs"), and confer authority on LFUCG to require selected Industrial Facilities and High-Risk Commercial Facilities with the potential to discharge pollutants in substantial amounts to the MS4 to develop and implement a stormwater monitoring program that includes providing the monitoring results to LFUCG.

E. Confer authority on LFUCG to require owners of privately-owned retention and detention basins and other privately-owned storm water control structures to perform necessary maintenance and repairs on such structures.

13. Funding. Beginning with its first fiscal year after the Effective Date of this Consent Decree, LFUCG shall budget funds for each operating year in an amount reasonably expected to be sufficient to implement all measures in the SWQMP, comply with the MS4 Permit, and comply with all the requirements of this Section VI of the Consent Decree

(Compliance Measures Relating to Storm Sewer System). In order to ensure that adequate funds are budgeted as required by this Paragraph, LFUCG shall, within two (2) years of the Effective Date of this Consent Decree, establish a storm water management fee funding mechanism that will charge and collect fees for storm water management services, which may be in addition to other funding sources. Nothing herein shall preclude LFUCG from using the storm water management fee for the management of storm water generally, including to fund flood control projects, so long as adequate funding is maintained to ensure compliance with this Section VI of the Consent Decree.

14. Personnel, Training and Equipment.

A. LFUCG shall maintain adequate personnel and/or retain sufficient contractors to comply with Section VI of this Consent Decree. LFUCG shall ensure that all personnel with responsibilities for compliance with this Section VI of this Consent Decree (Compliance Measures Relating to Storm Sewer System) receive necessary and appropriate training to carry out their obligations for MS4 program implementation. LFUCG shall provide a workshop designed to educate LFUCG personnel with responsibilities for compliance with this Section VI of this Consent Decree (Compliance Measures Relating to Storm Sewer System) at least one (1) time per calendar year.

B. LFUCG shall lease, contract for, rent, or own equipment needed to comply with this Section VI of this Consent Decree (Compliance Measures Relating to Storm Sewer System).

VII. COMPLIANCE MEASURES RELATING TO SANITARY SEWER SYSTEM

15. LFUCG shall carry out assessments and engineering analyses necessary to

identify all measures needed to ensure that LFUCG's Sanitary Sewer System complies with the requirements of the Clean Water Act, the regulations promulgated thereunder, the Kentucky pollution control laws, the regulations promulgated under such laws, and National Pollutant Discharge Elimination System Permits Nos. KY0021504 and KY0021491 and then shall implement all such measures in a timely manner, with the objective of eliminating all cross-connections and Recurring SSOs from the Sanitary Sewer System and Unpermitted Bypasses at the LFUCG's WWTPs. LFUCG shall complete the requirements identified below per the identified schedules based on three (3) Sewershed Groups with Group One consisting of West Hickman, East Hickman, and Wolf Run Sewersheds, Group Two consisting of Cane Run and Town Branch Sewersheds, and Group Three consisting of North Elkhorn and South Elkhorn Sewersheds. This Paragraph 15 shall not address the collection and transmission system serving the Blue Sky WWTP.

A. Capital Improvement Projects and Short Term SSO Measures

(i) LFUCG shall eliminate the cross-connections identified in Appendix F within thirty (30) days of the lodging of the Consent Decree.

(ii) LFUCG shall implement and complete the following capital projects described further on Appendix G by the dates specified below:

a. North Elkhorn Force Main Diversion Project to be completed within twenty-four (24) months of lodging date of the Consent Decree.

b. South Elkhorn Pump Station and Force Main Upgrade to be completed within thirty (30) months of the lodging date of the Consent Decree.

c. Deep Springs Pump Station Upgrade to be completed within thirty (30) months of the

completion date of the North Elkhorn Force Main Diversion Project above, but no later than fifty-four (54) months from lodging.

d. Dixie Pump Station Upgrade to be completed within thirty (30) months of the completion date of the North Elkhorn Force Main Diversion Project above, but no later than fifty-four (54) months from lodging.

B. Sewer System Assessment ("SSA")

Within ninety (90) days of Consent Decree lodging, LFUCG shall submit to EPA/EPPC for review and comment, a Sewer System Assessment Work Plan ("SSA Work Plan") to: a) identify Sewersheds with significant I/I, such that these conditions are causing and/or contributing to Recurring SSOs or wet weather Unpermitted Bypasses at a WWTP; b) identify and quantify sources of I/I within the Sewersheds determined to have significant I/I rates; c) identify and quantify Recurring SSOs; d) identify cross-connections and unauthorized connections; and e) identify physical degradation of the Sanitary Sewer System, including general pipe condition and condition of force mains, that causes or contributes to Recurring SSOs.

(i) The SSA shall involve a) the use of appropriate existing attribute data, appropriate existing WWTP flow data, and as necessary, the collection and use of additional physical attribute data for the Sanitary Sewer System; b) the use of appropriate existing rainfall and flow data, and as necessary, the collecting and use of additional flow and rainfall data for the WCTS; c) the use of appropriate existing monitoring of groundwater at appropriate locations throughout the Sanitary Sewer System, and as necessary, the collecting and use of additional groundwater monitoring at appropriate locations throughout the Sanitary Sewer

System; d) the physical investigation of the causes of I/I and Recurring SSOs; and e) the documentation of the condition of the portions of the Sanitary Sewer System causing or contributing to Recurring SSOs.

(ii) Monitoring. The SSA Work Plan developed by LFUCG shall include a schedule for the installation of sewer flow, WWTP flow, groundwater level, and rainfall monitoring equipment; completion of monitoring activities; and completion of necessary investigative activities. In performing the SSA, LFUCG shall utilize existing sewer flow, WWTP flow, groundwater level, and rainfall monitoring and characterization data only to the extent that it is appropriate, both in terms of quality and location. The SSA Work Plan shall a) identify existing data to be utilized, b) identify additional data to be collected, and c) describe in detail how together the existing and proposed additional data will satisfy the objectives of the SSA.

(iii) Schedule. The SSA shall be completed in accordance with the following schedule: a) for Group One sewersheds, thirty-six (36) months after lodging of the Decree; b) for Group Two sewersheds, forty-two (42) months after lodging of the Decree; and c) for Group Three sewersheds, forty-eight (48) months after lodging of the Decree. LFUCG shall implement the plan in accordance with the schedule upon submission of such plan and schedule to EPA/EPPC. LFUCG may request an extension of these deadlines from EPA and EPPC where drought or other weather conditions prevent certain activities required under the SSA from being completed, such as excess rain preventing smoke testing from being completed. LFUCG shall provide written notice to EPA and EPPC of its justification for such extension of time.

(iv) Guidance Documents. LFUCG shall perform the SSA in accordance with

sound engineering practice and the following documents as guidance: a) *Handbook: Sewer System Infrastructure Analysis and Rehabilitation*, EPA/625/6-91/030, 1991; b) *Existing Sewer Evaluation and Rehabilitation*, WEF MOP FD-6, 1994; c) *A Guide to Short Term Flow Surveys of Sewer Systems*, WRC Engineering (Undated), and d) *the National Association of Sewer Service Companies (NASSCO) "Manual of Practice"*. The aforementioned documents are intended to provide guidance on the methodologies and techniques to be used in identifying sources of I/I, however, that guidance shall be applied in a manner consistent with the purpose of eliminating SSOs.

(v) Sub-basins. To identify sources of significant I/I, the Sanitary Sewer System should be divided into appropriate sewer sub-basins. Sufficient "first round" rainfall and flow data at key locations in each sub-basin should be collected to allow the characterization of each sub-basin's I/I contribution. The sub-basins should then be prioritized, based on I/I contribution and wet weather peaking factors, and subsequent field investigations carried out in a sufficient fraction of the Sanitary Sewer System to allow the preparation of a Sanitary Sewer System and WWTP Remedial Measures Plan (as described in Paragraph 15.G) that has the objective of eliminating all Recurring SSOs. Investigative activities, such as CCTV inspection, should focus on those portions of the Sanitary Sewer System that cause or contribute to Recurring SSOs.

(vi) The SSA shall include (and the SSA Study Work Plan shall describe) at a minimum the following requirements:

- a. Data Management: A description of the data management system that will organize, analyze, and report existing data to be utilized and the categories of data

that LFUCG will be collecting in accordance with this Paragraph;

- b. Quality Control/Quality Assurance: A description of the quality assurance and quality control program LFUCG will follow to ensure the accuracy and reliability of data collected in accordance with this Paragraph;
- c. Data Review: A review of existing data concerning Recurring SSOs, sewage flows, WWTP and Sanitary Sewer System attributes (e.g., pipe diameters, pipe segment lengths, diversion structure characteristics, catchment characteristics, invert elevations, pipe interior roughness coefficients, etc.), and rainfall and groundwater levels; and an evaluation of the accuracy, completeness and adequacy of that data for purposes of supporting the characterization of the Sanitary Sewer System's condition and sources of extraneous wet weather flow. The data review will further identify the additional data needed to allow the SSA to satisfy the objectives stated herein;
- d. Rainfall and Flow Monitoring: As part of the SSA, LFUCG shall carry out additional dry and wet weather rainfall flow monitoring as needed to satisfy the requirements of this Paragraph. Where the review of existing data under Paragraph 15.B.(vi)c above, is found to be adequate to satisfy the requirements of this Consent Decree, LFUCG may use such data to complete the SSA in lieu of the collection of new and additional data. Dry weather monitoring shall be carried out so as to allow the characterization of base flows and Infiltration rates. Wet weather monitoring shall be carried out following events of sufficient duration and intensity to cause significant I/I in the system to allow the collection

of sufficient rainfall and flow monitoring data, as defined by the SSA Work Plan, to allow the prioritization of sub-basins described above. The SSA Work Plan shall also describe the locations, types and rationale for placement of rain gauges, flow monitors, and any other equipment required by this Section.

e. Rainfall Gauges: To monitor the contribution from rainfall to a Sewershed within LFUCG's jurisdictional boundaries, LFUCG shall use a network of rain gauges in accordance with industry standards and sound engineering practice.

f. Flow Monitoring: Flow data shall be collected using a system of permanent or temporary flow monitors, or a combination thereof, as determined by LFUCG in the SSA Work Plan. Such monitors shall be placed at locations in the Sanitary Sewer System necessary to adequately characterize flow from each Sewershed. LFUCG shall ensure that the flow monitors are inspected, maintained, and calibrated as necessary, to maintain a system-wide up-time of ninety (90) percent. Further, the flow monitoring shall be installed and operated in accordance with the equipment manufacturers' recommendations and sound engineering practice.

(vii) Following the completion of, or where practicable, concurrent with, any necessary flow, rain and groundwater monitoring described above, LFUCG shall perform field investigative activities in Sewersheds determined to have significant I/I and any Sewersheds determined to cause or contribute to Recurring SSOs and wet weather-related bypasses at the WWTP. The field investigative activities shall be designed to locate and allow estimation of the wet weather flows associated with individual sources of I/I, or shall identify physical degradation of the Sanitary Sewer System that causes or contributes to Recurring SSOs. The field

investigative activities shall include as appropriate:

- a. Further flow monitoring to isolate sources of I/I. Such flow monitoring will be carried out as specified above in this Paragraph;
- b. Smoke testing;
- c. Visual inspections of pipes and manholes;
- d. Dye testing;
- e. Night flow isolation;
- f. CCTV inspection; and
- g. Building inspections.

(viii) These further investigative activities shall be sufficient to allow detailed characterizations of all significant sewer defects in sewer sub-basins with significant I/I and Recurring SSOs, and to support the development of the Capacity Assessment Report in Paragraph 15.F. below, and the identification of remedial measures necessary to satisfy the objectives of the Capacity Assessment Report. In conducting the field investigative activities, LFUCG shall use sound engineering practice and conduct activities consistent with the guidance provided in the appropriate sections of a) *Handbook: Sewer System Infrastructure Analysis and Rehabilitation*, EPA/625/6-91/030, 1991; b) *Existing Sewer Evaluation and Rehabilitation*, WEF MOP FD-6, 1994; c) *the National Association of Sewer Service Companies (NASSCO) "Manual of Practice"*.

C. Pumping Station Design, Capacity, and Equipment Condition Adequacy Evaluation

Within one (1) year of Consent Decree lodging, LFUCG shall carry out an evaluation of the design capacity, current effective capacity, equipment condition and operational redundancy

in its Pumping Stations. For the purpose of Paragraph 15.C., Pumping Stations shall mean those pumping stations identified in Appendix H of this Consent Decree.

- (i) This evaluation shall consider the following criteria:
 - a. Adequacy of station capacity, as described in the "Pumping Systems" chapter of the most current version of WEF's Manual of Practice FD-4, "Design of Wastewater and Stormwater Pumping Stations";
 - b. Critical response time, defined as the time interval between activation of the high wet well level alarm and the first SSO, under peak flow conditions;
 - c. Adequacy of station condition, based upon both physical inspection and recent operating and mechanical failure history during at least the past five years preceding the lodging date of the Consent Decree;
 - d. Adequacy of station design and equipment, including redundancy of pumps and electrical power supply, and other equipment installed, based upon the Ten State Standards; and
 - e. The ability of maintenance personnel to take corrective action within the critical response time calculated for each Pumping Station.

(ii) LFUCG shall include in the SSA Report, referenced in Sub-Section F below, detailed information regarding the criteria specified above for each of its Pumping Stations. In particular, the SSA, Pump Station, Capacity Assessment, and Hydraulic Model Report shall:

- a. Describe each Pumping Station;

- b. Provide detailed information regarding the results of the evaluation of each Pumping Station;
- c. Provide detailed information about its backup power and emergency pumping capability at each of its Pumping Stations;
- d. Provide information regarding lightning strike protection equipment at each Pumping Station;
- e. Provide detailed descriptions of its history of Pumping Station failures, including power-loss-related and lightning strike-related SSOs during the past five (5) years preceding the lodging date of the Consent Decree;

D. Capacity Assessment

(i) Within six (6) months of Consent Decree lodging, LFUCG shall provide a Capacity Assessment Work Plan for EPA/EPPC review and comment that describes how LFUCG will assess the capacity of the Sanitary Sewer System and WWTPs. The Capacity Assessment shall include all pumping stations, all Major Gravity Lines, all Force Mains and syphons and their respective related appurtenances, all Recurring SSO points, and any other portions of the Sanitary Sewer System that must be assessed so as to allow a technically-sound evaluation of the causes of Recurring SSOs or wet-weather Unpermitted Bypasses at the WWTPs. The Capacity Assessment Work Plan shall also include a schedule for completion no later than three (3) months before the dates provided for completion of the SSA in Paragraph 15. B.(iii), LFUCG shall provide the results of the Capacity Assessment in the SSA Report referenced in Sub-Section F below.

(ii) The Capacity Assessment shall specifically identify, at a minimum, the

hydraulic capacities of the portions of the Sanitary Sewer System identified above, and compare those capacities to existing and future projected average and peak dry flow and Peak Flow. (Future projected flows as used in this Section VII shall be estimated consistent with accepted industry standards and/or local practice for design purposes.) This assessment shall identify, within the aforementioned portions of LFUCG's WCTS, those portions of the WCTS that are expected to cause or contribute to SSOs, Bypasses and/or overloading at the WWTP under existing and projected future, average and peak dry flow and Peak Flow, and the degree to which those portions experience or cause, under current or projected future conditions, SSOs, Bypasses and/or overloading at the WWTP.

(iii) As part of the Capacity Assessment, LFUCG shall use the information it is required to develop pursuant to this Paragraph to assess existing and future projected capacity of the Sanitary Sewer System and the ability of the Sanitary Sewer System to transmit Peak Flows experienced by and predicted for the Sanitary Sewer System.

E. Hydraulic Model

(i) LFUCG shall develop a computerized model of the Sanitary Sewer System (the "Model") using a hydraulic modeling software package. LFUCG shall use the Model in the assessment of the hydraulic capacity of the Sanitary Sewer System, and in the identification of appropriate remedial measures to address capacity and condition limitations identified in its Sanitary Sewer System. LFUCG shall develop the Model to provide a detailed understanding of the response of the Sanitary Sewer System to wet weather events and an evaluation of the impacts of proposed remedial measures and removal of I/I flow, as follows:

a. LFUCG shall configure the Model to accurately represent LFUCG's

Sanitary Sewer System, in accordance with sound engineering practice.

LFUCG may model its Sanitary Sewer System in different levels of detail, as necessary to identify the causes of all known Recurring SSOs, and to assess proposed remedial measures with the goal to eliminate those

Recurring SSOs. LFUCG's Model shall include as a minimum: (i) all Major Gravity Lines; (ii) Pumping Stations; (iii) locations with Recurring SSOs; and (iv) Force Mains.

- b. LFUCG shall configure the Model using adequate, sufficiently accurate and current physical data of the Sanitary Sewer System, such as invert and ground elevations, pipe diameters, slopes, pipe run lengths, Manning roughness factors, manhole sizes and configurations, and pumping station performance factors. In particular, LFUCG shall field verify the physical data identified in the SSA Work Plan to allow calibration of the Model.
- c. LFUCG shall calibrate the Model using appropriate rainfall data, actual hydrographs and flow data. LFUCG shall use at least two (2) separate data sets for such calibration. As part of the calibration process, LFUCG shall either use existing sensitivity analyses for the selected model, or carry out its own sensitivity analyses, such that calibration effectiveness is maximized.

- (ii) Within one hundred twenty (120) days of Consent Decree lodging,

LFUCG shall develop and submit to EPA/EPPC for review and comment, the Hydraulic Model Report which shall include:

- a. A description of the Model which shall be a widely-accepted model such as EPA's SWMM Model or InfoWorks or one of the widely accepted commercial variants;
- b. Digitized map(s) and schematics that identify and characterize the portions (including the specific gravity sewer lines) of the Sanitary Sewer System that shall be included in the Model;
- c. Identification of input data to be used;
- d. Configuration of the Model;
- e. Procedures and protocols for performance of sensitivity analyses (*i.e.*, how the Model responds to changes in input parameters and variables);
- f. Procedures for calibrating the Model to account for values representative of the Sanitary Sewer System and WWTPs using actual Sanitary Sewer System and WWTP data (*e.g.*, flow data);
- g. A schedule for complete implementation of the Model.

(iii) LFUCG shall implement the Model, and as part of the SSA Report referenced in Sub-Section F below, include a summary of activities undertaken to configure and calibrate the Model.

F. Reporting

(i) Within thirty (30) days following the completion of the SSA for each Sewershed Group, as set forth in Paragraph 15.B.(iii) above, LFUCG shall submit an SSA Report presenting the information required in Paragraph 15.B, and summarizing the results of the

SSA, Pumping Station Design and Equipment Condition Adequacy Evaluation, the Capacity Assessment, and the Model, to EPA/EPPC for review and comment.

(ii) The SSA Report shall include a thorough analysis of historical and current flow monitoring, inspection, rainfall and other data, including data collected during the aforementioned studies, and shall in general: a) identify Sewersheds with Excessive I/I, such that these conditions are causing and/or contributing to Recurring SSOs and wet-weather Unpermitted Bypasses at the WWTPs; b) identify and quantify sources of I/I within the Sewersheds determined to have Excessive I/I rates; c) identify and quantify Recurring SSOs; d) identify portions of the Sanitary Sewer System in which physical degradation of the Sanitary Sewer System is causing or contributing to Recurring SSOs; and e) identify cross-connections and unauthorized connections.

- (iii) The SSA Report shall also include the following information:
- a. Determination of existing flows for each Sewershed and sub-basin within the Sanitary Sewer System;
 - b. Average and peak daily dry weather flow;
 - c. Average dry weather Infiltration rate (in gpd/inch diameter-mile);
 - d. Peak Flow and peaking factors (the ratio of measured peak flow to average dry weather flow);
 - e. Identification of portions of the Sanitary Sewer System within the Sewershed experiencing levels of I/I that cause or contribute to Recurring SSOs and wet-weather Unpermitted Bypasses at the WWTPs;
 - f. Identification of specific sources of I/I to the Sanitary Sewer System, if

identifiable, by manhole/line segment, street address, type (Infiltration or Inflow), source (e.g., "wall leakage"), and estimated flow from the source, if identifiable;

- g. A summary of flow monitoring activities, to include, at a minimum, a map showing the delineation of the Sewershed: the location and type of each flow meter, problems encountered and deviations from the SSA Work Plan, and a description of flow monitor calibration activities, including any scatter graphs and calibration and verification graphs;
- h. A summary of field investigative activities performed in each sub-basin, to include, at a minimum: type of activity; number of activities performed (e.g., "100 out of 500 manholes inspected in Sub-basin 1A"), observations made under each activity (inspection procedure), and summaries of the results in each sub-basin;
- i. A summary of the structural defects identified in the Sanitary Sewer System to include, at a minimum: number of each type of defect by line segment, manhole number or street address, and estimates of Peak Flow or impact on Sanitary Sewer System capacity (as appropriate) from defects in each line segment, based on a consistently applied set of stated criteria as set forth in the SSA Work Plan;
- j. A summary of the technical approach utilized in carrying out the Capacity Assessment analyses;
- k. A detailed description of any deviations from the CAP Work Plan,

including a discussion of the reasons for such deviation;

1. Identification of all portions of the Sanitary Sewer System with insufficient capacity to convey Peak Flows as identified by the Model. In the case of the Sanitary Sewer System, insufficient capacity is the inability of the sewer, Pumping Station or other structure to convey Peak Flows without experiencing surcharge sufficient to cause Recurring SSOs under either predicted Peak Flows or predicted average conditions or both. The SSA Report shall also identify any insufficient capacity in the WWTPs. In the case of a WWTP, insufficient capacity is the inability to provide full secondary treatment and disinfection, without an Unpermitted Bypass, to all flow reaching the plant, and to discharge those flows in full compliance with the applicable NPDES permit.
- m. The SSA Report shall describe future projected flows.
- n. The SSA Report shall provide information on the predicted (e.g. Manning equation) and actual Peak Flow capacity of all Major Gravity Lines (by segment), all Force Mains, syphons, Pumping Stations, and WWTPs;
- o. Summaries, by sub-basin, of the number and footage of sewer segments surcharged, and the number of structures at overflow, under each condition investigated;
- p. Mapping of each sub-basin, for each condition investigated, illustrating each pipe segment operating in surcharge, and each manhole or structure at which a Recurring SSO might be expected to occur;

- q. The information regarding the Pumping Station Evaluation as required by Sub-Section C;
- r. The results of the Capacity Assessment as required by Sub-Section D;
- s. A summary of activities undertaken to configure and calibrate the Model as required by Sub-Section E; and
- t. A summary of any capital projects implemented since commencement of the SSA, including those projects referenced in Paragraph 15.A that have reduced dry or wet weather flows in the Sanitary Sewer System.

(iv) LFUCG shall utilize the collected data from the SSA Report to develop the Sanitary Sewer System Remedial and WWTP Measures Plan required pursuant to Sub-Section G.

G. Sanitary Sewer System and WWTP Remedial Measures Plan

(i) Within six (6) months after submission of the SSA Report for each Sewershed Group, LFUCG shall, after appropriate opportunities for public participation, develop and submit for EPA/EPPC review, comment and approval in accordance with the requirements of Section X, a Sanitary Sewer System and WWTP Remedial Measures Plan with specific measures and schedules that, when implemented, will result in adequate capacity in the Sanitary Sewer System and LFUCG's WWTPs, such that Recurring SSOs, Unpermitted Bypasses and overloading at the WWTPs, and WWTP NPDES permit noncompliance will be eliminated.

(ii) The Sanitary Sewer System and WWTP Remedial Measures Plan shall identify all measures necessary to achieve adequate capacity. Adequate capacity is the capacity needed to collect, convey and treat anticipated Peak Flows, without Recurring SSOs or wet

weather Unpermitted Bypasses at the WWTPs. At a minimum, Peak Flows shall include the conditions considered as part of the SSA (see Sub-Sections B and D above). If insufficient capacity to accommodate projected Peak Flows exists in any portion of the system, including at the LFUCG WWTPs, LFUCG shall identify and propose measures to provide adequate capacity.

(iii) The Sanitary Sewer System and WWTP Remedial Measures Plan shall identify all WWTP upgrades and repair measures necessary to achieve WWTP compliance with all NPDES permit limitations for LFUCG's WWTPs and requirements and to eliminate wet weather Unpermitted Bypasses.

(iv) The Sanitary Sewer System and WWTP Remedial Measures Plan shall identify the degree to which sources of Excessive I/I shall be removed, and the degree to which Excessive I/I removal is expected to alleviate capacity constraints, and propose specific remedial measures that will address those capacity limitations not expected to be addressed by Excessive I/I removal. Anticipated I/I removal rates used in the development of the Sanitary Sewer System and WWTP Remedial Measures Plan shall reflect current industry practice and local experience. Specific remedial measures to address capacity limitations may also include increases in Pumping Station and Sanitary Sewer System capacity, construction of storage or equalization basin facilities, or increases in WWTP capacity.

(v) The Sanitary Sewer System and WWTP Remedial Measures Plan shall identify all measures necessary to eliminate all cross-connections, and Recurring SSOs caused by physical degradation of sewers, inadequate Pumping Station capacities, or inadequate Pumping Station reliability.

(vi) The Sanitary Sewer System and WWTP Remedial Measures Plan shall,

for purposes of developing schedules under Sub-Section G prioritize the Sanitary Sewer System remedial measures based upon: (a) relative likely human health and environmental impact risks; (b) Recurring SSO frequencies of activation; and (c) total annual Recurring SSO volumes.

LFUCG may also take into account cost-effectiveness and risks associated with implementation. The Sanitary Sewer System and WWTP Remedial Measures Plan shall provide a description of the methodology used to apply the above factors.

(vii) The Sanitary Sewer System and WWTP Remedial Measures Plan shall provide estimated capital, O&M, and present value costs for each identified remedial measure. Such costs shall be provided in consistent, year-specific dollars. The Sanitary Sewer System and WWTP Remedial Measures Plan shall provide an expeditious schedule for design, construction, and placement in service of all proposed measures that is in no event be later than eleven (11) years from the Effective Date of the Consent Decree, or in the event that remedial measures include a WWTP upgrade, thirteen (13) years from the Effective Date of Consent Decree only for such WWTP upgrade and other remedial measures associated with the WWTP upgrade. These deadlines may only be extended with approval of EPA and EPPC, for good cause, in accordance with Section XX (Modification). LFUCG shall identify the dates for preliminary design, complete design, complete permitting, award contract, begin construction, and complete construction dates for each measure proposed.

(viii) Upon approval by EPA/EPPC, LFUCG shall implement the remedial measures in the approved Sanitary Sewer System and WWTP Remedial Measures Plan in accordance with the schedule contained therein. Nothing herein shall preclude LFUCG from implementing interim remedial measures prior to approval of the Sanitary Sewer System and

WWTP Remedial Measures Plan.

16. CMOM (Capacity, Management, Operation and Maintenance) Programs

Self-Assessment. LFUCG shall submit to EPA and EPPC within six (6) months of the Effective Date of this Consent Decree a CMOM Programs Self-Assessment of LFUCG's Sanitary Sewer System in accordance with U.S. EPA Region 4 methodology as set forth in the CD ROM disk attached hereto as Appendix I, to ensure that LFUCG has CMOM Programs in place that are effective at eliminating and preventing SSOs. This Self-Assessment shall include an evaluation of, and where appropriate, recommendation of improvements to, each CMOM Program to ensure that such Programs contain the following key CMOM elements: written, defined purpose(s); written, defined goal(s); written documentation with specific details; implementation by well trained personnel; established performance measures; and written procedures for periodic review. Recommended improvements shall include schedules for implementation. However, LFUCG shall develop and implement the CMOM programs no later than two (2) years after the date of EPA/EPPC approval of the CMOM Self-Assessment, unless otherwise specified in the CMOM Specific Program Development subparagraphs below. Particular emphasis shall be placed, and recommendations for necessary improvement shall be made, regarding the following programs, as described in the attached CD ROM: Pump Station Preventative Maintenance Program, Pump Station Performance and Adequacy Program, and Pump Station Rehabilitation Program. EPA and EPPC jointly will act on the Self-Assessment in accordance with Section X of this Consent Decree (Reporting Requirements and Approval of Submittals). LFUCG shall submit an annual report of the status of implementation of its CMOM Programs as provided in Paragraph 29.B below. If LFUCG acquires ownership of the wastewater collection and

transmission system serving the Blue Sky WWTP, LFUCG shall commence implementation of its CMOM programs for that system within six (6) months of acquiring ownership but in no event sooner than the scheduled implementation dates provided for under specific CMOM program approvals.

A. CMOM Specific Program Development - Sewer Overflow Response Plan.

(i) Sewer Overflow Response Plan - General

LFUCG shall submit to EPA and EPPC, within six (6) months of the Effective Date of this Consent Decree a Sewer Overflow Response Plan ("SORP") in compliance with 401 KAR 5:015 to establish timely and effective methods and means of: (a) responding to, cleaning up, and/or minimizing the impact of all SSOs; (b) reporting the location, estimated volume, duration, cause and impact of all SSOs to EPPC and EPA; and (c) notifying the potentially impacted public. EPA and EPPC jointly will act on the SORP in accordance with Section X of this Consent Decree (Reporting Requirements and Approval of Submittals). If approved, LFUCG shall commence implementation of the SORP pursuant to the schedule set forth in the submittal within thirty (30) days of receiving EPA/EPPC approval. By no later than October 1 of each year following the approval of the SORP, LFUCG shall review the SORP and propose changes as appropriate. Such changes are subject to EPA/EPPC review and approval. A copy of future updates to the SORP shall also be provided to the Frankfort Regional Office of EPPC's Division of Water within fifteen (15) days of incorporation of the update.

(ii) Sewer Overflow Response Plan - Building Backups

LFUCG shall include a section in its SORP that establishes a separate protocol for addressing Building Backups. The Building Backup section of the SORP shall include the

following elements:

- (a) Maintenance of a log of Building Backups separately from other SSOs;
- (b) A process a customer may follow to dispute a determination by LFUCG that a wastewater backup into a building is caused by a blockage or other malfunction of a Private Lateral, and therefore is not a Building Backup;
- (c) Repair and mitigation procedures that include measures necessary to disinfect and/or remove items potentially contaminated by the Building Backup.

B. CMOM Specific Program Development - System Capacity Assurance Program.

(i) The Program. Within two (2) years of the Effective Date, LFUCG shall submit for review, comment and approval, a Capacity Assurance Program ("CAP") to EPA and EPPC. EPA and EPPC shall jointly act on the CAP in accordance with Section X of this Consent Decree. No later than thirty (30) days after approval, LFUCG shall commence implementation of the CAP, subject to the schedules set forth in the approved CAP. The CAP shall identify each Sewershed or part of a Sewershed with insufficient capacity under either One Hour Peak Flow, or average conditions, or both, consistent with the capacity provisions of this Section. The CAP shall also analyze all portions of the WCTS that hydraulically impact known SSOs and all portions of the WWTPs that may contribute to violations of the NPDES Permits. The CAP shall assess One Hour Peak Flow capacity of all major system components for existing and proposed flows. The CAP shall enable LFUCG to authorize new sewer service connections, or increases in flow from existing sewer service connections except as otherwise provided

herein, only after LFUCG certifies that the analysis procedures contained in the approved CAP have been used and that LFUCG has determined, based on those procedures, that there is Adequate Treatment Capacity, Adequate Transmission Capacity, and Adequate Collection Capacity as set forth in Paragraph 16.B.(ii)(a) through (c) below. At a minimum, the CAP shall contain all of the following components:

- (a) The technical information, methodology and analytical techniques, including the model or software, to be used by LFUCG to calculate collection transmission and treatment capacity;
- (b) The means by which LFUCG will integrate its certification of Adequate Treatment Capacity, Adequate Transmission Capacity, and Adequate Collection Capacity with LFUCG's approval of application for extension of sewer lines, and LFUCG's acquisition of new or existing sewers from other owners;
- (c) The technical information, methodology and analytical techniques, including the model or software to be used by LFUCG to calculate the net (cumulative) increase or decrease in volume of wastewater introduced to the wastewater conveyance and transmission system as a result of LFUCG's authorization of new sewer service connections and increases in flow from existing

connections and the completion of: (1) specific projects that add or restore capacity to the WCTS or WWTPs (“Capacity Enhancing Projects”); (2) specific projects that reduce One Hour Peak Flow through removal of I/I (“I/I Projects”); and (3) permanent removal of sewer connections (“Removal of Connections”);

- (d) An informational management system (IMS) capable of tracking the accumulation of banked credits, earned pursuant to Paragraph 16.B.(iii) below, from completion of Capacity Enhancing Projects, I/I Projects, and Removal of Connections, the capacity-limited portion of the Sewershed in which those credits were earned, and the expenditure of such credits on future increases in flow from new and existing sewer service connections in that capacity limited portion of the Sewershed; and
- (e) All evaluation protocols to be used to calculate collection, transmission, and treatment capacity including, but not limited to, standard design flow rate rules of thumb regarding pipe roughness, manhole head losses, as-built drawing accuracy (distance and slope), and water use (gallons per capita per day); projected flow impact calculation techniques; and metering of related existing

One Hour Peak Flows (flows metered in support of analysis and/or manual observation of existing One Hour Peak Flows). LFUCG may identify sewer line segments which have been specifically designed and constructed to operate under surcharge conditions (i.e., with welded or bolted joints or inverted siphons) and identify the level of surcharge for those segments.

(ii) Capacity Certifications. Except as provided in Paragraph 16.B.(iii) and (iv), below, after the implementation date, LFUCG may authorize a new sewer service connection or additional flow from an existing sewer service connection, only after it certifies that the analysis procedures contained in the approved CAP have been used and that LFUCG has determined, based on those procedures that there is Adequate Treatment Capacity, Adequate Transmission Capacity, and Adequate Collection Capacity as set forth in Paragraph 16.B.(ii)(a) through (c).

(a) Treatment Capacity Certifications. LFUCG's certification of "Adequate Treatment Capacity" shall confirm that, at the time the WWTP receives the flow from a proposed sewer service connection(s) or increased flow from an existing sewer service connection(s), when combined with the flow predicted to occur from all other authorized sewer service

connections (including those which have not begun to discharge into the Sanitary Sewer System), the WWTP will not be in "noncompliance" for quarterly reporting as defined in 40 C.F.R. Part 123.45, Appendix A. LFUCG's certification of Adequate Treatment Capacity shall confirm that the new or increased flow to the WWTP will not result in Unpermitted Bypasses or diversions prohibited by the KPDES Permits due to lack of treatment capacity.

- (b) Transmission Capacity Certifications. LFUCG's certification of "Adequate Transmission Capacity" shall confirm that each Pumping Station through which the proposed additional flow from new or existing sewer service connections would pass to the WWTP receiving such flow, has the capacity to transmit the existing One-Hour Peak Flow passing through the Pumping Station, plus the addition to the existing One-Hour Peak Flow predicted to occur from the proposed connection, plus the addition to the existing One-Hour Peak Flow predicted to occur from all other authorized sewer service connections which have not begun to discharge into the Sanitary Sewer System.
- (c) Collection Capacity Certifications. LFUCG's certification of "Adequate Collection Capacity" shall confirm that each

gravity sewer line, through which the proposed additional flow from new or existing connections would pass, has the capacity to carry the existing One-Hour Peak Flow passing through the gravity sewer line plus the addition to the existing One-Hour Peak Flow from the proposed connection, plus the addition to the existing One-Hour Peak Flow predicted to occur from all other authorized sewer service connections which have not begun to discharge into the Sanitary Sewer System without causing a Surcharge Condition.

- (d) Definition of "Surcharge Condition." For purposes of this Paragraph 16.B. only, the term "Surcharge Condition" shall mean the condition that exists when the supply of wastewater resulting from the One-Hour Peak Flow is greater than the capacity of the pipes to carry it and the surface of the wastewater in manholes rises to an elevation greater than twenty-four (24) inches above the top of the pipe or within three (3) feet of the rim of the manhole, and the sewer is under pressure or head, rather than at atmospheric pressure, unless LFUCG has, pursuant to Paragraph 16.B.(i)(e), above, identified that pipe segment and manhole is designed to operate in that condition, in

which case the identified level of surcharge will be used.

Notwithstanding the foregoing, no criteria contained in the Capacity Assurance Plan shall be construed as setting standards for the ultimate design or rehabilitation of LFUCG's WCTS.

(e) Minor Sewer Connections. For minor sewer service connections, LFUCG may elect to perform a Quarterly capacity analysis for each Sewershed or part of a Sewershed by certifying that the Sewershed has adequate capacity, as defined in Paragraph 16B.(ii)(a) through (c) above, to carry existing One Hour Peak Flows and the additional flows generated by all such minor sewer service connections projected to be approved in the subsequent quarter. For any Sewershed or part of a Sewershed that can be so certified LFUCG may approve these projected minor sewer service connections without performing individual certifications for each connection. "Minor Sewer Connection" shall mean connections which do not exceed 2,500 gpd.

(iii) Capacity for Treatment, Transmission, and Collection in Lieu of Certification. LFUCG may authorize a new sewer service connection, or additional flow from an existing sewer service

connection, even if it cannot satisfy the requirements of Paragraph 16.B.(ii) above, provided LFUCG certifies that all of the following provisions, where applicable, are satisfied.

- (a) LFUCG is in substantial compliance with this Consent Decree;
- (b) LFUCG has identified the sewer line segment(s), Pumping Station(s), and/or wastewater treatment systems that do not meet the conditions for certification of Adequate Treatment capacity, Adequate Collection Capacity, and/or Adequate Transmission Capacity;
- (c) LFUCG has identified the sewer line segment(s) from which there has been a Recurring SSO;
- (d) LFUCG shall complete, prior to the time the proposed additional flow from new or existing sewer service connections is introduced into the Sanitary Sewer System, specific Capacity Enhancing Projects, I/I Projects and/or Removal of Connections which will add sewer capacity or reduce One Hour Peak Flows to the identified sewer line segment(s), Pumping Station(s), wastewater treatment system(s), and/or Recurring SSO in accordance with the factors set forth in subparagraphs (e) and (f) below;

- (e) Where LFUCG has undertaken specific Capacity Enhancing Projects that provide for additional off-line storage and/or specific Removal of Connections to satisfy the requirements of subparagraph (d) above, the estimated added capacity resulting from such projects must exceed the estimated amount of any proposed additional flow by the following factor: 1.5:1 in West Hickman and 1:1 for all other Sewersheds.
- (f) Where LFUCG has undertaken specific I/I Projects or Capacity Enhancing Projects, other than those that provide for additional off-line storage and/or specific removal of connections, to satisfy the requirements of subparagraph (d) above, the estimated reduction in One Hour Peak Flows or added capacity resulting from such projects must exceed the estimated amount of any proposed additional flow by the following factors: (a) a factor of 4:1 for I/I Projects and other Capacity Enhancing Projects in West Hickman Sewershed related to a Recurring SSO; (b) a factor of 3:1 for I/I Projects and other Capacity Enhancing Projects related to a Recurring SSO in other Sewersheds; and (c) a factor of 2:1 for I/I Projects and other Capacity Enhancing Projects not related to a Recurring SSO;

- (g) Commencing during the first year of the CAP following EPA/EPPC approval, and annually thereafter, LFUCG shall perform a review of specific Capacity Enhancing Projects and I/I Projects undertaken to determine if actual added capacity and One Hour Peak Flow reductions are in line with what LFUCG originally estimated for such projects; and LFUCG has used the results of this review to adjust future estimates as necessary;
- (h) Any new sewer service connection or increase in flow to an existing connection authorized prior to the completion of a necessary added capacity or One Hour Peak Flow reduction project as set forth above shall be conditioned upon completion of such project prior to the time that the new sewer service connection or flow increase is introduced into the Sanitary Sewer System; and
- (i) In implementing the provisions of this Paragraph 16.B.(iii), LFUCG may use a "banking credit system" for the sewer line segment(s), Pumping Station(s), wastewater treatment systems, and/or Recurring SSO for which LFUCG is not able to satisfy the conditions set forth in Paragraph 16.B.(ii) above. The addition of sewer capacity and/or reduction in One Hour Peak Flows from Capacity

Enhancement Projects, I/I Projects, and Removal of Connections, completed after the Effective Date of this Consent Decree, to the affected sewer line segment, Pumping Station, wastewater treatment system or Recurring SSO may be accumulated in the form of credits in accordance with the factors set forth in subparagraphs (e) and (f) above, which may then be used for authorization of future sewer service connections or increases in flow from existing connections to the affected sewer line segment, Pumping Station, wastewater treatment system or Recurring SSO in the capacity-limited portion of the Sewershed.

- (iv) Essential Services. Notwithstanding the provisions of Paragraph 16.B.(ii) above, LFUCG may authorize a new sewer service connection, or additional flow from an existing sewer service connection, even if it cannot certify that it has Adequate Transmission Capacity, Adequate Collection Capacity, and/or Adequate Treatment Capacity as set forth in Paragraph 16.B.(ii)(a)-(c) above for health care facilities, public safety facilities, public schools, or other facilities as agreed upon in writing by EPA and EPPC; and in those cases where a pollution or sanitary nuisance condition exists, as determined by Fayette County Health

Department or its regulatory successor as the result of a discharge of untreated wastewater from an on-site septic tank or other discharge point. For all such new service connections, or additions to flow from an existing connection, LFUCG shall make the appropriate subtraction to the balance in the credit bank described in Paragraph 16.B(iii) above and modify the list described in Paragraph 16.B(viii).

- (v) Existing Illicit Connections. Notwithstanding the provisions of Paragraph 16.B.(ii) and (iii) above, LFUCG may authorize a new sewer service connection, or additional flow from an existing sewer service connection, even if it cannot certify that it has Adequate Transmission Capacity and/or Adequate Collection Capacity and/or Adequate Treatment Capacity as set forth in Paragraph 16.B.(ii) above for any illicit connections or discharges of wastewater to the storm water system or to waters of the United States. For all such new service connections or additions to flow from an existing connection, created before the entry of the Consent Decree that result from the elimination of the illicit connections or discharges, LFUCG shall not be required to make a subtraction from the balance in the credit bank described in Paragraph 16.B.(iii) above or to modify the list described in Paragraph 16.B.(viii) below. For all such new service connections

or additions to flow from an existing connection created after the entry of the Consent Decree that result from the elimination of illicit connections or discharges, excluding those connections considered minor connections, LFUCG shall make a subtraction from the balance in the credit bank described in Paragraph 16.B.(iii) above and modify the list described in Paragraph 16.B.(viii) below.

- (vi) Reconnections Following Termination as a Result of LFUCG's Private Lateral Program. Notwithstanding the provisions of Paragraph 16.B.(ii) and (iii) above, in the event of a temporary suspension or interruption of a customer's service as a result of LFUCG's private lateral program, any service that is resumed from a newly replaced or repaired Private Lateral shall not be deemed to be a new service connection or an addition to flow from an existing connection.
- (vii) Certifications. All certifications pursuant to this Paragraph 16.B. shall be made by a professional engineer registered in the Commonwealth of Kentucky and shall be approved by a responsible party of LFUCG as defined by 401 KAR 5:060 Section 9(4) and 40 C.F.R. 122.22(b). LFUCG shall maintain all such certifications, and all data on which the certifications are based, in its offices for inspection by EPA and EPPC. EPA and EPPC may

request, and LFUCG shall provide, any and all documentation necessary to support any certification made by LFUCG pursuant to this Paragraph 16.B. and make available to the extent possible, individuals providing such certifications to meet with EPA and EPPC.

(viii) List of Future Authorized Connections. Within one hundred twenty (120) days of the Effective Date, LFUCG shall establish a list of all authorized new sewer service connections or increases in flow from existing connections which flows have not yet been introduced into the Sanitary Sewer System. The following information shall be recorded for each authorized connection: street address, estimated average daily flow, estimated maximum daily flow, Sewershed, WWTP, date authorized, and estimated Calendar Quarter when the additional flow from the connection will begin. LFUCG shall update and maintain this list as necessary until full implementation of the CAP, as approved by EPA and EPPC.

(ix) Notwithstanding the foregoing, no criteria contained in the Capacity Assurance Plan shall be construed as setting standards for the ultimate design or rehabilitation of LFUCG's WCTS.

(x) Nothing contained in Section VII shall alter the EPPC regulations pertaining to sewer line extensions and LFUCG shall at all times

comply with the regulations and any requirements of EPPC. Plans for sanitary sewer line extensions shall be submitted to EPPC and reviewed by EPPC in accordance with 401 KAR 5:005. With each request submitted for a sanitary line extension after implementation of the CAP, LFUCG shall submit to EPPC the analyses performed pursuant to Paragraph 16.B of the Consent Decree demonstrating that capacity exists for the proposed extension.

C. CMOM Specific Program Development - Fats, Oils, and Grease Control Program ("FOG Program"). LFUCG shall submit to EPA and EPPC within twelve (12) months of the Effective Date of this Consent Decree the FOG Program, including a schedule for implementation which shall provide for implementation within eighteen (18) months of EPA/EPPC approval. EPA and EPPC jointly will act on the FOG Program in accordance with Section X of this Consent Decree (Reporting Requirements and Approval of Submittals). The Program shall include:

- (i) legal authority to control the discharge of grease into the Sanitary Sewer System, including the ability to implement a permit program;
- (ii) specification of accepted devices to control the discharge of grease into the Sanitary Sewer System;
- (iii) establishment of standards for the design and construction of grease control devices including standards for capacity and accessibility, site map, design documents and as-built drawings;

(iv) establishment of grease control device management, operation and maintenance standards, or best management practices, that address onsite record keeping requirements, cleaning frequency, cleaning standards, use of additives, and ultimate disposal;

(v) establishment of construction inspection protocols, including scheduling, inspection report forms, and inspection record keeping requirements, to assure that grease control devices are constructed in accordance with established design and construction standards;

(vi) establishment of compliance inspection protocols, including scheduling, inspection report forms, and inspection record keeping requirements to assure that grease control devices are being managed, operated and maintained in accordance with the established management, operation and maintenance standards or best management practices;

(vii) establishment of an enforcement program to ensure compliance with the grease control program;

(viii) establishment of a compliance assistance program to facilitate training of grease generators and their employees;

(ix) establishment of a public education program directed at reducing the amount of grease entering the Sanitary Sewer System from private residences;

(x) establishment of staffing and equipment requirements to ensure effective implementation of the program; and,

(xi) establishment of performance indicators to be used by LFUCG to measure the effectiveness of the FOG Program.

D. CMOM Specific Program Development - Gravity Line Preventative

Maintenance Program. LFUCG shall submit to EPA and EPPC within twelve (12) months of the Effective Date of this Consent Decree a Gravity Line Preventative Maintenance Program, including a schedule of implementation which shall provide for implementation within eighteen (18) months of EPA/EPPC approval. EPA and EPPC jointly will act on the Gravity Line Preventative Maintenance Program in accordance with Section X of this Consent Decree (Reporting Requirements and Approval of Submittals). This Program shall include:

(i) Routine Hydraulic Cleaning Program. LFUCG shall have in place protocols for implementing routine hydraulic cleaning component of the preventative maintenance program for gravity lines. The program will include provisions for needs determination, establishing priorities and scheduling, number of crews and personnel (including, where appropriate, contract crews), hydraulic cleaning equipment to be used, standard hydraulic cleaning maintenance procedures, standard forms, records and performance measures and an information management system.

(ii) Routine Mechanical Cleaning Program. LFUCG shall have in place protocols for implementing routine mechanical cleaning component of the preventative maintenance program for gravity lines. The program will include provisions for needs determination, establishing priorities and scheduling, number of crews and personnel (including, where appropriate, contract crews), mechanical cleaning equipment to be used, standard mechanical cleaning maintenance procedures, standard forms, records and performance measures and an information management system.

(iii) Root Control Program. LFUCG shall have in place protocols, methods, and approaches for implementing a root control component of the preventative

maintenance program for gravity lines. The program will include provisions for needs determination, establishing priorities and scheduling, number of crews and personnel (including, where appropriate, contract crews), root control methods and approaches, root control maintenance procedures, standard forms, records and performance measures and an information management system.

E. CMOM Specific Program Development - Pump Station Operation Plan for Power Outages

LFUCG shall submit to EPA and EPPC for review, comment, and approval within nine (9) months of the Effective Date of this Consent Decree a Pump Station Operation Plan for Power Outages. This operation plan shall include an evaluation of the adequacy of its current Pumping Station backup power and emergency procedures for power outages. These procedures may be achieved via emergency generators, emergency pumping capabilities, separate power feeds from separate substations, or other approved procedures. Emergency generators may be either permanently installed or portable. Emergency pumping typically consists of portable, engine-driven pumps that can be quickly connected to a Pumping Station.

(i) The evaluation of emergency procedures for power outages shall consider the following criteria:

- (a) An adequate alternative power source must have sufficient capability to operate the station at its rated capacity, as well as operate all ancillary equipment and instrumentation;
- (b) Emergency pumping capability means modification of a Pumping Station to allow rapid connection of a portable pump to

the Pumping Station and provision of a pump with the capability to handle that station's Peak Flows. This includes providing "quick-connect" couplers for a pump discharge.

(c) The ability of maintenance personnel to take corrective action within the critical response time calculated for each Pumping Station.

(d) In evaluating the adequacy of its current situation, LFUCG shall consider its history of equipment failure-related, power-loss-related and lightning strike-related SSOs during the past five (5) years preceding the lodging date of the Consent Decree.

(ii) LFUCG shall include in the Pump Station Operation Plan for Power Outages, detailed information regarding the criteria specified above for each of its Pumping Stations. In particular, the Pump Station Operation Plan for Power Outages shall:

- (a) Describe each station;
- (b) Provide detailed information regarding the results of the evaluation of each Pumping Station;
- (c) Provide detailed information about its backup power, emergency pumping capability, and emergency procedures at each of its Pumping Stations;
- (d) Provide information regarding lightning strike protection equipment at each Pumping Station;
- (e) Provide detailed descriptions of its history of power-loss-related and

lightning strike-related SSOs during the past five (5) years preceding the lodging date of the Consent Decree;

(f) Identify all measures necessary to correct all identified deficiencies, including all appropriate emergency procedures and lightning strike-protection measures necessary to minimize power-loss related SSOs; and

(g) Expeditious schedules for the implementation of all identified measures; provided, however, that such schedules shall not extend beyond three (3) years of the approval date by EPA and EPPC of the Pump Station Operation Plans for Power Outages.

EPA and EPPC jointly will act on the Pump Station Operation Plan for Power Outages in accordance with Section X of this Consent Decree (Reporting and Approval of Submittals).

17. Backup Power for WWTPs. By April 1, 2008, LFUCG shall ensure that backup power is provided for secondary treatment at each of its WWTPs, in addition to the backup power that is currently provided for primary treatment. Back-up power may be provided through a dual power feed system consistent with the Ten State Standards.

VIII. SUPPLEMENTAL ENVIRONMENTAL PROJECTS

18. LFUCG shall implement two Supplemental Environmental Projects (SEPs) as described in, and in accordance with all provisions of, Appendix J-1 (Coldstream Park Stream Corridor Restoration and Preservation SEP), and Appendix J-2 (Green Infrastructure SEP) of this Consent Decree.

19. LFUCG is responsible for the Satisfactory Completion of the SEPs in accordance with the requirements of this Decree.

20. With regard to the SEPs, LFUCG certifies the truth and accuracy of each of the following:

A. That all cost information provided to EPA in connection with EPA's approval of the SEPs is complete and accurate and represents a fair estimate of the cost necessary to implement the SEPs and that LFUCG in good faith estimates that the cost to implement the Coldstream Park Stream Corridor Restoration and Preservation SEP, exclusive of administrative fees and legal fees, is \$1,000,000, and that the cost to implement the Green Infrastructure SEP, exclusive of administrative fees and legal fees, is \$230,000;

B. That, as of the date of executing this Decree, LFUCG is not required to perform or develop the SEPs by any federal, state, or local law or regulation, nor is LFUCG required to perform or develop any of the SEPs by agreement or grant or as injunctive relief awarded in any other action in any forum;

C. That the SEPs are not projects that LFUCG planned or intended to fund, construct, perform, or implement other than in settlement of the claims resolved in this Decree;

D. That LFUCG has not received, and is not negotiating to receive, credit for the SEPs in any other enforcement action; and

E. That LFUCG will not receive any reimbursement for any portion of the SEPs from any other person.

21. SEP Completion Reports

A. Within ninety (90) days after the completion of each SEP, LFUCG shall submit a SEP Completion Report to the United States in accordance with Section XVII of this Consent Decree (Notices). The SEP Completion Reports shall contain the following

information:

- (i) A detailed description of the SEP as implemented;
- (ii) A description of any problems encountered in completing the SEP and the solutions thereto;
- (iii) An itemized list of all Eligible SEP Costs;
- (iv) Certification that the SEP has been fully implemented pursuant to the provisions of this Decree; and
- (v) A description of the environmental and public health benefits resulting from implementation of the SEP (with a quantification of the benefits and pollutant reductions, if feasible).

B. Progress reports on the SEPs are required pursuant to Paragraph 29.

22. EPA may, in its discretion, require information in addition to that described in the preceding Paragraph in order to evaluate LFUCG's completion report.

23. After receiving each SEP Completion Report, the United States shall notify LFUCG whether or not LFUCG has Satisfactorily Completed the SEP. If the SEP has not been Satisfactorily Completed, Stipulated Penalties may be assessed under Section XI of this Consent Decree (Stipulated Penalties).

24. Disputes concerning the satisfactory performance and/or Satisfactory Completion of SEPs (including disputes about whether stipulated penalties are due) and the amount of Eligible SEP Costs may be resolved under Section XIII of this Decree (Dispute Resolution). No other disputes arising under this Section shall be subject to Dispute Resolution.

25. Each submission required under this Section shall be signed by an LFUCG

official with knowledge of the SEP and shall bear the certification language set forth in Paragraph 31 below.

26. Any written public statement made by LFUCG that publicizes any SEP under this Decree shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action under the Clean Water Act, United States et al. v. Lexington-Fayette Urban County Government, brought on behalf of the U.S. Environmental Protection Agency." Any oral statement made by LFUCG publicizing any SEP under this Decree in a public gathering shall acknowledge that the project was undertaken in connection with the settlement of this CWA case. "Publicize" means the dissemination of information intended to attract public notice, interest, or notoriety.

IX. COMMONWEALTH ENVIRONMENTAL PROJECTS

27. In further consideration of the settlement with the Commonwealth of the action resolved by this Consent Decree, LFUCG shall timely perform Commonwealth environmental projects ("Commonwealth Environmental Projects") as set forth in Appendix K. The total expenditure for the Commonwealth Environmental Projects shall not be less than \$1,300,000 for the Blue Sky Package Treatment Plant Elimination project (Appendix K-1) and \$200,000 for the Flooding Evaluation project (Appendix K-2). If LFUCG fails to perform these Commonwealth Environmental Projects by the dates specified in Appendix K, LFUCG shall pay to the Commonwealth as a stipulated penalty the difference between its documented Commonwealth Environmental Project expenditures and \$1,500,000. Such payment shall be due and payable on the latest date for completion of the Commonwealth Environmental Projects identified in Appendix K. Alternatively, LFUCG may propose, and the EPPC shall consider, additional

Commonwealth Environmental Projects for which the total expenditure shall not be less than the difference between its documented Commonwealth Environmental Project expenditures and \$1,500,000.

28. LFUCG shall submit to EPPC a Commonwealth Environmental Project Completion Report for each Commonwealth Environmental Project described in Appendix K no later than sixty (60) days from the date for completion of the Commonwealth Environmental Projects set forth in Appendix K. The Report shall contain the following information for each Commonwealth Environmental Project: (a) a detailed description of the Commonwealth Environmental Project as implemented; (b) a description of any operating problems encountered and the solutions thereto; (c) itemized costs; (d) certification that the Commonwealth Environmental Project has been fully implemented pursuant to Appendix K and the provisions of this Consent Decree; and (e) a description of the environmental and public health benefits resulting from implementation of the Commonwealth Environmental Project.

X. REPORTING REQUIREMENTS AND APPROVAL OF SUBMITTALS

29. Reports. LFUCG shall submit the following notices and reports:

A. Quarterly Reports. After the Effective Date of this Consent Decree and until termination of this Decree pursuant to Section XXI (Termination), LFUCG shall submit to EPA and EPPC quarterly reports by email and by either U.S. Mail or an overnight delivery service. The first such quarterly report shall be submitted to EPA and EPPC no later than thirty (30) days after the second full calendar quarter after the Effective Date of this Consent Decree. Succeeding quarterly reports shall be submitted no later than thirty (30) days after the completion of each succeeding calendar quarter. The quarterly report shall include, at a

minimum:

(i) A description of all projects and activities conducted during the most recently completed calendar quarter to comply with the requirements of this Consent Decree, in Gantt chart or similar format;

(ii) The date, locations, estimated volume, and cause (if known) of all SSOs for the most recently completed quarter; a cumulative accounting of the estimated reduction in volume and in number of occurrences of SSOs and Unpermitted Bypasses;

(iii) The anticipated projects and activities that will be performed in the next quarter to comply with the requirements of this Consent Decree, in Gantt chart or similar format; and

(iv) If LFUCG violates any requirement of this Consent Decree or has reason to believe that it is likely to violate any requirement of this Consent Decree in the future, LFUCG shall notify the United States and EPPC of such violation and its likely duration, with an explanation of the violation's likely cause and of the remedial steps taken, and/or to be taken, to prevent or minimize such violation. If the cause of a violation cannot be fully explained at the time the report is due, LFUCG shall include a statement to that effect in the report. LFUCG shall investigate to determine the cause of the violation and then shall submit an amendment to the report, including a full explanation of the cause of the violation, within thirty (30) days after the quarterly report.

(v) Any additional information that demonstrates that LFUCG is implementing the remedial measures required in this Consent Decree.

B. Annual Reports. LFUCG shall submit to EPA and EPPC an annual report

for the previous calendar year, with the first annual report due January 31, 2009, and each year thereafter by January 31. Each annual report shall contain a summary of the CMOM Programs implemented pursuant to this Consent Decree, including a comparison of actual performance with any performance measures that have been established. The annual report shall contain a summary of each remedial measure and capital project implemented pursuant to this Consent Decree, including a description of LFUCG's compliance with the requirements of Section VI (Compliance Measures Relating to Storm Sewer System) of this Consent Decree. LFUCG shall also send to EPA and EPPC its MS4 Annual Report on the date specified in the effective NPDES MS4 Permit.

30. All reports required to be submitted pursuant to this Consent Decree shall be submitted to the recipients specified in accordance with Section XVII of this Consent Decree (Notices).

31. Each written report submitted by LFUCG under this Section shall be signed by a Division Director, or higher-level LFUCG official, and include the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the

possibility of fine and imprisonment for knowing violations.

This certification requirement does not apply to emergency or similar notifications where compliance would be impractical.

32. Nothing in this Section X relieves LFUCG of the obligation to provide the requisite notice for purposes of Section XII (Force Majeure) of this Consent Decree.

33. The reporting requirements of this Consent Decree do not relieve LFUCG of any reporting obligations required by the Clean Water Act or its implementing regulations or by any other federal, state, or local law, regulation, permit, or other requirement.

34. Approval of Deliverables. After review of any modification of the SWQMP, CMOM Programs Self-Assessment, plan, workplan, statement of work, report, or other item that is required to be submitted pursuant to this Consent Decree for EPA/EPPC approval, EPA and EPPC may jointly, in writing: (a) approve the submission; (b) approve the submission upon specified conditions; (c) approve part of the submission and disapprove the remainder; or (d) disapprove the submission. If EPA/EPPC fails to approve, or otherwise act on a submittal within sixty (60) days of receipt of the submittal, then any subsequent milestone or completion date that is dependent upon such action by EPA/EPPC shall be extended by the equivalent number of days beyond the sixty (60) day review period for the submittal that is used by EPA/EPPC for the approval or other action.

35. If the submission is approved pursuant to Paragraph 34, subpart (a), LFUCG shall take all actions required by the plan, report, or other document, in accordance with the schedules and requirements of the plan, report, or other document, as approved. If the submission is conditionally approved or approved only in part, pursuant to Paragraph 34, subparts (b) or (c),

LFUCG shall, upon written direction of EPA/EPPC take all actions required by the approved plan, report, or other item that EPA/EPPC determines are technically severable from any disapproved portions, subject to LFUCG's right to dispute under Section XIII of this Decree (Dispute Resolution), the specified conditions.

36. If the submission is disapproved in whole or in part pursuant to Paragraph 34, subparts (c) or (d), then, subject to LFUCG's right to dispute the disapproval under Section XIII of this Consent Decree (Dispute Resolution), LFUCG shall, within sixty (60) days or such other time as specified by EPA/EPPC in such notice or agreed to by EPA/EPPC in writing, correct all deficiencies and resubmit the plan, report, or other item, or disapproved portion thereof, for approval, in accordance with the preceding Paragraphs.

37. Any Stipulated Penalties applicable to the original submission, as provided in Section X of this Decree (Reporting Requirements and Approval of Submittals), shall accrue during the 60-day period or other specified period, but shall not be payable unless the resubmission is untimely or is disapproved for material deficiencies; provided that, if the original submission was so deficient as to constitute a material breach of LFUCG's obligations under this Decree, the Stipulated Penalties applicable to the original submission shall be due and payable notwithstanding any subsequent resubmission.

38. If a resubmitted plan, report, or other item, or portion thereof, is disapproved in whole or in part, EPA/EPPC may again require LFUCG to correct any deficiencies, in accordance with the preceding Paragraphs, or may itself correct any deficiencies, subject only to LFUCG's right to invoke Dispute Resolution. EPA and EPPC may also deem LFUCG to be out of compliance with this Consent Decree for failure to timely submit the submittal in compliance

with the requirements of this Consent Decree, and one or both may assess stipulated penalties pursuant to this Consent Decree, subject only to the rights of LFUCG under the dispute resolution provisions of this Consent Decree.

39. Obligation to Implement Re-Submittal. In the event that EPA/EPPC approves, approves upon conditions, or modifies any submittal pursuant to this Section, LFUCG shall proceed to take any action required to implement the submittal as approved or modified by EPA/EPPC, subject only to the rights of LFUCG under the dispute resolution provisions of this Consent Decree.

40. Submittals are Enforceable. All submittals required to be approved, including all schedules set forth therein, shall be enforceable under this Consent Decree as if they were set forth herein upon approval, approval upon conditions, or modification by EPA/EPPC, and after conclusion of any Dispute Resolution period. Any portion of a submittal that is not specifically disputed by LFUCG shall be enforceable during any Dispute Resolution period, provided that implementation of the non-disputed portions of the submittal is not dependent upon implementation of the disputed portion.

41. Revisions to Submittals. The Parties recognize the LFUCG may need or want to revise certain submittals during the term of this Consent Decree. Such revisions shall not be considered modifications to the Consent Decree for purposes of Section XX of this Consent Decree (Modification). LFUCG must obtain EPA and EPPC's prior written approval of any revision to the substance of any submittal initially required to be approved. LFUCG may revise the form of any submittal without consulting EPA/EPPC, but shall provide a copy of any revised submittal to EPA and EPPC within seven (7) days after making such revision.

XI. STIPULATED PENALTIES

42. If LFUCG fails to pay the civil penalties required to be paid under Section V (Civil Penalty), Paragraph 9, of this Decree when due, LFUCG shall pay a stipulated penalty of \$1,000 per day for each day that the payment is late, to the United States. Late payment of the civil penalty shall be made in accordance with Section V, above (Civil Penalty). Stipulated Penalties shall be paid in accordance with Paragraph 50, below. All transmittal correspondence shall state that any such payment is for late payment of the civil penalty due under this Decree, or for Stipulated Penalties for late payment, as applicable, and shall include the identifying information set forth in Paragraph 10, above.

43. LFUCG shall be liable for Stipulated Penalties to the United States and EPPC for violations of obligations of this Consent Decree unless excused under Section XII (Force Majeure). A violation includes failing to perform any obligation required by the terms of this Decree, including any statement of work or schedule approved under this Decree, according to all applicable requirements of this Decree and within the specified time schedules established by or approved under this Decree.

44. Compliance Measures. The following Stipulated Penalties shall accrue for each violation identified below:

A. For each failure to adopt, amend, or maintain in force the ordinances required by Paragraph 12 of this Consent Decree after the dates specified therein, LFUCG may be assessed stipulated penalties as follows:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$500 per day	1st through 30th day

\$1,000 per day

31st day and beyond

Stipulated penalties shall not be assessed where the failure is caused by an order from a court that stays, vacates or otherwise invalidates such an ordinance.

B. For each failure to meet a Performance Standard listed on Appendix E to this Consent Decree, LFUCG may be assessed stipulated penalties as follows:

(i) For each Performance Standard that requires activities to be implemented or completed by a specific date, \$5,000 for failure to meet the deadline, and \$2,000 for each 30-day period thereafter that the activities remain not implemented or completed.

(ii) For each Performance Standard that requires a certain number of inspections or activities to be completed each calendar month, \$2,000 for each month in which LFUCG fails to comply. For any such Performance Standard that is not complied with more than three (3) times, the stipulated penalty shall be \$6,000 for each additional month that LFUCG fails to comply.

(iii) For each Performance Standard that requires a certain number or amount of activities to be implemented or completed on an annual or bi-annual basis, \$10,000 for failure to complete the activities within the relevant period, and \$5,000 for each 30-day period thereafter that the activities remain not completed.

C. For each violation of any other requirement of Section VI of this Consent Decree (Compliance Requirements Relating to Storm Sewer System), stipulated penalties of \$500 per day per violation may be assessed against LFUCG.

D. For failure to timely submit any of the submittals required in Section VII of this Consent Decree (Compliance Requirements Relating to Sanitary Sewer System),

stipulated penalties in the amount of \$3,000 may be assessed against LFUCG. For each day LFUCG remains out of compliance for failure to timely submit any of the above submittals, a stipulated penalty may be assessed as follows:

<u>Period Beyond Submittal Date</u>	<u>Penalty Per Violation Per Day</u>
1-30 days	\$500
more than 30 days	\$1,000

E. For each day LFUCG fails to timely complete projects required in Section VII of this Consent Decree (Compliance Requirements Relating to Sanitary Sewer System) in accordance with the schedule set forth in this Consent Decree or in an approved compliance program, LFUCG may be assessed stipulated penalties for each such project as follows:

<u>Period Beyond Completion Date</u>	<u>Penalty Per Violation Per Day</u>
1 - 30 days	\$1,000
31 - 60 days	\$1,500
61 - 120 days	\$2,000
more than 120 days	\$3,000

In addition, for the circumstances described below, LFUCG may be assessed stipulated penalties as specified below:

- (i) For any Recurring SSO that occurs at a location identified on Appendix A or for which a project has been identified to eliminate the Recurring SSO under a Capital Improvement Project or the Sanitary Sewer System and WWTP Remedial Measures Plan after the SSO elimination deadline specified for that location, \$1,000

per SSO of less than 5,000 gallons, \$2,000 per SSO of 5,000 gallons to 100,000 gallons, \$5,000 per SSO of more than 100,000 gallons.

- (ii) For any SSO that occurs other than those identified in subparagraph 44.E(i), \$2,000 per SSO occurring more than two (2) years after the approval of the CMOM Self-Assessment.
- (iii) For wet weather Unpermitted Bypasses at the WWTPs, \$3,000 per bypass occurring after the deadline established for eliminating such bypasses under the Sanitary Sewer System and WWTP Remedial Measures Plan.
- (iv) For the addition of a sanitary hook-up to the Sanitary Sewer System when there is a condition of inadequate collection, transmission, or treatment capacity exists, in violation of Paragraph 16.B(ii), \$1,000 per hook-up, unless LFUCG has relied upon a certification made in good faith under Paragraph 16.B(ii) and has, upon notice of the existence of inadequate capacity as defined in Paragraph 16.B(ii), promptly taken steps to rectify the inadequacy.
- (v) For any other violation of Section VII of this Decree, \$500 per day per violation.

45. Submission, Reporting and Notice Requirements. The following Stipulated Penalties shall accrue per violation per day for failure to timely submit a complete report

(including quarterly and annual reports) or notice, as required in Section X (Reporting Requirements and Approval of Submittals) of this Consent Decree:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$1,000	1st through 14th day
\$2,000	15th through 30th day
\$3,000	31st day and beyond

46. SEP Compliance

Penalties under 46.A and 46.B are in the alternative, and shall not be used to apply to the same SEP.

A. If LFUCG has completed a SEP, but the SEP has not been Satisfactorily Completed, LFUCG may be assessed:

For the Coldstream SEP:	\$1,050,000
For the Green Infrastructure SEP:	\$245,000

less any amounts of Eligible SEP Costs that EPA determines were expended in a manner consistent with the Consent Decree. Stipulated penalties under this Subparagraph A shall accrue as follows: If, the first time LFUCG certifies that a SEP has been fully implemented pursuant to Paragraph 21, the SEP has not been Satisfactorily Completed, but LFUCG's performance of the SEP substantially complied with LFUCG's obligations under this Decree, then no stipulated penalty shall accrue while LFUCG carries out the work necessary to Satisfactorily Complete the SEP. LFUCG shall have no longer than 60 (sixty) days to carry out such additional work. If LFUCG certifies a second time that the SEP has been fully implemented, but the SEP has not been Satisfactorily Completed, the stipulated penalty shall accrue as of the date of the second

certification. If, the first time LFUCG certifies that a SEP has been fully implemented, the SEP has not been Satisfactorily Completed and LFUCG's performance of the SEP did not substantially comply with LFUCG's obligations under this Decree, then the stipulated penalty shall accrue as of the date of the first certification.

B. If LFUCG abandons work on any SEP, LFUCG shall pay:

For the Coldstream SEP: \$1,250,000.

For the Green Infrastructure SEP: \$287,500

less any amounts of Eligible SEP Costs that EPA determines were expended in a manner consistent with the Consent Decree. The penalty under this Subparagraph shall accrue as of the date specified for completing the Project or the date performance ceases, whichever is earlier.

C. If LFUCG fails to comply with the schedules in Section VIII of this Consent Decree (Supplemental Environmental Projects) or in Appendix J to this Consent Decree (including the preparation of the SEP Completion Reports), for each failure to meet an applicable milestone LFUCG may be assessed Stipulated Penalties of \$3,000 per month. Such penalties shall accrue from the date LFUCG was required to meet each such milestone, until compliance with the milestone is achieved.

D. LFUCG shall issue a retraction in the same or similar medium as the original statement, and may be assessed a stipulated penalty of \$5,000 for each violation if it fails to comply with the requirements under Paragraph 26 regarding public statements related to the SEP.

47. Subject to the provisions of Subparagraphs A, B, and C of the immediately preceding Paragraph, Stipulated Penalties under this Section shall begin to accrue on the day

after performance is due or on the day a violation occurs, whichever is applicable, and shall continue to accrue until performance is Satisfactorily Completed or until the violation ceases. Stipulated Penalties shall accrue simultaneously for separate violations of this Consent Decree. LFUCG shall pay any Stipulated Penalty within thirty (30) days of receiving a written demand by one or both Plaintiffs, unless the Parties enter into Dispute Resolution, in which case the provisions of Paragraph 49 apply. The United States, or EPPC, or both may seek Stipulated Penalties under this Section. Where both seek Stipulated Penalties for the same violation of this Consent Decree, Defendant shall pay fifty (50) percent to the United States and fifty (50) percent to EPPC. Where only one Plaintiff demands Stipulated Penalties for a violation, and the other Plaintiff does not join in the demand within thirty (30) days of receiving the demand, or timely joins in the demand but subsequently elects to waive or reduce Stipulated Penalties for that violation, Defendant shall pay the Stipulated Penalties due for the violation to the Plaintiff making the demand, less any amount paid to the other Plaintiff. The determination by one Plaintiff not to seek Stipulated Penalties shall not preclude the other Plaintiff from seeking Stipulated Penalties.

48. The United States or EPPC may, in the unreviewable exercise of its respective discretion, reduce or waive any Stipulated Penalties otherwise due to that Plaintiff under this Consent Decree.

49. Stipulated Penalties shall continue to accrue as provided in Paragraph 47, above, during any Dispute Resolution, but need not be paid until the following:

A. If the dispute is resolved by agreement or by a decision of EPA that is not appealed to the Court, LFUCG shall pay accrued penalties agreed or determined to be owing to

the United States within sixty (60) days of the effective date of the agreement or the receipt of EPA's decision or order;

B. If the dispute is appealed to the Court, LFUCG shall pay all accrued penalties determined by the Court to be owing within sixty (60) days of receiving the Court's decision or order, except as provided in Subparagraph C, below;

C. If the United States or LFUCG appeals the District Court's decision, LFUCG shall pay all accrued penalties determined to be owing within sixty (60) days of receiving the final appellate court decision.

50. LFUCG shall, as directed by the United States, pay Stipulated Penalties owing to the United States by EFT in accordance with Section V (Civil Penalty), Paragraph 9, above, or by certified or cashier's check in the amount due payable to the "U.S. Department of Justice," referencing DOJ No. 90-5-1-1-08858 and Civil Action Number 5:06-cv-386, delivered to the office of the United States Attorney, Eastern District of Kentucky, at 260 West Vine Street Lexington, KY 40507. If payment is due to EPPC under this Section, payment shall be made by certified check made payable to the Kentucky State Treasurer, referencing Civil Action Number 5:06-cv-386, and shall be sent to Director, Division of Enforcement, Department for Environmental Protection, 300 Fair Oaks Lane, Frankfort, KY 40601.

51. At the time of payments of stipulated penalties required by this Section, LFUCG shall simultaneously send written notice of payment and a copy of any transmittal documentation to the United States and EPPC in accordance with Section XVII of this Decree (Notices). The notices shall reference Civil Action Number 5:06-cv-386 and DOJ Number 90-5-1-1-08858.

52. If LFUCG fails to pay Stipulated Penalties according to the terms of this Consent

Decree, LFUCG shall be liable for interest on such penalties, as provided for in 28 U.S.C. §1961, accruing as of the date payment became due.

53. Subject to the provisions of Section XV of this Consent Decree (Effect of Settlement/Reservation of Rights), the Stipulated Penalties provided for in this Consent Decree shall be in addition to any other rights, remedies, or sanctions available to the United States or the Commonwealth for LFUCG's violation of this Consent Decree or applicable law. Where a violation of this Consent Decree is also a violation of the Clean Water Act, LFUCG shall be allowed a credit, for any Stipulated Penalties paid, against any statutory penalties imposed for such violation.

XII. FORCE MAJEURE

54. A "force majeure event" is any event beyond the control of LFUCG, its contractors, or any entity controlled by LFUCG that delays the performance of any obligation under this Consent Decree despite LFUCG's best efforts to fulfill the obligation. "Best efforts" includes anticipating any potential force majeure event and addressing the effects of any such event (a) as it is occurring and (b) after it has occurred, to prevent or minimize any resulting delay to the greatest extent possible. "Force Majeure" does not include LFUCG's financial inability to perform any obligation under this Consent Decree.

55. LFUCG shall provide notice to EPA and EPPC orally or by electronic or facsimile transmission as soon as possible, but not later than 72 hours after the time LFUCG first knew of, or by the exercise of due diligence, should have known of, a claimed force majeure event. LFUCG shall also provide written notice to the United States and EPPC as provided in Section XVII of this Consent Decree (Notices), within seven (7) days of the time LFUCG first

knew of, or by the exercise of due diligence, should have known of, the event. The notice shall state the anticipated duration of any delay, its cause(s), LFUCG's past and proposed actions to prevent or minimize any delay, a schedule for carrying out those actions, and LFUCG's rationale for attributing any delay to a force majeure event. Failure to provide oral and written notice as required by this Paragraph may be grounds for the United States to deny any claim of force majeure.

56. If the United States, after consultation with EPPC, agrees that a force majeure event has occurred, the United States will agree to extend the time for LFUCG to perform the affected requirements for the time necessary to complete those obligations. An extension of time to perform the obligations affected by a force majeure event shall not, by itself, extend the time to perform any other obligation. Where the United States agrees to a material extension of time, the appropriate modification shall be made pursuant to Section XX of this Consent Decree (Modification).

57. If the United States, after consultation with EPPC, does not agree that a force majeure event has occurred, or does not agree to the extension of time sought by LFUCG, the United States' position shall be binding, unless LFUCG invokes Dispute Resolution under Section XIII of this Consent Decree. In any such dispute, LFUCG bears the burden of proving, by a preponderance of the evidence, that each claimed force majeure event is a force majeure event, that LFUCG gave the notice required by Paragraph 55, that the force majeure event caused any delay that LFUCG claims was attributable to that event, and that LFUCG exercised best efforts to prevent or minimize any delay caused by the event.

XIII. DISPUTE RESOLUTION

58. Unless otherwise expressly provided for in this Consent Decree, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under or with respect to this Consent Decree. However, the procedures of this Section shall not apply to actions by the United States or EPPC to enforce obligations of LFUCG that have not been disputed in accordance with this Section. Defendant's failure to seek resolution of a dispute under this Section shall preclude Defendant from raising any such issue as a defense to an action by the United States or EPPC to enforce any obligation of Defendant arising under this Decree.

59. **Informal Dispute Resolution.** Any dispute subject to dispute resolution under this Consent Decree shall first be the subject of informal negotiations. The dispute shall be considered to have arisen when LFUCG sends the United States and EPPC a written Notice of Dispute. Such Notice of Dispute shall state clearly the matter in dispute. The period of informal negotiations shall not exceed thirty (30) days from the date the dispute arises, unless that period is modified by written agreement. If the Parties cannot resolve a dispute by informal negotiations, then the position advanced by the United States, after consultation with EPPC, shall be considered binding unless, within twenty (20) days after the conclusion of the informal negotiation period, LFUCG invokes formal dispute resolution procedures as set forth below.

60. **Formal Dispute Resolution.** LFUCG shall invoke formal dispute resolution procedures, within the time period provided in the preceding Paragraph, by serving on the United States and EPPC a written Statement of Position regarding the matter in dispute. The Statement of Position shall include, but may not necessarily be limited to, any factual data, analysis, or

opinion supporting LFUCG's position and any supporting documentation relied upon by LFUCG.

61. The United States, after consultation with EPPC, shall serve its Statement of Position within forty-five (45) days of receipt of LFUCG's Statement of Position. The United States' Statement of Position shall include, but may not necessarily be limited to, any factual data, analysis, or opinion supporting that position and any supporting documentation relied upon by the United States. If within five (5) days of receiving the United States' Statement of Position, LFUCG requests to confer with the United States about the United States' Statement of Position, the United States will confer (in person and/or by telephone) with LFUCG, but such a conference shall be concluded no later than twenty-one (21) days after the issuance of the United States' Statement of Position. The United States will reaffirm its Statement of Position or, if the United States decides to amend its Statement of Position, the United States will amend its Statement of Position, within fourteen (14) days after the conclusion of the conference. If the United States fails to reaffirm or amend its Statement of Position, the Statement of Position shall be deemed reaffirmed. The United States' Statement of Position shall be binding on LFUCG unless LFUCG files a motion for judicial review of the dispute in accordance with the following Paragraph.

62. LFUCG may seek judicial review of the dispute by filing with the Court and serving on the United States and EPPC in accordance with Section XVII of this Consent Decree (Notices) a motion requesting judicial resolution of the dispute. If no conference was requested pursuant to the previous Paragraph, LFUCG's motion must be filed within fourteen (14) days of receipt of the United States' Statement of Position pursuant to the preceding Paragraph. If a

conference was requested pursuant to the previous Paragraph, LFUCG's motion must be filed within fourteen (14) days of receipt of the United States' reaffirmation of its original Statement of Position or issuance of an amended Statement of Position pursuant to the preceding Paragraph. The motion shall contain a written statement of LFUCG's position on the matter in dispute, including any supporting factual data, analysis, opinion, or documentation, and shall set forth the relief requested and any schedule within which the dispute must be resolved for orderly implementation of the Consent Decree.

63. The United States shall respond to LFUCG's motion within the time period allowed by the Local Rules of this Court. LFUCG may file a reply memorandum, to the extent permitted by the Local Rules.

64. Except as otherwise provided in this Consent Decree, in any dispute under this Section, LFUCG shall bear the burden of demonstrating that its position complies with the Consent Decree and better furthers the Objectives of the Consent Decree. The United States reserves the right to argue that its position is reviewable only on the administrative record and must be upheld unless arbitrary and capricious or otherwise not in accordance with law, and LFUCG reserves the right to oppose any such argument.

65. The invocation of dispute resolution procedures under this Section shall not, by itself, extend, postpone, or affect in any way any obligation of LFUCG under this Consent Decree, unless and until final resolution of the dispute so provides. Stipulated Penalties shall be assessed and paid as provided in Section XI (Stipulated Penalties).

XIV. INFORMATION COLLECTION AND RETENTION

66. The United States, the Commonwealth, and their representatives, including attorneys, contractors, and consultants, shall have the right to enter LFUCG facilities at all reasonable times, upon presentation of credentials, to:

- a. monitor the progress of activities required under this Consent Decree;
- b. verify any data or information submitted to the United States or the Commonwealth in accordance with the terms of this Consent Decree;
- c. obtain samples;
- d. obtain documentary evidence, including photographs and similar data; and
- e. assess LFUCG's compliance with this Consent Decree.

67. Until five (5) years after the termination of this Consent Decree, LFUCG shall retain, and shall instruct its respective contractors and agents to preserve, all non-identical copies of all records and documents (including records or documents in electronic form) in its or its contractors' or agents' possession or control, or that come into its or its contractors' or agents' possession or control, and that demonstrate or document LFUCG's compliance or noncompliance with the obligations of this Consent Decree. Drafts of final documents or plans, and non-substantive correspondence and emails do not need to be retained. This record retention requirement shall apply regardless of any corporate or institutional document-retention policy to the contrary. At any time during this record-retention period, the United States or the Commonwealth may request copies of any documents or records required to be maintained under this Paragraph.

68. Before destroying any documents or records subject to the requirements of the

preceding Paragraph, LFUCG shall notify the United States and EPPC at least ninety (90) days prior to the destruction of any such records or documents, and, upon request by the United States or EPPC, LFUCG shall deliver any such records or documents to EPA or EPPC. LFUCG may assert that certain documents, records, or other information is privileged under the attorney-client privilege or any other privilege recognized by federal law. If LFUCG asserts such a privilege, it shall provide the following: a) the title of the document, record, or information; b) the date of the document, record, or information; c) the name and title of the author of the document, record, or information; d) the name and title of each addressee and recipient; e) a description of the subject of the document, record, or information; and f) the privilege asserted.

69. This Consent Decree in no way limits or affects any right of entry and inspection, or any right to obtain information, held by the United States or the Commonwealth pursuant to applicable federal or state laws, regulations, or permits, nor does it limit or affect any duty or obligation of LFUCG to maintain records or information imposed by applicable federal or state laws, regulations, permits, or orders.

XV. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS

70. This Consent Decree resolves the civil claims of the United States and the EPPC for the violations alleged in the Complaint filed in this action through the date of lodging. As a special reservation, natural resource trustees reserve their claim against LFUCG for liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments, including regarding the fish kill that resulted from the discharge of partially treated sewage due to a bypass at Town Branch WWTP on or about August 31, 2007,

and the fish kill that resulted due to a bypass at East Hickman pump station on or about January 7, 2008.

71. The United States and the Commonwealth reserve all legal and equitable remedies available to enforce the provisions of this Consent Decree, except as expressly stated herein, and LFUCG reserves all defenses thereto. This Consent Decree shall not be construed to prevent or limit the rights of the United States or the Commonwealth to obtain penalties or injunctive relief under the Clean Water Act or its implementing regulations, or under other federal or state laws, regulations, or permit conditions, except as expressly specified in the preceding Paragraph. The United States and the Commonwealth further reserve all legal and equitable remedies to address any imminent and substantial endangerment to the public health or welfare or the environment arising at, or posed by, LFUCG, whether related to the violations addressed in this Consent Decree or otherwise.

72. This Consent Decree is not a permit, or a modification of any permit, under any federal, state, or local laws or regulations, and LFUCG's compliance with the Consent Decree shall be no defense to any action commenced pursuant to any such laws, regulations, or permits. LFUCG is responsible for achieving and maintaining complete compliance with all applicable federal, state, and local laws, regulations, and permits. The United States and the Commonwealth do not, by their consent to the entry of this Consent Decree, warrant or aver in any manner that LFUCG's compliance with any aspect of this Consent Decree will result in compliance with provisions of the Clean Water Act or with any other provisions of federal, state, or local laws, regulations, or permits.

73. This Consent Decree does not limit or affect the rights of LFUCG or of the United

States or the Commonwealth against any third parties, not party to this Consent Decree. The effect of this Consent Decree on the rights of third parties, not party to this Consent Decree, against LFUCG shall be as provided by law.

74. This Consent Decree shall not be construed to create rights in, or grant any cause of action to, any third party not party to this Consent Decree.

XVI. COSTS

75. The Parties shall bear their own costs of this action, including attorneys fees, except that the United States and the Commonwealth shall be entitled to collect the costs (including attorneys fees) incurred in any action necessary to collect any portion of the civil penalty or any Stipulated Penalties due but not paid by LFUCG.

XVII. NOTICES

76. Unless otherwise specified herein, whenever notifications, submissions, or communications are required by this Consent Decree, they shall be made in writing and addressed as follows:

To the United States:

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
Box 7611 Ben Franklin Station
Washington, D.C. 20044-7611
Re: DOJ No. 90-5-1-1-08858

Chief
Water Programs Enforcement Branch
Environmental Protection Agency Region 4
61 Forsyth St., SW
Atlanta, GA 30303

& Office of Water Legal Support
Office of Regional Counsel
Environmental Protection Agency Region 4
61 Forsyth St., SW
Atlanta, GA 30303

To EPA only, as opposed to the United States:

Chief
Water Programs Enforcement Branch
Environmental Protection Agency Region 4
61 Forsyth St., SW
Atlanta, GA 30303

& Office of Water Legal Support
Office of Regional Counsel
Environmental Protection Agency Region 4
61 Forsyth St., SW
Atlanta, GA 30303

For verbal notification:
Chief, Water Programs Enforcement
Branch 404/562-9938

To EPPC:

Director of the Division of Enforcement
Department for Environmental Protection
300 Fair Oaks Lane
Frankfort, KY 40601

For verbal notification:
Director of the Division of Enforcement
502/564-2150

To LFUCG:

Commissioner of Law
Lexington-Fayette Urban County
Government
200 East Main Street
Lexington, KY 40507
(859) 258-3500

Commissioner of Dept. for Env. Quality
Lexington-Fayette Urban County
Government
200 East Main Street
Lexington, Kentucky 40507
(859) 425-2800

77. Any Party may, by written notice to the other Parties, change its designated notice recipient or notice address.

78. Notices submitted pursuant to this Section shall be deemed submitted upon the date they are postmarked and mailed or provided to a reputable overnight delivery service, unless otherwise provided in this Consent Decree or by mutual agreement of the Parties in

writing.

XVIII. EFFECTIVE DATE

79. The Effective Date of this Consent Decree shall be the date upon which this Consent Decree is entered by the Court.

XIX. RETENTION OF JURISDICTION

80. The Court shall retain jurisdiction over the case until termination of this Consent Decree, for the purpose of resolving disputes arising under this Decree or entering orders modifying this Decree, pursuant to Sections XIII (Dispute Resolution) and XX (Modification), or effectuating or enforcing compliance with the terms of this Decree.

XX. MODIFICATION

81. The terms of this Consent Decree may be modified only by a subsequent written agreement signed by the United States, EPPC and LFUCG or by further order of the Court. Where a modification agreed-upon by the United States, EPPC and LFUCG constitutes a material change to any term of this Decree, it shall be effective only upon approval by the Court. Non-material changes to this Decree (including Appendices) may be made by written agreement of the Parties without court approval. Except as provided in Section X relating to EPA/EPPC review and approval of deliverables, any changes to the deadlines set forth in Paragraph 15.G (Sanitary Sewer System and WWTP Remedial Measures Plan) of this Consent Decree shall be considered a material change.

82. Any disputes concerning modification of this Decree shall be resolved pursuant to Section XIII of this Decree (Dispute Resolution), provided, however, that, instead of the burden of proof provided by Paragraph 64, the Party seeking the modification bears the burden of

demonstrating that it is entitled to the requested modification in accordance with Federal Rule of Civil Procedure 60(b).

XXI. TERMINATION

83. The Consent Decree is subject to termination, in whole or in part, after LFUCG certifies that it has met all requirement of this Consent Decree, including, without limitation, (a) completion of all SEPs and Commonwealth Environmental Projects, (b) payment of all penalties and stipulated penalties due, (c) submission and approval of all plans required in Sections VI and VII or in any amendment to this Consent Decree, and (d) completion of all work and implementation of all the requirements in the plans required in Sections VI and VII of this Consent Decree or in any amendment to this Consent Decree. EPA/EPPC's determination that the Consent Decree should be terminated shall be based on a consideration of whether all of the requirements listed above have occurred. Notwithstanding the above, Section VI (Compliance Measures Relating to Storm Sewer System) of this Consent Decree is subject to termination after LFUCG certifies that it has met all requirements of Section VI of the Consent Decree for a period of five (5) years following the Effective Date of this Consent Decree.

84. LFUCG may serve upon the United States and EPPC a request that they jointly make a determination that this Consent Decree be terminated in whole or in part. Any such request shall be in writing and shall include a certification that the requirements listed in the above Paragraph have been met. If the United States and EPPC jointly agree that LFUCG has met all of the requirements listed above, the Parties shall submit for the Court's approval, a joint stipulation terminating the Consent Decree, or appropriate portions thereof. If the United States and EPPC determine not to seek termination of the Consent Decree in whole or in part because

all of the requirements listed above were not met, they shall so notify LFUCG in writing. The notice shall summarize the basis for its decision and describe the actions necessary to achieve final compliance. If LFUCG disagrees with any such determination, it shall invoke the dispute resolution procedures of this Consent Decree before filing any motion with the Court regarding the disagreement. However, LFUCG shall not seek dispute resolution of any dispute regarding termination until ninety (90) days after service of its Request for Termination.

XXII. PUBLIC PARTICIPATION

85. This Consent Decree shall be lodged with the Court for a period of not less than thirty (30) days for public notice and comment in accordance with 28 C.F.R. § 50.7. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations indicating that the Consent Decree is inappropriate, improper, or inadequate. LFUCG consents to entry of this Consent Decree without further notice. This Paragraph does not create any rights exercisable by LFUCG.

XXIII. SIGNATORIES/SERVICE

86. Each undersigned representatives of LFUCG and EPPC and the Assistant Attorney General for the Environment and Natural Resources Division of the United States Department of Justice, certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind the Party he or she represents to this document.

87. This Consent Decree may be signed in counterparts, and its validity shall not be challenged on that basis.

88. LFUCG agrees not to oppose entry of this Consent Decree by the Court or to

challenge any provision of the Decree, unless the United States has notified LFUCG in writing that it no longer supports entry of the Decree.

89. LFUCG agrees to accept service of process by mail with respect to all matters arising under or relating to this Consent Decree and to waive the formal service requirements set forth in Rules 4 and 5 of the Federal Rules of Civil Procedure and any applicable Local Rules of this Court including, but not limited to, service of a summons.

XXIX. INTEGRATION

90. This Consent Decree and its Appendices constitute the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in the Decree and supersede all prior agreements and understandings, whether oral or written, concerning the settlement embodied herein. Other than the Appendices, which are attached to and incorporated in this Decree, and deliverables that are subsequently submitted and approved pursuant to this Decree, no other document, nor any representation, inducement, agreement, understanding, or promise, constitutes any part of this Decree or the settlement it represents, nor shall it be used in construing the terms of this Decree.

XXV. FINAL JUDGMENT

91. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute a final judgment of the Court as to the United States, the Commonwealth,

and LFUCG. The Court finds that there is no just reason for delay and therefore enters this judgment as a final judgment under Fed. R. Civ. P. 54 and 58.

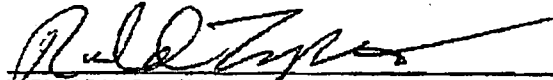
Dated and entered this 31 day of January, 2011.

KSF

UNITED STATES DISTRICT JUDGE
Eastern District of Kentucky

WE HEREBY CONSENT to the entry of this Consent Decree in *United States, et al. v. LFUCG*, No. 5:06-cv-386 (E.D. Ky), subject to the public notice and comment provisions of 28 C.F.R. § 50.7:

FOR PLAINTIFF UNITED STATES OF AMERICA:



KONALD J. TENPAS
Assistant Attorney General
U.S. Department of Justice
Environment and Natural Resources Division



VALERIE K. MANN
Attorney of Record for United States
Trial Attorney
U.S. Department of Justice
Environment and Natural Resources Division
Environmental Enforcement Section
P.O. Box 7611
Ben Franklin Station
Washington, D.C. 20044-7611
Telephone: 202-616-8756
Facsimile: 202-514-2583

WE HEREBY CONSENT to the entry of this Consent Decree in *United States, et al. v. LFUCG*, No. 5:06-cv-386 (E.D. Ky), subject to the public notice and comment provisions of 28 C.F.R. § 50.7:

FOR PLAINTIFF UNITED STATES OF AMERICA (Continued):

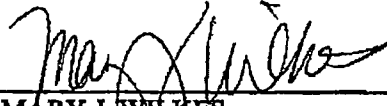
JAMES A. ZERHUSEN
Acting United States Attorney
Eastern District of Kentucky



ANDREW SPARKS
Attorney of Record for United States
Assistant United States Attorney
Eastern District of Kentucky
260 West Vine Street
Lexington, Kentucky 40507
Telephone: (859) 233-2661
Facsimile: (859) 233-2666

WE HEREBY CONSENT to the entry of this Consent Decree in *United States, et al. v. LFUCG*, No. 5:06-cv-386 (E.D. Ky), subject to the public notice and comment provisions of 28 C.F.R. § 50.7:

FOR PLAINTIFF UNITED STATES OF AMERICA (Continued):




MARY J. WILKES
Regional Counsel
United States Environmental Protection Agency
Region 4
61 Forsyth Street
Atlanta, GA 30303

Of Counsel:
PAUL SCHWARTZ
Assistant Regional Counsel
United States Environmental Protection Agency
Region 4
61 Forsyth Street
Atlanta, GA 30303
Telephone: (404) 562-9576
Facsimile: (404) 562-9486

WE HEREBY CONSENT to the entry of this Consent Decree in *United States, et al. v. LFUCG*, No. 5:06-cv-386 (E.D. Ky), subject to the public notice and comment provisions of 28 C.F.R. § 50.7:

FOR PLAINTIFF UNITED STATES OF AMERICA (Continued):




GRANTA Y. NAKAYAMA
Assistant Administrator
Office of Enforcement & Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Of Counsel:
ELYSE DI BIAGIO-WOOD
Water Enforcement Division
Office of Civil Enforcement, US EPA
Mail Code: 2243A
1200 Pennsylvania Avenue, NW
Washington, DC 20460

WE HEREBY CONSENT to the entry of this Consent Decree in *United States, et al. v. LFUCG*,
No. 5:06-cv-386 (E.D. Ky):

**FOR PLAINTIFF COMMONWEALTH OF KENTUCKY,
ENVIRONMENTAL & PUBLIC PROTECTION CABINET:**



Handwritten signature of Robert D. Vance in cursive, written over a horizontal line.

ROBERT D. VANCE

Secretary

Environmental & Public Protection Cabinet
Commonwealth of Kentucky



Handwritten signature of Brenda Gail Lowe in cursive, written over a horizontal line.

BRENDA GAIL LOWE

SHARON R. VRIESENKA

Office of Legal Services

5TH Floor, Capital Plaza Tower


Frankfort, KY 40601

Telephone: (502) 564-5576

Facsimile: (502) 564-6131

WE HEREBY CONSENT to the entry of this Consent Decree in *United States, et al. v. LFUCG*, No. 5:06-cv-386 (E.D. Ky):

FOR DEFENDANT LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:


MAYOR JIM NEWBERRY
Lexington-Fayette Urban County Government
12th Floor, Government Center
200 East Main Street
Lexington, Kentucky 40507



JOHN C. BENDER
Attorney of Record for LFUCG
Greenebaum Doll & McDonald PLLC
300 West Vine Street, Suite 1100
Lexington, KY 40507-1665
Telephone: (859) 288-4607
Facsimile: (859) 367-3806

EXHIBIT A

Scope of Engineering

Services and Related Matters

RFQ #38-2019



Lexington-Fayette Urban County Government

Request for Proposals

The Lexington-Fayette Urban County Government hereby requests proposals for **RFP #38-2019 Request for Qualifications- Engineering Services for Sanitary Sewer Watershed Design** to be provided in accordance with terms, conditions and specifications established herein.

Sealed proposals will be received in the Division of Central Purchasing, Room 338, Government Center, 200 East Main Street, Lexington, KY, 40507, until **2:00 PM**, prevailing local time, on **September 27, 2019**.

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

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

RFP # 38-2019 Request for Qualifications- Engineering Services for Sanitary Sewer Watershed Design

If mailed, the envelope must be addressed to:

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

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

Mandatory pre-proposal meeting will be conducted on September 16, 2019, 10:30 am located at 125 Lisle Industrial Avenue, Ste. 180, Lexington, Ky.

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

The Proposer must submit one (1) master (hardcopy), (1) electronic version in PDF format on a flashdrive or CD and five (5) duplicates (hardcopies) of their proposal for evaluation purposes.

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

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

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

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

Please do not contact any 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, creed, national origin, sex or age, and to promote equal employment through a positive, continuing program from itself and each of its subcontracting agents. This program of equal employment opportunity shall apply to every aspect of its employment policies and practices.

Kentucky Equal Employment Opportunity Act

The Kentucky Equal Employment Opportunity Act of 1978 (KRS 45.560-45.640) requires that any "county, city, town, school district, water district, hospital district, or other political

subdivision of the state shall include in directly or indirectly publicly funded contracts for supplies, materials, services, or equipment hereinafter entered into the following provisions:

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

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

SELECTION CRITERIA:

1. Firm Qualifications-specialized experience and technical competence. 15 pts.
2. 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. 20 pts.
3. Familiarity/knowledge with LFUCG's DWQ & select watersheds 15 pts.
4. Degree of local employment to be provided by the person or firm in the performance of the contract by the person or firm/capacity of the Firm. 20 pts.
5. References. 10 pts.
6. Estimated Cost of Services. 20 pts.

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>

Or submitted to:

Brian Marcum
Division of Central Purchasing
brianm@lexingtonky.gov

Mandatory pre-proposal meeting will be conducted on September 16, 2019, 10:30 am located at 125 Lisle Industrial Avenue, Ste. 180, Lexington, Ky.

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 _____, 2016.

My Commission expires: _____

NOTARY PUBLIC, STATE AT LARGE

EQUAL OPPORTUNITY AGREEMENT

The Law

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

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

- Section 2012 of the Vietnam Era Veterans Readjustment Act of 1973 requires Affirmative Action on behalf of disabled veterans and veterans of the Vietnam Era by contractors having Federal contracts.
- Section 206(A) of Executive Order 12086, Consolidation of Contract Compliance Functions for Equal Employment Opportunity, states:

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

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

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

Bidders

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

Signature

Name of Business

WORKFORCE ANALYSIS FORM

Name of Organization: _____

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 Service																	
Para-Professionals																	
Office/Clerical																	
Skilled Craft																	
Service/Maintenance																	
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

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 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) The LFUCG has also established a 3% of total procurement costs as a Goal for participation of Veteran-Owned Small Businesses (VOSB).
- 4) **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.**

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 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 and operated 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 and operated by one or more Non-Minority Females.
- 3) A Disadvantaged Business (DBE) is defined as a business which is certified as being at least 51% owned and operated 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 and operated 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 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.
 - h. Sent written notices, by certified mail, email or facsimile, to qualified, certified MWDBEs soliciting their participation in the contract not less that seven (7) days prior to the deadline for submission of bids to allow them to participate effectively.
 - i. Followed up initial solicitations by contacting MWDBEs and Veteran-Owned Businesses to determine their level of interest.
 - j. Provided the interested MWBDE 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 167-91—Disadvantaged Business Enterprise (DBE) 10% Goal Plan in July of 1991. The resolution states in part (a full copy is available in Central Purchasing):

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

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

- African-American
- Hispanic-American
- Asian/Pacific Islander
- Native American/Native Alaskan
- Non-Minority Female
- Economically and Socially Disadvantaged

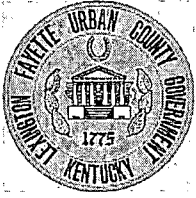
In addition, to that end the city council also adopted and implemented resolution 167-91—Veteran-owned Businesses, 3% Goal Plan in July of 2015. The resolution states in part (a full copy is available in Central Purchasing):

“A resolution adopting a three percent (3%) minimum goal for certified veteran-owned small businesses and service disabled veteran-owned businesses for certain of those Lexington-Fayette Urban County contracts related to

construction for professional services, and authorizing the Division of Purchasing to adopt and implement guidelines and/or policies consistent with the provisions and intent of this resolution by no later than July 1, 2015.”

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	Shirie Hawkins UK SBDC	smack@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@nwbec.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	paatricem@keynewsjournal.com	859-373-9428



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

(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 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

Date

Company Representative

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

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

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

A. Termination for Cause

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

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

B. At Will Termination

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

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

16. **Governing Law:** This Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky. In the event of any proceedings regarding this Contract, the Parties agree that the venue shall be the Fayette County Circuit Court or the U.S. District Court for the Eastern District of Kentucky, Lexington Division. All parties expressly consent to personal jurisdiction and venue in such Court for the limited and sole purpose of proceedings relating to this Contract or any rights or obligations arising thereunder. Service of process may be accomplished by following the procedures prescribed by law.
17. **Ability to Meet Obligations:** Respondent affirmatively states that there are no actions, suits or proceedings of any kind pending against Respondent or, to the knowledge of the Respondent, threatened against the Respondent before or by any court, governmental body or agency or other tribunal or authority which would, if adversely determined, have a materially adverse effect on the authority or ability of Respondent to perform its obligations under this Contract, or which question the legality, validity or enforceability hereof or thereof.
18. Contractor understands and agrees that its employees, agents, or subcontractors are not employees of LFUCG for any purpose whatsoever. Contractor is an independent contractor at all times during the performance of the services specified.
19. If any term or provision of this Contract shall be found to be illegal or unenforceable, the remainder of the contract shall remain in full force and such term or provision shall be deemed stricken.

Signature

Date

**RISK MANAGEMENT PROVISIONS
INSURANCE AND INDEMNIFICATION**

INDEMNIFICATION AND HOLD HARMLESS PROVISION

- (1) 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.
- (2) 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 "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 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 LFUCG.
- (3) 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 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 Consultant in the performance of this agreement.
- (4) In the event LFUCG 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 LFUCG, which approval shall not be unreasonably withheld.
- (5) These provisions shall in no way be limited by any financial responsibility or insurance requirements, and shall survive the termination of this agreement.
- (6) LFUCG is a political subdivision of the Commonwealth of Kentucky. CONSULTANT acknowledges and agrees that LFUCG is unable to provide indemnity or otherwise save, hold harmless, or defend the CONSULTANT in any manner.

FINANCIAL RESPONSIBILITY

CONSULTANT understands and agrees that it shall, prior to final acceptance of its proposal and the commencement of any work or services, 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, 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

CONSULTANT 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 or services hereunder by CONSULTANT. 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
Professional Liability	\$1 million per occurrence, \$2 million aggregate
Worker's Compensation	Statutory
Commercial Automobile Liability	\$1,000,000 per occurrence
Employer's Liability	\$500,000

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. 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 and a Products Liability endorsement unless they are deemed not to apply by LFUCG.
- d. The General Liability Policy shall have a Professional Liability endorsement (including Errors and Omissions) 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 LFUCG.
- e. 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 LFUCG and obtain similar insurance that is commercially available and acceptable to LFUCG.

- f. 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.
- g. 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 CONSULTANT'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 CONSULTANT satisfies any portion of the insurance requirements through deductibles, self-insurance programs, or self-insured retentions, CONSULTANT 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

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 LFUCG.

Verification of Coverage

CONSULTANT 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

CONSULTANT 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

CONSULTANT 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 CONSULTANT for any such insurance premiums purchased, or suspending or terminating the work.

00471865

ENGINEERING SERVICES AGREEMENT

THIS IS AN AGREEMENT made as of _____, 2019, between the **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, an urban county government of the Commonwealth of Kentucky pursuant to KRS Chapter 67A (“**OWNER**”) and _____ with offices located at _____ (“**CONSULTANT**”). **OWNER** intends to proceed with the Sanitary Sewer Collection and Conveyance System Watershed Design Consulting Services as described in the attached **EXHIBIT A**, Scope of Engineering Services and Related Matters RFQ #38-2019 (the “**PROJECT**”). The **CONSULTANT** shall perform professional engineering services and deliverables as described in **EXHIBIT A** which include customary master planning, civil, geotechnical, electrical, mechanical, structural, programming, water quality and sanitary engineering services as related to providing the deliverables specific to this agreement—that will assist the **OWNER** in successfully implementing the **PROJECT** and complying with any requirements which are related to the Consent Decree entered in a case styled *United States & Commonwealth of Kentucky v. Lexington Fayette Urban County Government*, United States District Court for the Eastern District of Kentucky, Civil Action No. 5:06-cv-386-KSF (the “**CONSENT DECREE**”). The services are hereinafter referred to as the **PROJECT**. **The primary goal of the PROJECT is to provide the OWNER with the technical support necessary to successfully meet the obligations and deadlines of the CONSENT DECREE.** **OWNER** and **CONSULTANT** in consideration of their mutual covenants herein agree in respect of the performance of professional engineering services by **CONSULTANT** and the payment for those services by **OWNER** as set forth below.

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

SECTION 1 - BASIC SERVICES OF CONSULTANT

1.1. General

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

1.2. Incorporated Documents

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

1. The **CONSENT DECREE**, as may be amended, including all appendices.
2. **EXHIBIT A** – Scope of Engineering Services and Related Matters RFQ #38-2019 (Including Addendums).
3. **EXHIBIT B** – Certificate of Insurance and Evidence of Insurability.
4. **EXHIBIT C** – Proposal of Engineering Services and Related Matters (the **CONSULTANT**'s response to RFQ #38-2019).

5. **EXHIBIT D** – Further Description of Basic Engineering Services and Related Matters.

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

1.3 Project Phase

A complete description of the duties and responsibilities of the **CONSULTANT** are as indicated in **EXHIBIT A**, Scope of Engineering Services and Related Matters RFQ #38-2019, **EXHIBIT C** Proposal of Engineering Services and Related Matters, and **Exhibit D** Further Description of Basic Engineering Services and Related Matters. After written authorization to proceed from the **OWNER**, **CONSULTANT** shall:

- 1.3.1. Notify the **OWNER** in writing of its authorized representative who shall act as Project Engineer and liaison representative between the **CONSULTANT** and the **OWNER**. **OWNER** has the right to approve the Project Engineer, or any change thereto, which approval shall not be unreasonably withheld.
- 1.3.2. The **CONSULTANT** **must perform all duties** necessary to fully complete the deliverables as further described in attached **EXHIBIT A**, Scope of Engineering Services and Related Matters RFQ #38-2019, attached **EXHIBIT C**, Proposal of Engineering Services and Related Matters, and attached **EXHIBIT D** Further Description of Basic Engineering Services and Related Matters **unless otherwise agreed to in writing by the parties**.
- 1.3.3. The **CONSULTANT** shall provide written documentation of all meetings and be responsible for incorporating all comments and changes resulting therefrom in final work product.
- 1.3.4. The **CONSULTANT** shall submit five (5) copies (hardcover) of all initial draft final work products for this **PROJECT** unless otherwise described in Exhibit A. The copies of the initial draft final reports are submitted for review and comment by the **OWNER**, and should be presented in person to the **OWNER**.
- 1.3.5. After the **OWNER'S** detailed review, the **CONSULTANT** will revise the initial draft final for all work products for this **PROJECT**, and the **CONSULTANT** shall submit five (5) copies (hardcover) unless otherwise described in Exhibit A. One electronic copy of the all work products for this **PROJECT**, including all appendices, shall be provided and prepared in such a manner that it can readily be converted to a quick-link accessible form for the **OWNER'S** Website. The **OWNER** shall have ten (10) business days within which to accept or deny each such final draft. If it is denied, the **OWNER** shall provide a detailed explanation in writing for the basis of such denial. Once the **OWNER** accepts the draft as final, a total of ten (10) final copies (hardcover) are required in addition to an electronic copy unless otherwise described in Exhibit A.
- 1.3.6. Immediately notify **OWNER** of any delay in the delivery of a work product or deliverable, regardless of cause. Give written notice to **OWNER** within five (5) business days whenever **CONSULTANT** observes or otherwise becomes aware of

any development that affects the scope or timing of **CONSULTANT'S** services, or any defect in the work of Contractor(s).

SECTION 2 - EXTRA WORK BY CONSULTANT

- 2.1. The **OWNER** may desire to have the **CONSULTANT** perform work or render services in connection with this **PROJECT** other than provided by the expressed intent of this Agreement. Such work shall be considered as Extra Work, subject to a change order, supplemental to this Agreement, setting forth the character and scope thereof and the compensation therefore. Work under such change order shall not proceed until the **OWNER** gives written authorization. Should the **OWNER** find it desirable to have previously satisfactorily completed and accepted plans or parts thereof revised, the **CONSULTANT** shall make such revisions as directed, in writing, by the **OWNER**. This work shall be considered as Extra Work and shall be paid as such.
- 2.2. All Extra Work is subject to prior written authorization of **OWNER** and necessary appropriations made by the Urban County Council.

SECTION 3 - OWNER'S RESPONSIBILITIES

OWNER shall:

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

SECTION 4 - PERIOD OF SERVICES

- 4.1. Time is of the essence in the performance of this Agreement. **CONSULTANT** is aware that the **OWNER** is subject to penalties for non-compliance with the **CONSENT DECREE** deadlines. See attached **EXHIBIT A** for the overall current project schedule.
- 4.2. The provisions of this Section Four (4) and the various rates of compensation for **CONSULTANT'S** services provided for elsewhere in this Agreement have been agreed to

in anticipation of the orderly and continuous progress of the **PROJECT** through completion.

4.3. If a delay results from the acts of **OWNER** or another entity that is required to permit or approve the work or services, an extension of time for such delay will be considered by **OWNER**.

4.3.1. If the above type of delay occurs and **CONSULTANT** wants an extension of time, it must, within ten (10) days from the date of the delay, apply in writing to **OWNER** for an extension of time for a reasonable period, which must be agreed upon by **OWNER**.

4.3.2. If the extension of time is approved by **OWNER**, the **PROJECT** schedule 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** within sixty (60) days of the time specified therein, **OWNER** shall have the option of cancelling the **PROJECT** or otherwise adjusting the scope of the services or work.

4.3.4. If the parties cannot mutually agree to an extension of time or an adjustment, Section 6.5 under "DISPUTES" of this Agreement shall apply.

4.4. If delays result solely by reason of acts of the **CONSULTANT**, the **CONSULTANT** shall be held liable for any financial penalties incurred by the **OWNER** as a result of the delay, **including but not limited to those assessed pursuant to the CONSENT DECREE**. Section 6.5 of this Agreement (**Disputes**), shall apply in the event the parties cannot mutually agree upon the cause(s) associated with delays in completing project deliverables. The **CONSULTANT** must immediately notify the **OWNER** in the event of such delay, and provide the **OWNER** a written action plan within five (5) business days on how it will attempt to resolve the delay.

SECTION 5 - PAYMENTS TO CONSULTANT

5.1. **Methods of Payment for Services of CONSULTANT.**

5.1.1. **For Basic Services**

OWNER shall issue individual task orders for each work assignment performed under this Agreement by **CONSULTANT** or its sub-consultant/s. Each task order shall contain scope of work, fee, and schedule for performance of the work. Individual task orders shall be of the form included in **EXHIBIT D**.

5.1.1.a Fee payable to **CONSULTANT** under individual task order shall be developed using hourly rates included in **EXHIBIT D** or as amended in accordance with provisions therein.

5.1.1.b Terms of payment to **CONSULTANT** shall be specified in each task order. For assignments with defined scope, lump sum task orders shall be issued. Otherwise, task orders shall include time and materials payment terms.

5.1.1.c Each task order issued shall receive prior written approval of **OWNER** prior to **CONSULTANT** proceeding with said work. The **OWNER's** designated agent in Section 8.1.1. shall be the only person authorized to provide such approval.

5.1.2. For Extra Work

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

5.2. Times of Payment

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

5.3. Other Provisions Concerning Payments

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

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

SECTION 6 - GENERAL CONSIDERATIONS

6.1. Termination

6.1.1. **CONSULTANT** may only terminate this Agreement due to **OWNER'S** material breach of the terms hereof which breach causes **CONSULTANT** to be

unable to perform its duties and responsibilities under this Agreement and upon forty-five (45) days written advance notice to **OWNER**.

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

6.2. Ownership and Reuse of Documents

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

6.3. Legal Responsibilities and Legal Relations

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

6.4. Successors and Assigns

- 6.4.1.** **CONSULTANT** binds itself and its partners, successors, assigns and legal representatives to this Agreement. **CONSULTANT** shall not assign any interest in this Agreement without prior written consent of **OWNER**. **OWNER'S** consent shall not relieve the **CONSULTANT** of any responsibility for compliance with the provisions of this Agreement.
- 6.4.2.** **In no event shall the CONSULTANT subcontract more than fifty percent (50%) of the work, based upon dollar value of the work.**

6.4.3. Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than **OWNER** and **CONSULTANT**.

6.5. Disputes

Except as otherwise provided in this Agreement, any dispute hereunder may be resolved by agreement of the **OWNER'S** Agent (Section 8.1.1) and the **CONSULTANT**. In the absence of such an agreement, the dispute shall be submitted to the **OWNER'S** Commissioner, Department of Environmental Quality, whose decision shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary, or so grossly erroneous as necessarily to imply bad faith. Pending a final decision of a dispute hereunder, the **CONSULTANT** shall proceed diligently with the performance of the Agreement in accordance with the directions of the **OWNER**.

6.6. Accuracy of Consultant's Work

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

6.7. Security Clause

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

6.8. Access to Records

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

6.9. Risk Management Provisions, Insurance and Indemnification

6.9.1. DEFINITIONS

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

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

- a. **CONSULTANT** means the consultant and its employees, agents, servants, owners, principals, licensees, assigns and subcontractors of any tier.
- b. **OWNER** means the Lexington-Fayette Urban County Government and its elected and appointed officials, employees, agents, boards, assigns, volunteers, and successors in interest.

6.9.2. INDEMNIFICATION AND HOLD HARMLESS PROVISION

- 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. DAMAGES RELATED TO NONPERFORMANCE OR DELAY BY CONSULTANT

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

6.9.4. FINANCIAL RESPONSIBILITY

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

6.9.5. INSURANCE REQUIREMENTS

6.9.5.1. Required Insurance Coverage

CONSULTANT shall procure and maintain for the duration of this Agreement the following or equivalent insurance policies at no less than the limits shown below and cause its subcontractors to maintain similar insurance with limits acceptable to **OWNER** in order to protect **OWNER** against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by **CONSULTANT**. The cost of such insurance shall be included in any proposal:

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

The policies above shall contain the following conditions:

- a. **OWNER** shall be named as an additional insured in the General Liability Policy and Commercial Automobile Liability Policy.
- b. The General Liability Policy shall be primary to any insurance or self-insurance retained by **OWNER**.
- c. The General Liability Policy shall include Business Interruption coverage.
- d. The 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.

6.9.5.2. Renewals

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

6.9.5.3. Right to Review, Audit and Inspect

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

6.9.6. SAFETY AND LOSS CONTROL

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

6.9.7. DEFINITION OF DEFAULT

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

SECTION 7 - EQUAL EMPLOYMENT OPPORTUNITY

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

- 7.1. The **CONSULTANT** will not discriminate against any employee or application for employment because of race, color, religion, national origin, sex, age, or handicap. The **CONSULTANT** will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, national origin, sex, age, or handicap. Such action shall include, but not be limited to the following: employment upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and

selection for training, including apprenticeships. The **CONSULTANT** agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this non-discrimination clause.

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

SECTION 8 - SPECIAL PROVISIONS, EXHIBITS, AND SCHEDULES

- 8.1. This Agreement is subject to the following provisions.
- 8.1.1. Pursuant to subparagraph 3.4 of this Agreement, **OWNER** has assigned Charles H. Martin, P.E., Director of the Division of Water Quality (the "**OWNER'S** Agent"), as the authorized agent of **OWNER**, to monitor, direct and review the performance of work of the **CONSULTANT**. Documents, data, reports, and all matters associated with carrying out this Agreement shall be addressed to the **OWNER'S** Agent or his designee. Questions by the **CONSULTANT** regarding interpretations of the terms, provisions and requirements under this Agreement shall be addressed to the **OWNER'S** Agent or his designee. The **CONSULTANT** shall look only to the **OWNER'S** Agent or his designee for direction in its performance under this Agreement; no other direction shall be binding upon **OWNER**. **OWNER** shall respond to written requests by **CONSULTANT** within thirty (30) days.
- 8.2. This Agreement, together with the Incorporated Documents (Section 1.2) constitutes the entire Agreement between **OWNER** and **CONSULTANT** and supersedes all prior written or oral understandings. This Agreement and **EXHIBITS A, B, C and D** and any related schedules or documents may only be amended, supplemented, modified or canceled by a duly executed written instrument.
- 8.3. **NO THIRD PARTY RIGHTS.** This agreement does not create a contractual relationship with or right of action in favor of a third party against either **OWNER** or **CONSULTANT**.
- 8.4. **UNENFORCEABLE TERMS/SURVIVABILITY.** If any term or provision of this Agreement shall be found to be illegal or unenforceable, this Agreement shall remain in full force and such term or provision shall be deemed stricken. The provisions of Section 6 of this Agreement shall survive its termination.
- 8.5. **NON-WAIVER.** The failure of either party to enforce any right reserved to it in this Agreement shall not be a waiver of any such right to which the party is entitled.

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

OWNER:
LEXINGTON-FAYETTE URBAN
COUNTY GOVERNMENT

CONSULTANT:

BY: _____
JIM GRAY, MAYOR

BY: _____

ATTEST:

URBAN COUNTY COUNCIL CLERK

COMMONWEALTH OF KENTUCKY)
)
COUNTY OF FAYETTE)

The foregoing Agreement was subscribed, sworn to and acknowledged before me by _____, as the duly authorized representative for and on behalf of _____, on this the ____ day of _____, 2019.

My commission expires: _____.

NOTARY PUBLIC

EXHIBIT A

Scope of Engineering

Services and Related Matters

RFQ #38-2019

EXHIBIT B

Certificate of Insurance

and

Evidence of Insurability

EXHIBIT C

Proposal of Engineering Services

and

Related Matters

EXHIBIT D

Further Description of Basic Engineering Services

and

Related Services

LFUCG TASK ORDER NO. _____
UNDER LFUCG AGREEMENT WITH _____ FOR

CONSULTANT

OWNER

Street Address	<hr/>	Lexington Fayette Urban County Government
	<hr/>	200 East Main Street
City, State, Zip	<hr/>	Lexington, KY 40507
Contact Person	<hr/>	Charles Martin
Telephone	<hr/>	859-425-2400
Fax	<hr/>	859-254-7787
E-Mail	<hr/>	cmartin@lexingtonky.gov

Task Order Date: _____

Task Name: _____

Task ID: _____

SCOPE OF WORK/DELIVERABLES

See Attached

SCHEDULE OF WORK

See Attached

FEE

See Attached

ADDITIONAL PROVISIONS

Because this is a Commonwealth Environmental Project, **CONSULTANT** understands and agrees that the performance of these services is related to the Consent Decree entered in a case styled *United States & Commonwealth of Kentucky v. Lexington Fayette Urban County Government*, United States District Court for the Eastern District of Kentucky, Civil Action No. 5:06-cv-386-KSF (the "**CONSENT DECREE**"), a copy of which has been made available for review by the **CONSULTANT**, and which is incorporated herein by reference. The **CONSULTANT** further agrees that the services performed pursuant to this task order are necessary for the **OWNER** to meet the deadlines of the **CONSENT DECREE** and that the following requirements and conditions, which are in addition to those provided in the Engineering Services Agreement, shall apply to all work and services performed by the **CONSULTANT** under this task order:

1. Time is of the essence in the performance of the work and services. **CONSULTANT** is aware that the **OWNER** is subject to penalties for non-compliance with the **CONSENT DECREE** deadlines.

2. If delays result solely by reason of acts of the **CONSULTANT**, the **CONSULTANT** shall be held liable for any financial penalties incurred by the **OWNER** as a result of the delay, **including but not limited to those assessed pursuant to the CONSENT DECREE**. Section 6.5 of this Engineering Services Agreement (**Disputes**), shall apply in the event the parties cannot mutually agree upon the cause(s) associated with delays in completing project deliverables. The **CONSULTANT** must immediately notify the **OWNER** in the event of such delay, and provide the **OWNER** a written action plan within five (5) business days on how it will attempt to resolve the delay.

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

ACCEPTED BY:

AUTHORIZED BY:

Consultant's Authorized Signature

Owner's Authorized Signature

Date Signed

Date Signed

*Two originals of this work order shall be executed by the Consultant and returned to the Owner _____.
A fully executed copy will be returned to the Consultant.*

**Request for Qualifications for
Sanitary Sewer Watershed Design Consultants**

Request for Qualifications

The Lexington-Fayette Urban County Government (LFUCG), through its Division of Water Quality (DWQ), hereby issues this Request for Qualifications (RFQ) for professional engineering services as a Sanitary Sewer Collection and Conveyance System Watershed Design Consultant. The services required are to be provided in accordance with the terms, conditions, and specifications established herein. Required engineering services include Preliminary Design, Detailed Design, Bidding Services, and Construction Administration Services for multiple Wastewater Conveyance Projects in an assigned group of watersheds located in Fayette County, Kentucky. Wastewater Conveyance Projects shall be defined as gravity sewers and interceptors only and do not include wastewater treatment plants, sanitary pump stations, or wet weather storage facilities.

A Mandatory Pre-Proposal Conference will be conducted on September 16, 2019, 10:30 am located at 125 Lisle Industrial Ave., Suite 180, Lexington, KY 40511.

The Firm must submit one (1) master (hardcopy), one (1) electronic version in PDF format on a flash drive, and five (5) duplicates (hardcopies) of their RFQ for evaluation purposes.

Background

In accordance with its Consent Decree, Lexington has prepared, submitted, and received approval from the Environmental Protection Agency (EPA) and the Kentucky Division of Water (DOW) for all implementation schedules associated with the required Remedial Measures Plans (RMPs). To date, DWQ has completed, or has underway, approximately one-half of the approved RMP projects by awarding design/bid/construction management contracts on a project-by-project basis. Because this process has introduced previously unanticipated RMP schedule challenges, Lexington's Division of Water Quality (DWQ) is changing its project delivery approach by recruiting and selecting individual consulting teams to manage and direct the completion of the remaining RMP Wastewater Conveyance Projects by watershed(s) as follows.

Table 1 – Projects per Watershed Project Team

Consultant	Watershed(s)	Anticipated Number of Projects
Watershed Project Team 1	West Hickman	10
Watershed Project Team 2	East Hickman and Boone Creek	5
Watershed Project Team 3	Town Branch and Wolf Run	5
Watershed Project Team 4	Cane Run, North Elkhorn, and South Elkhorn	4

DWQ's baseline selection criteria for the prime consultant is as follows:

- That a different prime consultant be selected for each of the four (4) teams.
- That a selected prime consultant be limited to teaming on only one (1) other team as a sub consultant.
- That a selected prime consultant have an office located in Fayette County, Kentucky that has been continuously staffed and in operation since July 1, 2014.

Work is not limited to RMP projects. Selected teams may be issued Task Orders for future, non-RMP wastewater conveyance projects within an assign watershed group as determined by LFUCG.

Contents of Statement of Qualifications (SOQ)

Each SOQ shall be submitted as outlined in this section. **Firms may propose on all Watershed Project Team groups with award recommendations based on best fit as determined by the Selection Workgroup using the selection criteria stated in this document. A separate SOQ should be submitted for each Watershed Project Team proposed by the firm, with each SOQ emphasizing the firm's qualifications pertaining to that Watershed team.** Each submitted SOQ must include a cover letter containing the name of the Firm, the submittal date, and the Watershed Project Teams for which the Firm is proposing. The cover letter shall be a

maximum of two (2) pages and shall include a single point of contact, including phone number and email address, for notification of selection results. A table of contents should follow the cover letter, following by tabbed dividers separating each of the sections listed in the table below.

Table 2 – Contents of SOQ and SOQ Scoring Criteria

Criteria	Description	SOQ to include the following information in this order:	Total Pages Allocated for Response	Possible Points
Firm Qualifications	Description of qualifications as required by the RFQ.	<ul style="list-style-type: none"> • Brief history of the Firm and the related services routinely provided in-house. • List of related design and construction services provided by the Firm. 	3	15
Past Performance/ Experience	Familiarity/Experience with wastewater conveyance projects.	<ul style="list-style-type: none"> • List of LFUCG RMP wastewater conveyance projects for which the Firm designed and/or provided construction-related services. • List of LFUCG non-RMP wastewater conveyance projects for which the Firm designed and/or provided construction-related services. • List of non-LFUCG wastewater conveyance projects, completed within the last five years, for which the Firm designed and/or provided construction-related services. 	10	20
Knowledge of LFUCG	Familiarity/Knowledge with LFUCG's DWQ and select watersheds.	<ul style="list-style-type: none"> • Summarize the Firm's institutional knowledge of and 	5	15

		<p>experience in working with LFUCG's DWQ; note both the key employees and the roles the Firm had in the listed projects above.</p> <ul style="list-style-type: none"> Summarize the Firm's local knowledge of and/or experience with Fayette County watersheds. Firms are encouraged to propose on watersheds that best correspond with their experience and capacity. 		
Local Resources/ Capacity of the Firm	Key employees are located locally, available to, and of a sufficient quantity to provide the required services.	<ul style="list-style-type: none"> An organizational chart to depict responsibilities of key employees of the Firm; listing the locations of the employees. List of relevant local project team members for wastewater conveyance projects. Indicate location of office(s) which will provide services to DWQ including office location of overall Project Manager for your team. Commitment and availability of qualified Project Managers and staff to provide services requested in this RFQ. Resumes (1-page limit each) for proposed Project 	2, excluding resumes	20

		Managers and other key employees of the Firm to be assigned to the projects with their prospective roles.		
References	Results from the Reference checks.	<ul style="list-style-type: none"> Contact information from three (3) municipal clients for which the Firm has provided design and/or construction-related services. 	1	10
Hourly Rates		<ul style="list-style-type: none"> Provide the employee name, job title, and hourly rate for all employees expected to provide services if awarded a Watershed Project Team contract. 	1	20
Required Documents	All required Forms, Plans, Affidavits, and Reports are complete and submitted	<ul style="list-style-type: none"> All Forms, Plans, Affidavits, and Reports required in this RFQ. 		Pass/Fail
			Possible Total	100

Selection Process

LFUCG will use a Selection Workgroup process to review the submitted SOQs. Awards for each Watershed Project Team will be based on the quality and content of their SOQ along with a best value determination made by the Workgroup. To be considered for a Watershed Project Team, responders should submit an SOQ for that specific watershed team as defined in Table 1 (Examples: If requesting consideration for all four watershed teams, four separate watershed team-targeted SOQs should be submitted. If requesting consideration for one watershed team, submit one watershed team-specific SOQ.) The best value determination will be made using an hourly rate comparison with total hours billed from previous, applicable RMP projects. From a review of the SOQs received, LFUCG intends to execute an Engineering Services Agreement with four (4) firms (one (1) for each Watershed Project Team). It is intended that the Selection Workgroup will select the most qualified Firm for each watershed by following the order that the Watershed Project Teams are listed in Table 1. For example, all Firms proposing to be the West Hickman Watershed Project Team will be evaluated based on the contents of their SOQs and their best value determinations in order to select the most qualified Firm for that Watershed Project Team. The process will continue with the East Hickman Watershed Project Team and continue through the remaining teams (with previously selected Firms being removed from consideration for subsequent team selections).

Method of Billing, Invoice and Payment

1. Prime consultant will be responsible for coordinating the billing for the team.
2. Hourly rates are inclusive; therefore, no incidental expenses can be billed to this contract—including mileage and travel—unless it is outside of the Bluegrass Area Development District member counties at the request of LFUCG.
3. No multiplier will be allowed, bill by hourly rate only.
4. The selected consultant may submit monthly invoices for basic services or work rendered, based upon the selected consultant's estimate of the portion of the specific Task Order actually completed during the billing cycle.
 - a. Each invoice shall be accompanied by a breakdown of hours attributed to each sub-task for both the billing cycle and the cumulative project period.
 - b. LFUCG shall respond to monthly invoice within thirty days, either denying or approving payment.

Specific project time sheets and other payroll information may be subject to reviews and audits by LFUCG.

RMP Watershed Design Consultants Scope of Services

Scope of Services

In accordance with the approved Remedial Measures Plan (RMP) schedule (Attachment A), and after the execution of the Engineering Services Agreements, Task Orders will be issued for the remaining individual collection and conveyance projects to each respective Watershed Project Team (consultant). Task Orders will be issued as needed by the Division of Water Quality (DWQ) and schedules for each Task Order will be negotiated. Each Watershed Project Team shall provide the adequate staff to meet the required schedule. Said Task Orders will generally include one or more of the following services for one or more RMP project(s): site evaluations, preliminary design, detailed design, services during bidding, Resident Project Representative (RPR), and services during construction. A generalized description of deliverables for each Task Order category is provided below.

Task 1: Site Evaluation – Tree Survey

The Watershed Project Team shall retain a licensed arborist to survey and identify any tree within the project area for which protection will be required per Article 26 of the LFUCG Zoning Ordinance. Considerations will be given to any identified American Elm, Bur Oak, Blue Ash, Buckeye, Chinkapin Oak, Kentucky Coffeetree, Shellbark Hickory, Shumard Oak, or Yellowwood tree. The results shall be documented in Technical Memorandum (TM) No. 1: Tree Survey. Included in TM No. 1 shall be recommendations for protection of identified protected trees.

Task 2: Preliminary Design

DWQ will provide the Watershed Project Team all current and applicable General Notes, Standard Details, and standard form Contract Documents, as well as mapping as follows:

1. Mapping coverage will be 200' each side of the pipeline alignment.
2. Digital aerial color photography at a negative scale of 1" = 300'.
3. Field control surveys – horizontal and vertical ground control surveys as necessary for precise orientation of stereo models used for topographic mapping. Horizontal control shall be based on the Kentucky State Plan North Zone NAD 83 coordinate system. Vertical Control shall be based on NAVD 88 vertical datum.
4. Digital planimetric and topographic mapping at 1" = 20' scale, with a 1' contour interval.
5. All mapping will use standard mapping symbols and be in accordance with National Map Accuracy Standards. Mapping will be provided in AutoCAD 2017 and will include a digital terrain model (DTM) with break lines and mass points.
6. Digital raster orthophotography at a resolution of 0.50' pixels in TIF format suitable for use with imaging software.

The Watershed Project Team shall:

1. Conduct a design kick-off meeting and project site walk through with DWQ.

2. Conduct field surveys with appropriate referencing to locate topographical features not shown on existing mapping. Confirm critical locations and elevations necessary for design including but not limited to existing sanitary sewer inverts and other utilities.
3. Prepare a topographic survey of the project corridor. Project benchmarks shall be set in concrete or shall be established on a permanent concrete structure (e.g., bridge or culvert) at intervals of 1,000+/- feet. Benchmarks shall be tied to Kentucky State Plane North Zone. Benchmarks shall be located outside of the construction easement, but within an existing easement or right-of-way.
4. Research all deeds, plats, and other property records to identify all sanitary sewer and drainage easements in favor of LFUCG and all other recorded easements.
5. Conduct exploration, excavation, and surveying of all underground structures and utilities within the project corridor to determine sizes, depths, materials, and locations.
6. Develop two (2) preliminary alignments that fully consider the alignment of existing sanitary sewer(s), existing buildings, existing utilities/utility conflicts, streams, roadways and/or other features or improvements, and their impacts to construction costs. Alternative Alignment 1 should prioritize utilization of the existing alignment to the maximum extent practical by incorporating by-pass pumping combined with dig and replace or pipe bursting solutions. Alternative Alignment 2 should reflect a constructible, relief sewer alternative.
7. Complete the Phase I - Geotechnical Desktop Review of all available geologic and geotechnical information pertaining to the project in accordance with Phase I. The deliverable is a memorandum.
8. Prepare Technical Memorandum (TM) No. 2: Preliminary Design documenting the following for each Alternative Alignment presented:
 - a. Proposed plan for horizontal/vertical alignment identifying all potential utility conflicts.
 - b. List of impacted properties and property owners.
 - c. List of required temporary (construction and/or access) and permanent easements.
 - d. List of easements to be released.
 - e. List of required permits and respective agencies from which the permit(s) will be secured.
 - f. List of agencies that will require notifications and/or approvals.
 - g. Memorandum from the Phase I geotechnical review.
 - h. An Alignment Recommendation and Preliminary Opinion of Construction Cost per unit cost schedule provided by DWQ.
9. Task 2 Meetings: The Watershed Project Team will prepare all meeting agendas and meeting summaries within three (3) business days for review by the DWQ Project Manager. The Watershed Project Team shall plan for and attend the following meetings (minimum):
 - a. Kickoff Meeting (Agenda prepared by DWQ)
 - b. Monthly Progress Meetings (one per month minimum)
 - c. Plan Review Meeting – one (1)
 - d. One (1) meeting, outside of standard business hours, to present the project to the public
 - e. One (1) unscheduled, unidentified meeting
10. Task 2 Deliverables:
 - a. 30% Drawings for DWQ review and Capacity Assurance model verification
 - b. Geotechnical Investigation – Phase I Memorandum
 - c. TM No. 2: Preliminary Design Document

Notes:

1. Watershed Design Consultant is advised that DWQ's Capacity Assurance consultant will, based upon the preliminary alignment submitted in TM No. 2, model the proposed design to validate sewer capacity per the Consent Decree Capacity Assurance requirements for the design storm (2-year, 24-hour storm event in 2035).
2. DWQ has adopted the convention that all "bores" are "tunnels".
3. Phase I Geotechnical review and the Phase II Field Exploration and Laboratory Testing are only required for major roads or railroad tunnels. DWQ will provide recommendations for tunneling methods to the Watershed Project Team. This will include the Technical Specifications, sample Bid Tabs, and Section 01025 (Measurement and Payment) for which the Watershed Project Team will be responsible for incorporating into the Contract Documents.

Task 3: Detailed Design

At the conclusion of Task 2, DWQ's RMP Program Manager will direct the team as to which Alternative Alignment will be authorized for final design, thus, final design shall not be initiated until written authorization is received from DWQ's RMP Program Manager. Most capital construction projects will be bid as a Unit Price Contract (UPC) with specific line item quantities and allocations to establish unit prices for variable quantity items, while select projects will be bid as lump sum. The Watershed Project Team will receive clear direction on the bidding approach prior to initiating detailed design. The Watershed Project Team's Scope of Work with respect to Task 3 includes but is not limited to the following:

1. Perform or have performed rock soundings along the sanitary sewer alignment at all proposed manhole locations and at 50-foot intervals between proposed manholes. Elevations for refusal shall be placed on the Contract Drawings.
2. Complete the Phase II – Field Exploration and Laboratory Testing and prepare the Phase II Report. This task includes, but is not limited to, drilling of soil and rock core borings, logging borings to obtain geotechnical information, and performing laboratory testing of soil and rock samples. The Phase II – Field Exploration and Laboratory Testing (Geotechnical Report) shall be submitted as Technical Memorandum TM No. 3.
3. Prepare Contract Documents, including the Contract Drawings and Specifications, to be submitted at 60%, 90% and 100% (Bid documents) milestones.
4. Contract Drawings shall be prepared per the General Plan Format and Guidance Document provided by DWQ.
5. Watershed Project Team will ensure through CCTV or other means the location, size and material of all active service laterals. Service laterals shall be shown on the Drawings.
6. Contract Drawings shall include the design for reconnection of all side stream sewers and service laterals.
7. Contract Drawings shall include the design and preparation of Project Specific Notes, details for any stream bank restorations of stream or ditch crossings, and all other notes and details.

8. Prepare, submit, revise as required the Erosion and Sediment Control Plan and Stormwater Pollution Prevention Plan (SWPPP). SWPPPs should be sent to DWQ Stormwater Section Manager Greg Lubeck. Final approval of the SWPPP must be obtained prior to Task 5.
9. Prepare, and submit applications to secure all required permits including, but not limited to, those listed in TM No. 2. Application fees will be paid from the Permit Application Allowance included in the Task Order.
10. Prepare Project Specific Notes and any project specific details.
11. Complete the Bid Proposal form and any additional required Contract Specifications of the Contract Documents. DWQ shall provide Standard Form Contract Documents indicating sections requiring completion by the Watershed Project Team. All revisions to Standard Form Contract Specifications shall be brought to the attention of DWQ for final approval.
12. Prepare a Final Opinion of Probable Construction Costs per DWQ unit cost schedule.
13. Prepare for and attend one (1) Final Review meeting. The Final Review meetings are one (1) day meetings in which the Watershed Project Team must respond to questions regarding the project Contract Documents. The Watershed Project Team shall provide five (5) full size sets of Drawings and three (3) sets of Specifications to DWQ for review a minimum of two weeks prior to the Final Review Meeting.
14. Correspond and meet with all other utility companies and regulatory agencies as required for this project.
15. Task 3 Meetings: The Watershed Project Team will prepare all meeting agendas and meeting summaries within three (3) business days for review by the DWQ Project Manager. The Watershed Project Team shall plan for and attend the following meetings (minimum):
 - a. Kickoff Meeting (Agenda prepared by DWQ)
 - b. Monthly Progress Meetings (one per month minimum)
 - c. Final Review Meeting – one (1)
 - d. One (1) meeting, outside of standard business hours, to present the project to the public
 - e. Unscheduled, unidentified meetings – as directed
 - f. Attendance at the Task 3 meetings is limited to those Watershed Project Team members that are making a substantive contribution to the design effort.
16. Task 3 Deliverables:
 - a. 60 and 90% Contract Documents for DWQ review and Capacity Assurance model verification
 - b. Project Benchmarks at intervals of not more than 1,000 ft. along the project alignment
 - c. Geotechnical Investigation – TM No. 3: Phase II Geotechnical Report
 - d. Geotechnical Investigation – TM No. 4: Phase III Geotechnical Report (if required)
 - e. Final Design Contract Documents
 - f. Preliminary and Final Opinions of Construction Costs

Notes:

1. The Watershed Project Team shall adhere to the General Plan Format and Guidance Document and Guidelines for Project Specific Notes developed for DWQ Remedial Measures Program projects.
2. Drawings shall be prepared in AutoCAD Civil 3D 2017 or newer format.

3. DWQ will provide Standard Form Contract Documents (CSI Format) and the General Notes Sheets and Standard Detail Sheet(s) for this Project.
4. The Watershed Project Team is not responsible for the hydraulic evaluation of upstream or downstream portions of the sanitary sewer system.
5. All plan and profiles shall be on the same sheet.
6. Contract Drawings shall include Project Benchmarks. An associated summary table identifying each benchmark description, elevation, and Kentucky State Plane Coordinates shall be included in the Project Specific Notes.

Task 4: Easement Acquisition

The Watershed Project Team's Scope of Work includes but is not limited to the following with respect to Task 4:

1. Prepare a metes and bounds description of each required easement to be procured or released, and a plat of the parcel indicating the easement locations. The Watershed Project Team shall prepare and submit to DWQ an easement acquisition summary spreadsheet detailing the following:
 - a. Property Owner
 - b. Property Address
 - c. Deed book and page number for the property deed
 - d. Plat references, if any
 - e. Area in square feet of temporary and permanent easements to be acquired and area in square feet of easements to be released. The spreadsheet shall include descriptions of easements for which only prescriptive easement(s) exist.
2. The Watershed Project Team shall prepare the LFUCG Memorandum of Understanding (MOU) for each required easement.
3. The Watershed Project Team is not responsible for negotiating or acquiring easements. The Watershed Project Team may be expected to make timely edits to Task 4 deliverables in response to direction from DWQ's easement acquisition team and RMP Program Manager.
4. Task 4 Deliverables: easement descriptions and plats; easement summary spreadsheet and easement MOUs

Task 5: Bidding Services

The Watershed Project Team's Scope of Work includes but is not limited to the following with respect to Task 5:

1. The Watershed Project Team shall submit reproducible Drawings and Specifications (Contract Documents) to the official bid document distributor, LYNN IMAGING, 328 Old Vine Street, Lexington, KY 40507, (859) 255-1021 (www.lynnimaging.com).
2. In coordination with the DWQ Project Manager, conduct the Pre-Bid Conference and prepare the summary of the conference.
3. Respond to Bidder, vendor, and subcontractor questions.
4. Prepare and distribute necessary Addenda.
5. Attend the bid opening. Verify capacity (financial, workforce, experience per Bid Documents) of the apparent low Bidder to perform the specified work and provide a Recommendation of Award.

6. Task 5 Deliverables:
 - a. Pre-Bid meeting agenda
 - b. Pre-Bid meeting notes
 - c. Bid addenda
 - d. Letter of recommendation.

Task 6: Construction Administration Services

The Watershed Project Team's Scope of Work includes but is not limited to the following with respect to Task 6:

1. In coordination with the DWQ Project Manager, conduct the Pre-Construction Conference and prepare the summary of the conference.
2. Services During Construction may include but is not limited to:
 - a. Coordination with the Resident Project Representative (RPR) which may or may not be employed by the Watershed Project Team
 - b. Review and processing of Shop Drawings
 - c. Review and respond to Requests for Information (RFIs)
 - d. Issue Field Orders and Work Change Directives as needed
 - e. Evaluate and provide recommendations for Change Requests
 - f. Regular site visits to maintain knowledge of construction activity and progress, assume once per month
 - g. Monthly Progress Meetings for which the Watershed Project Team shall be responsible for meeting agendas, handouts, and summaries
 - h. Processing of Pay Requests for DWQ
 - i. Final Inspection and preparation of punch list
 - j. Project Certification
3. Prepare a record survey of the constructed improvements indicating the coordinates for each manhole and the rim and invert elevations for each manhole.
4. Prepare Record Drawings, in both hard copy (reproducible format) and electronic format. Record drawings shall include pipe size and material for each pipe segment, manhole coordinates and rim and invert elevations, and sewer grades. Record drawings shall incorporate the red line drawing mark-ups of the RPR and Contractor.
5. Project Closeout: In conjunction with the DWQ Project Manager, close the project per the RMP Closeout Protocol provided by the DWQ Project Manager.
6. Task 6 Deliverables:
 - a. Record Survey and Record Drawings in electronic and hard copy formats
 - b. Electronic Copies of all correspondence, meeting summaries and agendas, permits, Shop Drawings, Pay Requests / Change Orders
 - c. Project Certification
 - d. Project Closeout Documents

Task 7: Resident Project Representative (RPR)

The Watershed Project Team may be directed to provide full-time Resident Observation.

1. The recommended Watershed Project Team's RPR must be approved by DWQ.

2. RPR shall utilize Construction Supervisor software. All hardware and software necessary to use Construction Supervisor shall be supplied by the Watershed Design Consultant.
3. The Watershed Project Team shall provide to the RPR all equipment necessary to fulfill project needs.
4. Conduct monthly ESC inspections (twice-monthly if a targeted site). Attend LFUCG's annual ESC inspector training.

Project Schedule

After execution of a Task Order the Watershed Project Team shall prepare a project schedule detailing all design and construction milestones. Project schedules shall be updated at each progress meeting.

Specific Design Cost Allocations

Two (2) specific design cost allocations will be included for each design project.

1. One (1) geotechnical allocation will be provided to allow for the Watershed Project Team to manage, including procurement, contracting, directing and processing of invoices, the Contractor selected for any geophysical exploration, to excavate and expose underground utilities and infrastructure and to provide surveying for documenting the location of the exposed underground utilities and infrastructure.
2. One (1) utility locate allocation will be provided to allow for managing a Contractor to excavate /expose / identification / X, Y, and Z location of all underground utilities and other infrastructure, and to confirm the location of all active service locations through CCTV inspection as required by the design process and prior to construction. The Watershed Project Team shall use this allocation to contract with a Contractor to provide any exploration and/or excavation of the utilities and coordinate its surveyors to record actual locations, size, material and other required information. The Watershed Project Team will be required to ensure that the Contractor:
 - A Complies with all OSHA regulations.
 - B Maintains traffic control per the Manual on Uniform Traffic Control Devices (MUTCD) and approved Department of Transportation traffic control and flagging regulations.
 - C Notifies Kentucky Underground Protection (811) in accordance with Kentucky Revised Statutes (KRS) and Kentucky Administrative Regulations (KAR) for each excavation.
 - D Repairs/restores all paved and non-paved surfaces excavated for exposure of underground utilities or structures.
 - E Provides to LFUCG or the Kentucky Transportation Cabinet (KYTC), in advance of any excavation work, any required Traffic Control Plan necessary to secure a permit for work within a right of way (ROW).
 - F Maintains insurance consistent with the contractual insurance expectations of the Watershed Project Team.
 - G Documentation of X, Y, and Z location of all underground utilities shall be a part of the design fee and not a part of the utility location allocation.

The tasks described above are not all inclusive of the effort needed to complete any given project. Additional tasks or sub-tasks may be assigned depending on the site specific conditions or circumstances associated with any given project.

Miscellaneous

1. Engineering services work for all Consent Decree projects—including RMP, are subject to “Additional Provisions” included in the Consent Decree Task Order of the LFUCG engineering services agreement.
2. Any plans, specifications and accompanying documents developed as part of this scope or associated, future Task Orders are subject to review by LFUCG’s Division of Water Quality. The selected vendor shall be responsible for incorporating the comments and requirements of the division into all documents.
3. Any plans, specifications, reports and accompanying documents shall be submitted to LFUCG in their original, electronic format, and shall become the property of LFUCG.
4. Any data collection shall be compatible with existing Geographic Information System parameters used by LFUCG. Access Data Base formats will be provided.
5. Brian Marcum, Division of Central Purchasing, is the designated contact person for all questions regarding this scope of work. Contact with any city staff member involved in the selection process other than Mr. Marcum, prior to the issuances of notices of award, is prohibited. Any attempt to discuss this RFQ with city employees other than Mr. Marcum may result in disqualification of the firm’s submittal for consideration.

RMP Implementation Plan - SSO Abatement Projects
All cost estimates are provided in U.S. 2011 dollars. **February 2016**

Sewer- shed	No.	Project Name	Design Cost Estimate ¹	Construction Cost Estimate ²	DESIGN													Project Capital Cost Estimate ³			
					CONSTRUCTION																
					2013 Year 0	2014 Year 1	2015 Year 2	2016 Year 3	2017 Year 4	2018 Year 5	2019 Year 6	2020 Year 7	2021 Year 8	2022 Year 9	2023 Year 10	2024 Year 11	2025 Year 12	2026 ⁴ Year 13			
East Hickman	1	East Hickman FM 1 ¹	\$800,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$10,000,000		
	2	East Hickman PS	\$1,100,000	\$13,110,000					\$89,000	\$599,000	\$8,558,000	\$8,665,000								\$14,300,000	
	3	East Hickman WWS Tank	\$1,340,000	\$10,530,000					\$720,000	\$599,000	\$8,558,000	\$8,740,000								\$18,000,000	
	4	Overbrook Farm FM 1 ¹	\$120,000	\$1,080,000					\$0	\$0	\$0	\$0	\$0	\$0	\$120,000	\$1,080,000				\$1,200,000	
	5	Overbrook Farm PS ¹	\$620,000	\$5,300,000					\$0	\$0	\$0	\$0	\$0	\$0	\$2,890,000	\$5,680,000				\$6,800,000	
	6	Overbrook Farm Trunk ¹	\$420,000	\$4,290,000					\$0	\$0	\$0	\$0	\$0	\$0	\$420,000	\$4,290,000				\$4,870,000	
	7	Delong Road PS & FM 1 ¹	\$230,000	\$2,840,000					\$0	\$0	\$0	\$0	\$0	\$0	\$230,000	\$2,840,000				\$3,140,000	
	8	Armstrong Mill Trunk ¹	\$100,000	\$0					\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$100,000	\$0		\$70,000	
	9	Island 2 & 3 Trunks ¹	\$120,000	\$1,850,000					\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$120,000	\$1,850,000		\$1,750,000	
	10	Hardard 1 Trunk ¹	\$120,000	\$1,020,000					\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$120,000	\$1,020,000		\$1,140,000	
	11	Eliminate East Lane PS ¹	\$70,000	\$0					\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0		\$80,000	
	12	Century Hills Trunk Upgrade	\$150,000	\$1,400,000					\$150,000	\$150,000	\$150,000	\$150,000								\$1,650,000	
	13	East Lane Trunk Upgrade	\$20,000	\$200,000					\$20,000	\$20,000	\$20,000	\$20,000								\$250,000	
	14	Adams Road Trunk Upgrade	\$100,000	\$500,000					\$100,000	\$100,000	\$100,000	\$100,000						\$100,000	\$500,000	\$1,000,000	
	15	Expansion Area #1 Property Acquisition ¹	\$1,110,000	\$0					\$0	\$0	\$0	\$0	\$0	\$0	\$1,110,000					\$2,188,000	
		EA Totals #	\$9,340,000	\$28,340,000	\$220,000	\$1,100,000	\$0	\$1,100,000	\$2,200,000	\$18,430,000	\$18,600,000	\$1,110,000		\$3,180,000	\$6,270,000	\$1,610,000	\$4,840,000	\$0	\$20,900,000		
West Hickman	1	WH WWS Tank	\$1,630,000	\$17,460,000					\$1,630,000	\$8,730,000	\$8,730,000								\$19,110,000		
	2	West Hickman Main Trunk A	\$300,000	\$3,900,000	\$350,000	\$2,050,000	\$900,000													\$4,190,000	
	3	West Hickman Main Trunk B	\$600,000	\$5,760,000																\$6,360,000	
	4	West Hickman Main Trunk C	\$440,000	\$4,400,000																\$4,840,000	
	5	Lundbourne South Trunk	\$330,000	\$3,300,000							\$330,000	\$3,300,000								\$3,660,000	
	6	West Hickman Main Trunk D	\$370,000	\$3,700,000							\$370,000	\$3,700,000								\$4,070,000	
	7	Merrick Trunk	\$360,000	\$3,600,000												\$360,000	\$3,600,000			\$3,960,000	
	8	Eaton Trunk	\$150,000	\$1,400,000																\$1,550,000	
	9	Southwest Hills Trunk	\$710,000	\$7,100,000									\$710,000							\$7,810,000	
	10	West Hickman Main Trunk E	\$1,350,000	\$13,500,000										\$1,350,000						\$14,850,000	
	11	West Hickman Main Trunk F	\$450,000	\$4,500,000										\$450,000						\$4,950,000	
	12	Sutherland Trunk	\$180,000	\$1,800,000															\$180,000	\$1,980,000	
	13	Lee Hill Trunk	\$80,000	\$800,000																\$880,000	
	14	Centre Parkway Trunk	\$100,000	\$850,000	\$80,000	\$700,000														\$930,000	
	15	The Island Trunks	\$100,000	\$860,000																\$960,000	
16	Woolrich Trunk	\$200,000	\$2,790,000																\$2,990,000		
17	Reister Road Trunk	\$210,000	\$2,070,000																\$2,280,000		
18	Richmond Road Trunk	\$170,000	\$1,700,000																\$1,870,000		
19	Wildwood Park Trunk	\$210,000	\$1,610,000																\$1,720,000		
20	WH WWTP WWS Tank ¹	\$1,310,000	\$12,330,000					\$1,310,000	\$5,970,000	\$5,360,000						\$1,310,000	\$18,110,000		\$19,420,000		
21	WH WWTP Reliability Upgrade ⁴	\$3,070,000	\$21,869,000					\$0	\$0	\$0	\$0	\$0		\$3,070,000	\$21,869,000	\$0			\$24,939,000		
		WH Totals #	\$20,000,000	\$196,399,000	\$750,000	\$9,050,000	\$9,670,000	\$6,990,000	\$88,970,000	\$60,090,000	\$9,082,000	\$3,871,000		\$48,770,000	\$30,660,000	\$26,284,000	\$3,968,000	\$7,408,000	\$220,339,000		
Wolf Run	1	Wolf Run Main Trunk A	\$210,000	\$2,100,000															\$2,310,000		
	2	Wolf Run Main Trunk B	\$120,000	\$1,200,000																\$1,320,000	
	3	Wolf Run Main Trunk C	\$420,000	\$4,140,000																\$4,560,000	
	4	Wolf Run Main Trunk D	\$130,000	\$1,300,000																\$1,430,000	
	5	Wolf Run Main Trunk E	\$230,000	\$2,240,000																\$2,470,000	
	6	Wolf Run Main Trunk F	\$260,000	\$2,460,000																\$2,720,000	
	7	Wolf Run Main Trunk G	\$500,000	\$4,900,000																\$5,400,000	
	8	Wolf Run WWS Tank	\$740,000	\$7,940,000					\$740,000	\$3,370,000	\$3,370,000									\$12,110,000	
	9	Sharon Main Trunk	\$130,000	\$1,270,000																\$1,400,000	
	10	Dea Drive Trunk	\$140,000	\$1,400,000																\$1,540,000	
	11	Wolf Run Pump Station	\$1,000,000	\$0					\$1,000,000	\$2,000,000	\$2,000,000									\$3,000,000	
			WR Totals #	\$2,860,000	\$27,490,000	\$5,100,000	\$9,130,000	\$9,670,000	\$13,970,000	\$8,370,000	\$6,360,000	\$1,440,000		\$4,300,000	\$4,130,000	\$2,970,000	\$3,790,000	\$0	\$0	\$40,370,000	
	Cane Run	1	Lower Cane Run WWS Tank	\$1,120,000	\$3,640,000															\$4,780,000	
		2	Expansion Area 3 PS	\$720,000	\$6,880,000																\$7,600,000
		3	Expansion Area 3 FM	\$430,000	\$4,370,000																\$4,800,000
4		Expansion Area 3 Trunk	\$500,000	\$4,940,000																\$5,440,000	
5		Shannon Park Trunk	\$360,000	\$2,950,000																\$3,310,000	
6		Winborn Trunk	\$140,000	\$1,390,000																\$1,530,000	
7		Thorpe Road Access Trunk	\$120,000	\$1,200,000																\$1,320,000	
8		Sharon Village PS and FM	\$220,000	\$1,900,000																\$2,120,000	
9		Lower Griffin Gate Trunk	\$80,000	\$770,000																\$850,000	
10		Upper Cane Run WWS Tank	\$300,000	\$3,960,000																\$4,260,000	
11		Cane Run Trunk	\$180,000	\$1,700,000																\$1,880,000	
12		Levensick Trunk A	\$160,000	\$1,480,000																\$1,640,000	
13		Levensick Trunk B	\$110,000	\$980,000																\$1,090,000	
14		New Circle Trunk A	\$380,000	\$3,920,000																\$4,300,000	
15		New Circle Trunk B	\$380,000	\$3,920,000																\$4,300,000	
		CR Totals #	\$7,820,000	\$70,670,000	\$0	\$2,000,000	\$11,140,000	\$12,200,000	\$17,441,000	\$16,016,000	\$2,920,000	\$4,280,000		\$5,180,000	\$2,700,000	\$4,880,000	\$0	\$0	\$77,800,000		
Town Branch	1	Town Branch WWTP WWS Tank	\$0,710,000	\$10,130,000															\$11,840,000		
	2	Town Branch PS Replacement	\$100,000	\$930,000																\$1,030,000	
	3	Top-Lower Cane Run FM	\$20,000	\$200,000																\$220,000	
	4	UK Trunk A	\$270,000	\$2,560,000																\$2,830,000	
	5	UK Trunk B (Newtown Pike Extension) ¹	\$0	\$0																\$0	
	6	UK Trunk C	\$150,000	\$1,380,000																\$1,530,000	
	7	UK Trunk D	\$240,000	\$2,300,000																\$2,540,000	
	8	UK Trunk E	\$290,000	\$2,850,000																	

EXHIBIT B

Certificate of Insurance

and

Evidence of Insurability



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
12/9/2019

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 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 Ansay & Associates, LLC. MSN 2901 W. Beltline Hwy. Suite 202 Madison WI 53713	CONTACT NAME: Susan Simoneau	
	PHONE (A/C No, Ext): 800-643-6133	FAX (A/C, No): 608-831-4777
E-MAIL ADDRESS: sue.simoneau@ansay.com		
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A : CNA Insurance Companies		35289
INSURER B :		
INSURER C :		
INSURER D :		
INSURER E :		
INSURER F :		

COVERAGES **CERTIFICATE NUMBER: 969253267** **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.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> XCU Cov. Inc. GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC	Y		5099170076	1/1/2019	1/1/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 900,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	Y		5099170062	1/1/2019	1/1/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 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 <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000	Y		5099170059	1/1/2019	1/1/2020	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000 \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	WC595126844	1/1/2019	1/1/2020	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Professional Liability Full Prior Acts			AEH113974097	7/11/2019	7/11/2020	Each Claim 2,000,000 Aggregate 2,000,000 Full Prior Acts

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
 PROJECT: Sanitary Sewer Collection and Conveyance System Watershed Design Services
 Project #: 2815.284

The Lexington Fayette Urban County Government, its elected and appointed officials, employees, agents, boards, consultants, assigns, volunteers and successors in interest are named as Additional Insureds as required by written contract.

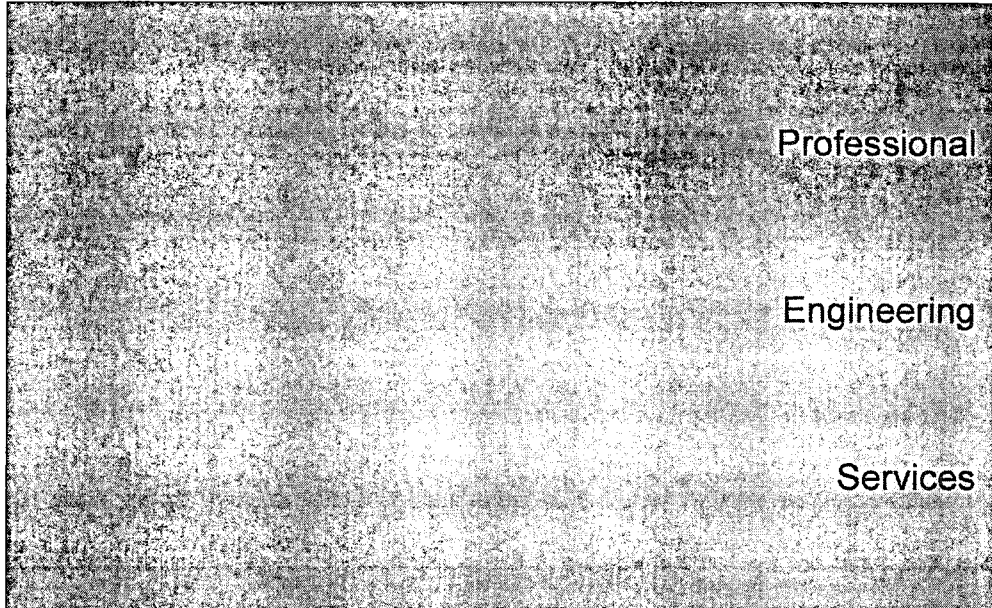
CERTIFICATE HOLDER Lexington-Fayette Urban County Government 200 E. Main Street Lexington KY 40507	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

EXHIBIT C

Proposal of Engineering Services

and

Related Matters



Professional

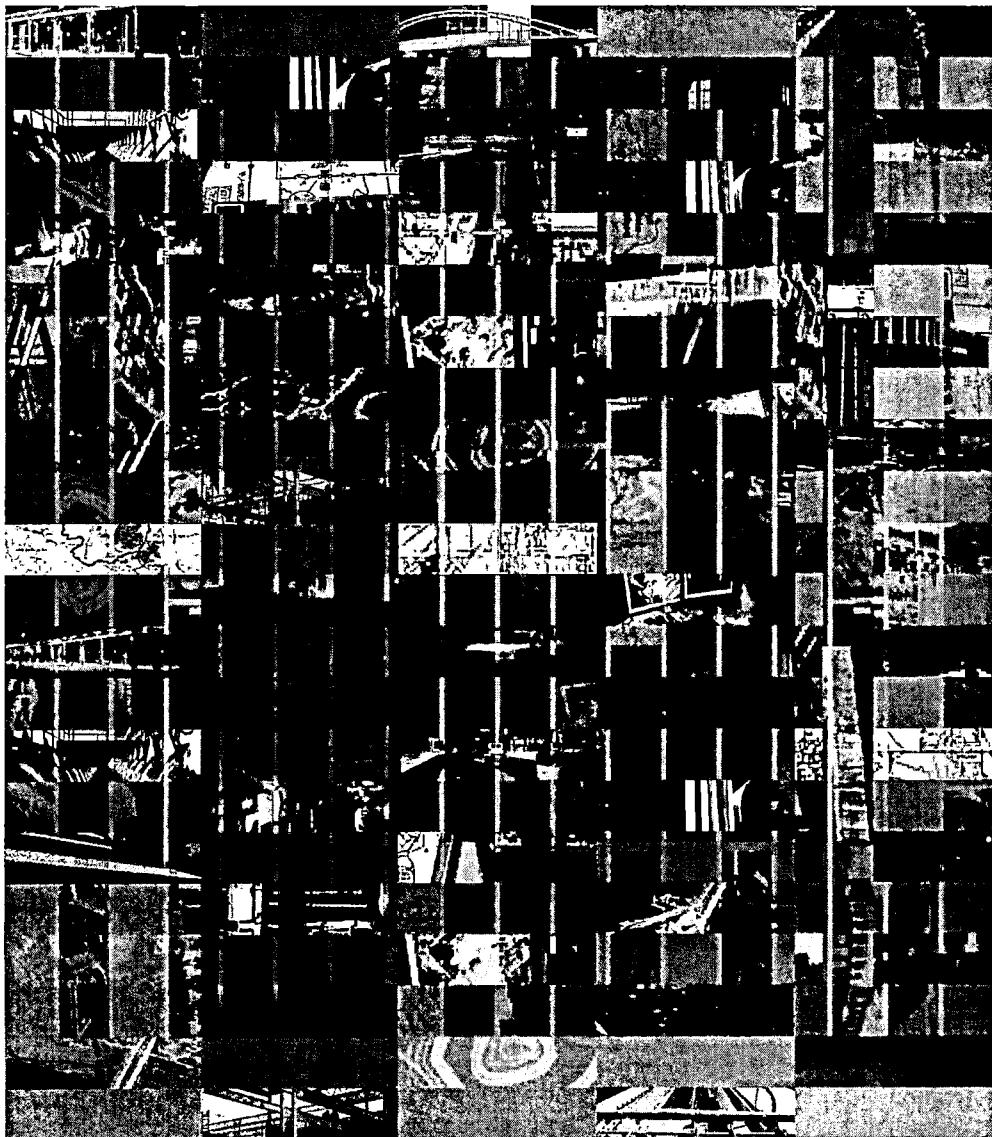
Engineering

Services

**Engineering
Services for
Sanitary Sewer
Watershed
Design**

**Town Branch
and Wolf Run**
(Watershed Project Team 3)

RFP#38 – 2019



Proposal for

Lexington-Fayette
Urban County
Government

September 27, 2019



Firm Submitting Proposal: Strand Associates, Inc.

Complete Address: 1525 Bull Lea Road, Suite 100, Lexington, KY 40511
Street City Zip

Contact Name: Michael Davis Title: Senior Associate

Telephone Number: (859)225-8500 Fax Number: (859)225-8501

Email address: mike.davis@strand.com



Strand Associates, Inc.
1525 Bull Lea Road, Suite 100
Lexington, KY 40511
(P) 859-225-8500
(F) 859-225-8501

September 27, 2019

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

Re: Request for Proposals for RFP #38-2019 Engineering Services for Sanitary Sewer
Watershed Design (Watershed Project Team 3 – Town Branch and Wolf Run)

Dear Mr. Slatin:

Thank you for the opportunity to submit this proposal for the above referenced project. This is an exciting opportunity and we strongly believe **Selecting Strand Associates, Inc.® Experienced Local Team Provides Informed Practical Solutions that Fulfill LFUCG's Watershed Design Needs.** Listed below are major factors that support this statement and demonstrate our Team's ability to meet your specific needs for this contract.

- **More than 73 Years of Service Signifies our Firm's Organizational Strength and Commitment to Quality for this Important Project**
- **Experience Gained During 50+ Years Serving LFUCG and Other Kentucky Communities Allows Strand to Provide Responsive Engineering Services Helping to Meet LFUCG Consent Decree Requirements**
- **Strand's Long-Term Service to LFUCG Provides the Institutional Knowledge to Efficiently Deliver Engineering Services for RMP Projects**
- **Experienced Project Managers with Seasoned Technical Resources Provide Expertise to Support LFUCG's Complete Range of Project Needs**
- **References with Satisfied Clients Attest to Strand's Ability to Help Clients Succeed through Excellence in Engineering**
- **Strand's Value-Added Commitment will Provide a Measured Return on Investment in Quality Engineering Services**

The enclosed proposal demonstrates our project understanding and the commitment we will bring in assisting LFUCG with compliance for its Consent Decree infrastructure obligations. Thank you again and we look forward to the opportunity to continue our service on behalf of the Lexington-Fayette Urban County Government. Please note Michael Davis, P.E. as the single point of contact who can be reached by phone at 859-225-8500 or email at mike.davis@strand.com.

Sincerely,

STRAND ASSOCIATES, INC.®

Michael L. Davis, P.E.
Senior Associate

P190.937/MLD/adg



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MAYOR LINDA GORTON



LEXINGTON

TODD SLATIN
DIRECTOR
CENTRAL PURCHASING

ADDENDUM #1

RFP Number: #38-2019

Date: September 16, 2019

Subject: Engineering Services for Sanitary Sewer Watershed Design Services

**Address inquiries to:
Brian Marcum
(859) 258-3320**

TO ALL PROSPECTIVE SUBMITTERS:

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

Change requirement from:

That a selected prime consultant have an office located in Fayette County, Kentucky that has been continuously staffed and in operation since July 1, 2014.

To:

The selected prime consultant must have an office located in one of the counties of the Bluegrass Area Development District (ADD) that has been continuously staffed and in operation since July 1, 2014.

The ADD counties include Anderson, Bourbon, Boyle, Clark, Estill, Fayette, Franklin, Garrard, Harrison, Jessamine, Lincoln, Madison, Mercer, Nicholas, Powell, Scott and Woodford.

Are Non-Prime consultants to be ranked for each watershed along with the primes and assigned to work in those watersheds by LFUCG, or are the non-prime consultants to make sub-consulting arrangements with the Primes in order to be selected to do specific project work??



Non-prime consultants should look to make sub-consulting agreements with prospective prime consultants. There will not be any contractual agreements between LFUCG and a sub-consultant; the sub-consultant's contractual relation is with a prime consultant.

Have read through the RFP information a few times now, and am not sure I am clearly understanding the intent. My interpretation is that you are selecting "prime" consultants for each Watershed Project Team with this RFP, but are you also accepting proposals for re-qualifying non-prime consultants for those individual teams for individual conveyance sewers projects?

There will be only four contracts, one for each team led by a prime. Non-prime consultants should pursue contractual relationship with prospective primes.

The previous prequalification process will terminate once this new selection process is complete.

How are non-prime Watershed Project Team consultants to be selected and/or assigned the individual conveyance projects?

Non-prime consultants must be part of a selected team, otherwise, they will not be working on future conveyance projects for LFUCG.

Will the selection of non-prime consultants be by the prime consultant for each Watershed Project Team, or will the non-prime consultants continue to be selected via the current revolving eligibility process?

The current revolving eligibility process terminates upon the award of the four watershed teams, each which are led by a prime consultant that assembles their team by contracting with sub consultants of their choosing.

Will LFUCG select prime consultants in the order listed in Table 1?

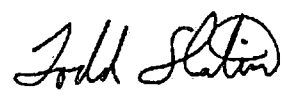
Yes – refer to the section titled Selection Process, which begins immediately after Table 2.

Who are the members of the selection workgroup?

The membership of the selection team will remain confidential.



Pre-proposal sign in sheets are attached.

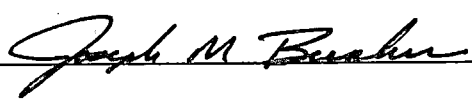


Todd Slatin, Director
Division of Central Purchasing

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

COMPANY NAME: Strand Associates, Inc.

ADDRESS: 1525 Bull Lea Road, Suite 100, Lexington, KY 40511

SIGNATURE OF BIDDER: 



SIGN-IN SHEET

Mandatory Pre-Proposal Meeting #38-2019

Engineering Services for Sanitary Sewer Watershed Design Consultants

September 16, 2019 @10:30 AM

Representative	Company Name	DBE/MBE/WBE/ Veteran	Phone#	Email Address
WORTH ELLIS	PALMER		502-750-0726	wallis@palmer.net.com
Stephanie Blain	Palmer		859-355-1352	sblain@palmer.net.com
Bethany Shan	AFDM		502-217-1529	bethany.shan@afdm.com
By APPLIED	EA Partners		859-296-9889	THATFIELD@EAPARTNRS.COM
Joe Henry	GRW		859-223-3999	jhenry@grwinc.com
Michael Jacobs	GRW		859-223-3999	Macjacob@grwinc.com
Bret Lavey	Stantec		859-552-4989	bret.lavey@stantec.com
Jason Maxwell	STANTEC		859-333-9716	Jason.Maxwell@STANTEC.COM
Eddie Mastra	INTERATED ENGINEERING	✓ MBE	859-368-0145	Eddie@IET-ENGINEERING.COM
Milk Wobolun	Stantec		859-225-8500	mike.wobolun@stantec.com
Liffey Beck	LUCK-DWG		859-425-2406	liffeyr@liffeybeck.com
Rod Chrusus	LUCK-DWG		859-425-2406	rod.chrusus@luck-dwg.com
Tina Williams	Vision Engineering	✓ DBE	859-333-8215	Tina@visioneng.com
Craig Parker	LUCK		859-425-2448	cparker@luck.com

SIGN-IN SHEET
Mandatory Pre-Proposal Meeting #38-2019
Engineering Services for Sanitary Sewer Watershed Design Consultants
September 16, 2019 @10:30 AM

Representative	Company Name	DBE/MBE/WBE/ Veteran	Phone#	Email Address
Rich Smith	HDR Engineering		859.629.4844	rich.smith@hdrinc.com
Mike Hansen	HDR Engineering		270.564.3446	Mike.Hansen@hdrinc.com
JOHN STEINMETZ	BANKS ENGR		881-0020	JSTEINMETZ@BANKSENGINEERING.NET
Tom Hackney	MSE		723-5694	thackney@mselex.com
Glenn Ross	MSE		859-223-5694	glennrosse@mselex.com
Herb Lemaster	Tetra Tech		859-223-8000	herb.lemaster@tetatech.com
Richard Walker	Tetra Tech		859-223-8000	richard.walker@tetatech.com
MICHAEL HESSE	DLZ	MBE	502.583.6353	M.HESSE@DLZ.COM
Marcie Mathews	DLZ	MBE	502.229.3416	mmathews@dlz.com
Phil Maador	Karrivons		502-695-4357	pmaador@karrivons.com
Derek Motsch	Element Design	WBE	859-389-6533	derek@element-site.com
Ron Janson	R.M.J.E		859.543.0256	RJANSON@RMJE.NET
SHARLENE MILLER	LFUGS		859-258-3323	smiller@lexingtonky.gov
Bob Peterson	LFUGS		859-425-2429	RPET@LEXINGTONKY.GOV
Brian Mace	LFUGS		859-258-3320	Brianm@lexingtonky.gov
C. Manhart	LFUGS		859-425-2400	chmanhart@lexingtonky.gov

MAYOR LINDA GORTON



LEXINGTON

TODD SLATIN
DIRECTOR
CENTRAL PURCHASING

ADDENDUM #2

RFP Number: #38-2019

Date: September 19, 2019

Subject: Engineering Services for Sanitary Sewer Watershed Design Services

Address inquiries to:
Brian Marcum
(859) 258-3320

TO ALL PROSPECTIVE SUBMITTERS:

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

Referring to the spreadsheet showing the schedule for RMP projects (last page of the package) can you list the projects still to be performed in each watershed (10/5/5/4 projects) referenced in the table on page 2 of 14 in the rfq?

A list of projects will not be provided because:

Not all the projects reflected in Table 2 are RMP projects.
Lexington has begun dialogue with regulatory agencies on amending the spreadsheet ... adding, subtracting and modifying some projects in the 2025 – 2026 timeframe.

The spreadsheet was intended as a guide, not an absolute. Proposers should be emphasizing their experience with sanitary pipeline projects and Fayette County watersheds.

Is the Remedial Measures Program management consultant eligible to submit a proposal, either as the lead consultant or as part of a team?

Hazen and Sawyer is contractually responsible for managing the work product of the Watershed Design Teams and thus is ineligible for an RFP #38-2019 award as a prime or as a sub consultant. Hazen's RMP sub-consultants are eligible for consideration.



On p. 6 of the RFP, Estimated Cost of Services (20 pts) is listed under Selection Criteria. How is Estimated Cost of Services developed from hourly rates?

As stated in the paragraph titled Selection Process, the best value determination will be made using an hourly rate comparison with total hours billed from previous, applicable RMP projects.

Will LFUCG allow for future adjustments in hourly billing rates to address annual wage increases, and if so at what interval?

All four contracts will be allowed to request 2 adjustments, the first will be 7/01/2023 and the second will be 7/01/2026. The hourly rate adjustments will be based on the Cumulative Annual CPI we use for sewer rates. Example- if the CPI is 1.7% for 2020, 2.1% for 2021 and 1.9% for 2022-the rates would be adjusted 5.7% on July 1, 2023.

Is there a limit to the number of resumes that can be submitted?

Table 2 text - Resumes (1-page limit each) for proposed Project Managers and other key employees of the Firm to be assigned to the projects with their prospective roles.

The submission of resumes for minimal contributors may be viewed as not following instructions.

Can a GIS file delineating the sewer sheds be provided?

LFUCG GIS shape files will only be provided to the consultants awarded a contract, not prior to award

While we realize that some non-RMP projects may be handled through these contracts, can you please provide a list of the remaining RMP projects by watershed?

The spreadsheet was intended as a guide, not an absolute. It is the only list that will be provided.

Can a prime consultant include a non-prime team member that was not in attendance at the pre-proposal meeting?


Yes

For our watershed team, are we required to list specific MBE/DBE/VBE entities in specific roles or can we include a list of MBE/DBE/VBE firms certified by LFUCG that we will utilize?

The LFUCG MWDBE Participation form will need to be completed with the MBE/DBE/VOSB firms your company will utilize on the project with a notation of "TBD" *if* the company has yet to select



firms for subcontracting/subconsulting opportunities. The MBE Liaison, Ms. Sherita Miller, will follow up with the company upon contract award to finalize the participation of MWDBE and VOSB firm for this project.

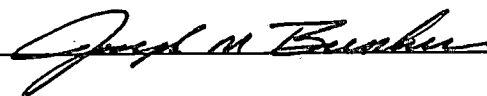


Todd Slatin, Director
Division of Central Purchasing

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

COMPANY NAME: Strand Associates, Inc.

ADDRESS: 1525 Bull Lea Road, Suite 100, Lexington, KY 40511

SIGNATURE OF BIDDER: 



Firm Qualifications

More than 73 Years of Service Signifies our Firm's Organizational Strength and Commitment to Quality for this Important Project

Strand Associates, Inc.[®] has been providing exceptional civil and environmental engineering services to our clients since 1946. We attribute our organizational strength to our talented engineers, effective management, and, most of all, commitment to nurturing long-term client relationships. Our Corporate Mission states that we are *dedicated to helping our clients succeed through excellence in engineering*. By maintaining a diverse, talented staff, we have consistently provided a high level of service to our clients by relying on the turn-key capabilities offered by our firm.

The list below outlines our areas of specialty and the following pages highlight specific services offered by Strand's locally based staff for the wastewater conveyance-related projects contemplated under this contract.

- Wastewater Conveyance and Pumping
- Civil and Municipal Engineering
- Wastewater Treatment Engineering
- Water Supply Engineering
- Transportation and Aviation Engineering
- Stormwater Management
- Sustainable Design/Green Infrastructure
- Land Development
- Electrical and HVAC Engineering
- Buildings/Facilities Engineering and Architecture
- Surveying and Right of Way Acquisition
- Gas Distribution and Utility Engineering
- Geographic Information Systems (GIS) and Mapping Services
- Financial Assistance
- Construction-Related Services

The diversity of our experience has helped us to develop a well-rounded staff of engineers, many of which have been with our firm for more than 12 years.

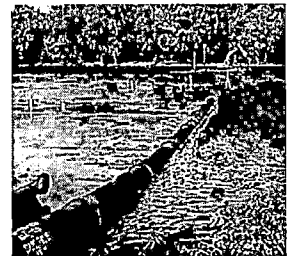
Actively Managed Scheduling System Supports Staffing Commitments

Strand employs a corporate-wide scheduling system that can give us up-to-the-day status reports on the schedule of every staff member at each of our offices. For each project we undertake, the staffing requests and budgeted hours for each team member are added and tracked using this system. Because we know the 2-year workload of every employee, we can make a firm commitment to a client's schedule with an assurance that the assigned staff are available and ready to perform and meet your expectations for completion. This in-turn allows our project managers to confidently monitor adherence to their completion objectives.

Project Management Techniques Produce Quality, on-Time Deliverables

To promote quality on our projects, we have developed an internal Quality Control (QC) program with applied peer reviews at each step of the design process. As each project is scoped, our Project Manager issues a tailored Project Management Memorandum (PMM) that outlines the delivery approach and other important milestones that must be met for schedule adherence. This plan also identifies the QC Engineer who is responsible for critiquing the design for technical accuracy, constructability, and conformance to project objectives. By assembling the PMM with this overarching perspective, all team members are aware of the stages at which quality reviews must take place to support the timeframes for other important milestones that must be met.

Our years of experience and comprehensive service capabilities enable us to effectively meet the engineering needs of our clients.



RANKED **20th**
IN THE
MIDWEST
TOP DESIGN FIRM 2019
by Engineering News Record Midwest

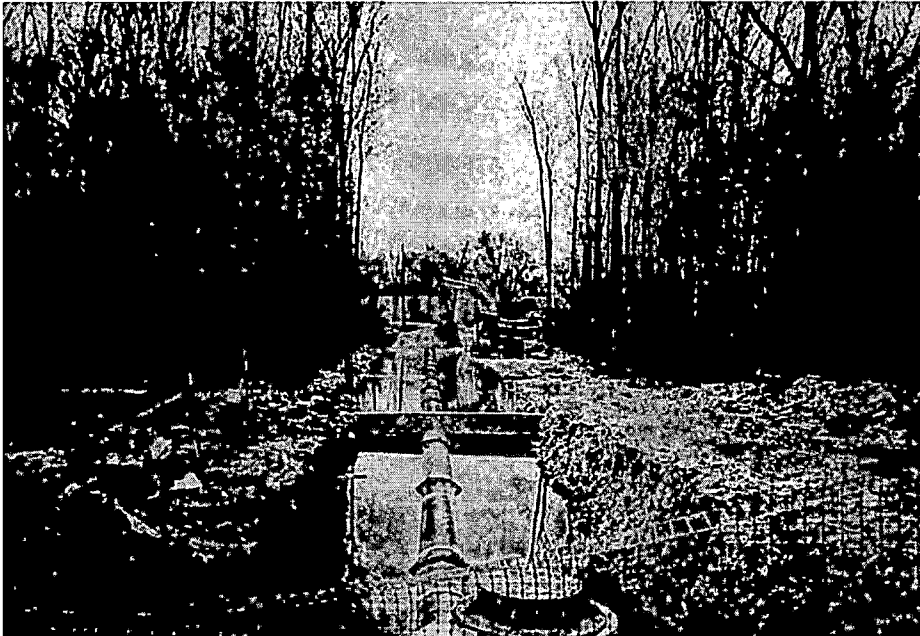
Strand's project delivery process supports fulfillment of RMP schedule requirements.

Wastewater Conveyance and Pumping

We have a broad background in providing engineering services to communities for wastewater conveyance systems and pumping stations. Our experience varies from projects that include only extension and/or reinforcement of existing collection systems to complete planning, design, and construction observation of new multimillion-dollar sewerage systems. In recent years, we have planned and designed projects, including in excess of 400 miles of sanitary sewer and pressure mains, ranging in size up to a 180-inch tunnel project and pumping stations up to 240 mgd. Prior to many of our most significant conveyance projects, we complete comprehensive investigations and planning studies to identify current and future conveyance facility needs. This cumulative experience allows us to help our clients make highly informed decisions based on our know-how in engineering these facilities and their time-tested performance track records.

The types of projects in which we specialize include:

- Infiltration/Inflow (I/I) studies
- Sewer system planning
- Gravity sewer design and pipe system hydraulics
- Trenchless technology applications
- Pumping station and force design
- Sewer system rehabilitation
- Flow monitoring and inspections
- Sanitary Sewer Evaluation Surveys (SSES)
- Combined Sewer Overflow/Sanitary Sewer Overflow (CSO/SSO) Abatement
- Capacity, Management, Operation, and Maintenance (CMOM)-related services
- Wet weather treatment system design



Jacobson Park - Expansion Area 2C Reservoir Trunk Sewer Crossing.

As a previously LFUCG prequalified firm for Dig and Replace Pipeline projects, Strand has demonstrated its credentials to undertake the simplest to the most complex trunk sewer conveyance projects throughout its history. These have ranged from environmentally sensitive underwater pipeline crossings at Jacobsen Park and Lake Ellerslie to replacement trunk sewers through the downtown urban core of Lexington where constructability and existing and existing utilities must be carefully considered. These credentials make us well prepared to address a variety of challenging conditions.

As a former LFUCG Sewershed Master Consultant Strand brings a holistic understanding to RMP Program objectives.

Our team's credentials for successfully completed LFUCG trunk sewer projects includes the most challenging of circumstances calling on all facets of expertise.



Locally Based Lexington Trunk Sewer Infrastructure Design Experience

The Strand Team is also unique regarding the breadth of locally based trunk sewer infrastructure planning and design experience it brings to bear. Through the founding members of our firm who helped plan, design and construct much of the infrastructure framework for the major watersheds comprising the urban areas of the City, our current staff have assisted with many improvements and extensions of these same systems. Our firm credits include the development of such noteworthy guiding documents as the 1986 Outer Perimeter Sewerage System Implementation Plan and the 1999 201 Facilities Plan Update, which have helped shape important elements of the City’s infrastructure realm.

Having also served the local development community extensively for major master planned neighborhood communities such as Hartland, Firebrook, Gainesway Taborlake, Ellerslie, Eastwood, Woodfield, Coldstream, and Griffin to name a few, our staff has also been instrumental with the advancement of infrastructure needed to support these areas. Many of these neighborhoods required the extension of trunk sewers which were designed by current members of Strand’s local office. This familiarity affords us with many insights and efficiencies that will benefit the work anticipated for these watershed contracts.

Surveying and Right of Way Acquisition

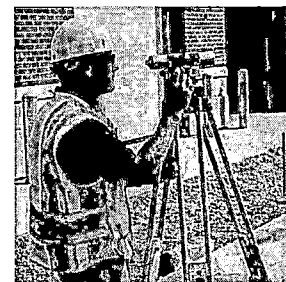
Our staff includes licensed professional surveyors, party chiefs, and technicians, sufficiently to field several parties at any given time. We own state-of-the-art electronic surveying instruments and utilize computer-based coordinate geometry and surveying programs in the execution of our surveying work. Our surveying experience includes boundary surveys, typically to ALTA/ACSM standards; topographic; photo control; hydrologic; instrumentation; construction stakeout; and route surveys. We also routinely assist our clients in the development and acquisition of easements for roadways, water transmission, and wastewater collection pipelines. This includes appraisals, negotiations, and acquisition of easements required for the construction of these projects.

Construction-Related Services

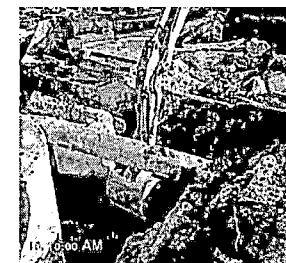
We are continually involved in construction-related services on projects designed by our firm, as well as on projects designed by others. Our observation services include a wide variety of projects, including commercial and industrial buildings for both public and private clients; highways and bridges; wastewater treatment plants; water supply projects; municipal engineering work; and structural, electrical and mechanical projects. As a full-service firm, it is our practice to follow our projects through to construction completion and beyond, providing the staff necessary to perform office and field activities. The following table lists the annual value and number of our internally developed construction contracts for each of the last 10 years.

Strand Designed Construction Contracts		
Year	No. of Contracts	Bid Amount
2018	191	\$209,500,000
2017	169	\$320,000,000
2016	125	\$365,000,000
2015	128	\$320,900,000
2014	84	\$144,900,000
2013	120	\$193,000,000
2012	126	\$161,900,000
2011	126	\$193,600,000
2010	84	\$218,800,000
2009	122	\$238,300,000
2008	104	\$101,600,000

Our Team’s history and experience with existing trunk sewer infrastructure and the local community provides unparalleled insights for project solutions.



Our corporate philosophy includes completing survey-related activities with our trained personnel.



Construction on Midland Avenue Trunk highlights understanding of field conditions to be anticipated.

Past Performance/Experience

Experience Gained During 50+ Years Serving LFUCG and Other Kentucky Communities Allows Strand to Provide Responsive Engineering Services Helping to Meet LFUCG Consent Decree Requirements .

The Eastern Interceptor Sewer System was Strand's first major LFUCG sewer conveyance project initiated in the 1970s. Since this time Strand has served LFUCG on numerous major wastewater conveyance and treatment projects. We estimate that Strand has designed the following LFUCG wastewater conveyance infrastructure:

- 107,000 LF of trunk sewer (10-in diameter and larger pipe)
- 49,000 LF of sewer force main (10-in and larger pipe)
- 16 wastewater pump stations with capacities up to 15,000 gpm
- 14 wastewater treatment plant construction projects

In addition to these facilities, Strand has designed miles of sewer collection system and stormwater conveyance facilities within LFUCG's urban service area.

List of LFUCG RMP Wastewater Projects

Strand has participated in eight LFUCG RMP projects, including studies, design and construction-related services. These projects are summarized below. *We have also initiated design on the 9th project – Southeastern Hills Trunk Sewer.*

Strand has been providing quality professional engineering services to LFUCG since 1968.

LFUCG RMP WASTEWATER PROJECTS COMPLETED BY STRAND					
Project Name	Date	Services Provided	Project Description	Client & Funding	LFUCG Watershed
Midland Avenue Trunk Sewer Improvements Lexington-Fayette Urban County Government Lexington, KY	2019	Complete design services. Also provided bidding, construction contract administration and SRF/KIA funding-related services.	<ul style="list-style-type: none"> • 3,500 LF of 24-, 21- and 12-in trunk sewer to replace existing Midland Trunk Sewer. • Alignment selected to mitigate interference with future Town Branch Commons construction. • Project located in high traffic areas including Main Street and Midland Avenue. 	LFUCG (SRF and Local Contribution)	Town Branch
Sharon Village Pump Station and Force main Lexington-Fayette Urban County Government Lexington, KY	On-going	Complete design services including alignment and easement/rights of way assistance. Also providing bidding, construction contract administration and RPR services.	<ul style="list-style-type: none"> • 3,100 LF of 15-, 12- and 10-in trunk sewer. • 225 LF of bore and jack under highway and railroad. • 1,040 LF of 10-in force main. • Easement development and acquisition. • Encroachment permit for Interstate ROW, US Highway ROW and CSX railroad. 	LFUCG (Public)	Cane Run
West Hickman WWTP Scum Facility Improvements Lexington-Fayette Urban County Government Lexington, KY	2019	Complete design services including process, mechanical and electrical engineering. Also provided bidding-related and construction contract administration services.	<ul style="list-style-type: none"> • New scum concentrating/decant facility. • Added scum skimming systems to the BPR tanks. • Premanufactured building to house existing odor control system. • Added new cover to existing Aerated Sludge Holding Tank. 	LFUCG (Public)	West Hickman
Town Branch WWTP Primary Digester Complex Improvements Lexington-Fayette Urban County Government Lexington, KY	On-going	Providing complete design services including process, mechanical, structural and electrical engineering. Also providing bidding-related, construction contract administration and part-time RPR services.	<ul style="list-style-type: none"> • Complex rehabilitation project for anaerobic digester system. • Replace/rehabilitate three digester covers. • Replace existing piping. • Replace existing pump system. • Install new mixing system to replace aging Perth mixing system. • Install new gas burner. • Install new Motor Control Center and interface with existing plant SCADA system. 	LFUCG (Public)	Town Branch
Town Branch WWTP Secondary Digester Complex Improvements Lexington-Fayette Urban County Government Lexington, KY	On-going	Providing complete design services including process, mechanical and electrical engineering. Also providing bidding-related, construction contract administration and part-time RPR services.	<ul style="list-style-type: none"> • Rehabilitate four existing floating covers. • Replace existing sludge transfer pumps, sidesteam pump and supernatant pump. • Install new PLC-based Supervisory Control Center to coordinate with existing SCADA system. • Replace existing pump station sludge piping and valves. • Replace existing motor control center. 	LFUCG (Public)	Town Branch
Town Branch WWTP Screening and Grit Facility Improvements Lexington-Fayette Urban County Government Lexington, KY	2017	Provided complete design services including process, mechanical and electrical engineering. Also provided bidding-related and construction contract administration services.	<ul style="list-style-type: none"> • Replace existing mechanically cleaned screen. • Replace existing grit pumps and grit classifier. • Install new VFDs for grit pump control. 	LFUCG (Public)	Town Branch
Sanitary Sewer Pumping Station Operation Plan for Power Outages Lexington-Fayette Urban County Government Lexington, KY	2009/2011	Developed emergency procedures in the event of a utility electrical service outage at each pump station in the LFUCG system.	<ul style="list-style-type: none"> • Outage plan for 82 pump stations. • Includes use of portable generator, portable pumps and vector truck to maintain system operation. 	LFUCG (Public)	Multiple Sewer Sheds
Sanitary Sewer Pumping Station Design, Capacity and Equipment Adequacy Evaluation Report Lexington-Fayette Urban County Government Lexington, KY	2009	Evaluated selected pump stations to determine condition, emergency storage volumes, pump flow rates and projected pump station influent flows.	<ul style="list-style-type: none"> • Evaluated condition of 20 pump stations of various capacity. • Performed pump "draw-down" evaluations to determine actual pump station flow rate compared to design pump rate. • Completed hydraulic analysis of existing pumps and force mains. 	LFUCG (Public)	Multiple Sewer Sheds

List of LFUCG Non-RMP Wastewater Conveyance Projects

Strand has completed over 30 wastewater projects constructing facilities making up a major portion of LFUCG's wastewater conveyance system. The table below summarizes projects that include:

- Significant Trunk Sewer Facilities
- Major Studies to Evaluate Trunk Sewers and Sewersheds
- Major Sewer Rehabilitation Projects
- Other Wastewater Conveyance Projects that Include Pump Stations and Force Mains

In addition to these identified conveyance related projects, Strand has delivered project 14 projects at the Town Branch and West Hickman wastewater treatment facilities.

LFUCG TRUNK SEWER - RELATED PROJECTS					
Project Name	Date	Services Provided	Project Description	Client & Funding	LFUCG Watershed
Lower Cane Run Trunk Sewer, Pump Station and Force Main Lexington-Fayette Urban County Government Lexington, KY	1995	Complete design services including alignment and sizing analysis. Also provided bidding and construction contract administration.	<ul style="list-style-type: none"> • 24,000 LF interceptor up to 48-in diameter. • Eliminated eight smaller pump stations. • 15,000 gpm dry pit-submersible pump station. • 26,000 LF 30-in force main. • Constructed in four construction contracts. 	LFUCG (Public)	Cane Run
LCR-2 Trunk Sewer and Pumping Station and Force Main Barlow Homes Lexington, KY	2007	Complete design services including alignment and sizing analysis. Also provided bidding and construction contract administration.	<ul style="list-style-type: none"> • 2,500 gpm triplex submersible pump station with auxiliary generator. • 2,300 LF 18-in interceptor with 9,500 LF 14-in PVC force main complying with LFUCG design criteria. • Includes building to house biocide chemical storage and feed system. 	Private Project Meeting LFUCG Standards	Cane Run
South Elkhorn Trunk Sewer Replacement Lexington-Fayette Urban County Government Lexington, KY	2002/2006	Complete design, bidding, and construction-related services. Constructed in two contracts.	<ul style="list-style-type: none"> • 1,800 LF of 36-in gravity sewer pipe. • 1,100 LF of 24-in force main. • Included bypass pump arrangement for duration of pump replacement installation. 	LFUCG (Public)	West Hickman
Expansion Area 2C Trunk Sewer Ball/Barlow/Cutter Lexington, KY	2003	Complete design services including alignment and sizing analysis. Also provided bidding and construction contract administration.	<ul style="list-style-type: none"> • 4,000 LF of 30-in trunk sewer utilizing ductile iron pipe with protective lining. • Project solved a difficult sewerability challenge for new development expansion area. • Included reservoir crossing installed with stone fill and pipe cradle support. • Easement development and acquisition. 	Private Project Meeting LFUCG Standards	East Hickman
Dixie Trunk Sewer Replacement Lexington-Fayette Urban County Government Lexington, KY	2002	Complete design services including alignment and sizing analysis. Also provided bidding and construction contract administration.	<ul style="list-style-type: none"> • 6,500 LF of 12-in to 24-in Interceptor Replacement Project, including replacement in existing alignment and new parallel installation. • Bypass pumping required. • CIPP lining of 2,000 LF existing pipe. • Natural Channel Restoration feature coordinated with sewer installation. 	LFUCG (Public)	North Elkhorn
Lansdowne Trunk Sewer Improvements Lexington-Fayette Urban County Government Lexington, KY	2002	Complete design services including alignment and sizing analysis. Also provided bidding and construction contract administration.	<ul style="list-style-type: none"> • 5,800 LF of 10-in to 24-in Interceptor Replacement Project, including replacement in existing alignment and new parallel installation. • Bypass pumping required. • Trunk sewer located in developed area 	LFUCG (Public)	West Hickman
West Hickman Miscellaneous Trunk Sewer Improvements Lexington-Fayette Urban County Government Lexington, KY	1999	Complete design services including alignment and sizing analysis. Also provided bidding and construction contract administration.	<ul style="list-style-type: none"> • 450 LF of 30-in pipe in new alignment to eliminate known capacity issue. • Open excavation repair of 16 pipe segments in various locations within the watershed. • 70 LF of 48-in bore/tunnel. • CIPP rehabilitation of 6 pipe segments in various locations within the watershed. • Rehabilitated 6 manholes. 	LFUCG (Public)	West Hickman
SE-1-TA - South Elkhorn Trunk OPSS Improvements Lexington-Fayette Urban County Government Lexington, KY	1986	Complete design services including alignment and sizing analysis. Also provided bidding and construction contract administration.	<ul style="list-style-type: none"> • 3,500 LF of 18-in trunk sewer to serve unsewered development. • Implemented in compliance with OPSS requirements. 	LFUCG (Public) and OPSS Requirements	South Elkhorn
NE-3-TE - North Elkhorn Trunk OPSS Improvements Lexington-Fayette Urban County Government Lexington, KY	1988	Complete design services including alignment and sizing analysis. Also provided bidding and construction contract administration.	<ul style="list-style-type: none"> • 2,642 LF of 10- to 12-in trunk sewer to serve unsewered development. • Implemented in compliance with OPSS requirements. 	LFUCG (Public) and OPSS Requirements	North Elkhorn
Hartland Trunk Sewer Hartland Development Partners Lexington, KY	1983	Complete design services including alignment and sizing analysis. Also provided bidding and construction contract administration.	<ul style="list-style-type: none"> • 4,855 LF of 12- to 21-in trunk sewer to serve unsewered development. 	Private Project Meeting LFUCG Standards	West Hickman
Williams Property Trunk Extension (LTB-1-TF) Beazer Homes Lexington, KY	2004	Complete design services including alignment and sizing analysis. Also provided bidding and construction contract administration.	<ul style="list-style-type: none"> • 4,250 LF of 10- to 15-in trunk sewer to serve unsewered development. • Implemented in compliance with OPSS requirements. 	Private Project Meeting LFUCG Standards and OPSS Requirements	Lower Town Branch
Trunk Sewer Extension for Willow Oak Development Homes by Heritage of Kentucky Lexington, KY	1987	Complete design services including alignment and sizing analysis. Also provided construction contract administration.	<ul style="list-style-type: none"> • 1,765 LF of 15- to 18-in trunk sewer to serve unsewered development. • Implemented in compliance with OPSS requirements. 	Private Project Meeting LFUCG Standards	South Elkhorn

LFUCG TRUNK SEWER-RELATED PROJECTS (CONT'D)					
Project Name	Date	Services Provided	Project Description	Client & Funding	LFUCG Watershed
SE-4-TA Firebrook Development Lexington, KY	1989	Complete design services including alignment and sizing analysis. Also provided construction contract administration.	<ul style="list-style-type: none"> 4,200 LF of 10- to 15-in trunk sewer to serve unsewered development. Implemented in compliance with OPSS requirements. 	Private Project Meeting LFUCG Standards	South Elkhorn
Trunk Sewer Extension for Hi-Acres Development Hi Acres Development Co. and Copperfield Development Co. Lexington, KY	1991	Complete design services including alignment and sizing analysis. Also provided construction contract administration.	<ul style="list-style-type: none"> 3,327 LF of 12- to 15-in trunk sewer to serve unsewered development. Implemented in compliance with OPSS requirements. 	Private Project Meeting LFUCG Standards	South Elkhorn
Manchester Relief Sewer Lexington-Fayette Urban County Government Lexington, KY	1983	Complete design services including alignment and sizing analysis. Also provided bidding and construction contract administration.	<ul style="list-style-type: none"> 9500 LF of 24- to 54-in trunk sewer located on Manchester Street. Provided additional capacity to mitigate overflows upstream of Town Branch WWTP. 	LFUCG (Public)	Town Branch
Eastern Interceptor Project Lexington-Fayette Urban County Government Lexington, KY	1979	Complete design services including alignment and sizing analysis. Also provided bidding and construction contract administration.	<ul style="list-style-type: none"> 26,000 LF of 21- to 48-in trunk sewer constructed as part of the Eastern Interceptor sewer project. Two major Class A pump stations (the original North Elkhorn and East Hickman Pump Stations) 12,500 LF of 30-in force main. This project constructed the original major sewer infrastructure in North Elkhorn and East Hickman sewersheds. 	LFUCG (Public)	North Elkhorn and East Hickman
LFUCG MAJOR STUDIES WITH TRUNK SEWERS					
Project Name	Date	Services Provided	Project Description	Client & Funding	LFUCG Watershed
North Elkhorn/East Hickman Sewershed Study Lexington-Fayette Urban County Government Lexington, KY	2003	Evaluate the condition of trunk sewers within the NE/EH watersheds and recommended improvements to reduce sanitary sewer overflows.	<ul style="list-style-type: none"> Evaluated 75,700 LF of trunk sewer ranging in size from 10- to 48-in diameter Evaluated 13 pump stations. Performed flow monitoring and night flow isolations to determine existing flows Developed XPSWMM hydraulic model to predict wastewater flows for dry and wet weather. Completed CCTV evaluation of existing sewers and identified defects requiring repair. Performed manhole evaluations. Performed smoke testing. Distributed neighborhood questionnaires to obtain public input regarding wastewater needs. Identified the need for major capacity increases in trunk sewer systems. 	LFUCG project	North Elkhorn and East Hickman
West Hickman Sewershed Study Lexington-Fayette Urban County Government Lexington, KY	2002	Evaluate the condition of trunk sewers within the West Hickman watershed and recommended improvements to reduce sanitary sewer overflows.	<ul style="list-style-type: none"> Evaluated 138,000 LF of trunk sewer ranging in size from 12- to 54-in. Evaluated 7 pump stations. Performed flow monitoring and night flow isolations to determine existing flows Developed XPSWMM hydraulic model to predict wastewater flows for dry and wet weather. Completed CCTV evaluation of existing sewers and identified defects requiring repair. Performed manhole evaluations. Performed smoke testing. Distributed neighborhood questionnaires to obtain public input regarding wastewater needs. Identified the need for major capacity increases in trunk sewer systems. 	LFUCG project	West Hickman
Outer Perimeter Sewer Study (OPSS) Lexington-Fayette Urban County Government Lexington, KY	1986	Evaluated areas designated for development and recommended efficient methods to build collection and conveyance systems for unsewered areas as land was developed.	<ul style="list-style-type: none"> Identified projects for implementation to sewer unsewered areas as they developed. Provided basis for developers to be reimbursed for their initial investment in wastewater facilities that benefitted other properties. Reduced the number of "interim" wastewater solutions required to sewer undeveloped properties. 	LFUCG project	All LFUCG Sewersheds
201 Facilities Plan Update Lexington-Fayette Urban County Government Lexington, KY	1999	20-year planning document. Services included evaluation of existing collection, conveyance and treatment facilities. Recommendations for treatment facility upgrades and improvements to collection conveyance systems.	<ul style="list-style-type: none"> Smoke testing, flow monitoring, night flow isolation and other field investigation. Treatment plant capacity assessment. Projection of future wastewater flows. Recommended diverting North Elkhorn sewershed flow from West Hickman WWTP. Recommended wastewater system improvements as well as conveyance system improvements. 	LFUCG project	All LFUCG Sewersheds

LFUCG MAJOR SEWER SYSTEM REHABILITATION PROJECTS					
Project Name	Date	Services Provided	Project Description	Client & Funding	LFUCG Watershed
West Hickman Sub-Area 4 Collection System Rehabilitation Lexington-Fayette Urban County Government Lexington, KY	2001	Documented existing pipe condition, evaluated rehabilitation options and prepared bidding documents for rehabilitation. Also provided bidding and construction contract administration.	<ul style="list-style-type: none"> Comprehensive field investigation and CCTV of collection system. Open excavation repair of sanitary sewer tributary to SSOs. Lining rehabilitation of sanitary sewer tributary to SSOs. 	LFUCG	West Hickman
West Hickman Sub-Area 6 Collection System Rehabilitation Lexington-Fayette Urban County Government Lexington, KY	2003	Documented existing pipe condition, evaluated rehabilitation options and prepared bidding documents for rehabilitation. Also provided bidding and construction contract administration.	<ul style="list-style-type: none"> Comprehensive field investigation and CCTV of collection system. Open excavation repair of 83 pipe segments. Lining rehabilitation of 64 pipe segments. 	LFUCG	West Hickman
West Hickman Sub-Area 7 Collection System Rehabilitation Lexington-Fayette Urban County Government Lexington, KY	2002	Documented existing pipe condition, evaluated rehabilitation options and prepared bidding documents for rehabilitation. Also provided bidding and construction contract administration.	<ul style="list-style-type: none"> Comprehensive field investigation and CCTV of collection system. Open excavation repair of 55 pipe segments. Lining rehabilitation of 78 pipe segments. 	LFUCG	West Hickman
North Elkhorn/East Hickman Sub-Areas 1 and 2 Collection System Rehabilitation Lexington-Fayette Urban County Government Lexington, KY	2000	Documented existing pipe condition, evaluated rehabilitation options and prepared bidding documents for rehabilitation. Also provided bidding and construction contract administration.	<ul style="list-style-type: none"> Comprehensive field investigation and CCTV of collection system. Open excavation repair of 46 pipe segments. Lining rehabilitation of 90 pipe segments. 	LFUCG	North Elkhorn and East Hickman
LFUCG OTHER WASTEWATER CONVEYANCE PROJECTS					
Project Name	Date	Services Provided	Project Description	Client & Funding	LFUCG Watershed
Spicewood Pump Station Cutter Homes Lexington, KY	2001	Complete design services including pump station/force main capacity analysis. Also provided bidding and construction contract administration.	<ul style="list-style-type: none"> Upgrade of existing pump station to meet new flow requirements for upstream development 402 gpm Class C duplex pump station. Submersible pump configuration. 10-in force main. 	Private Project Meeting LFUCG Standards	Town Branch
Kentucky Horse Park and Spindletop Pump Stations and Force Main Commonwealth of Kentucky Lexington, KY	2000	Complete design services including pump station/force main capacity analysis. Also provided bidding and construction contract administration.	<ul style="list-style-type: none"> 700 gpm Class C duplex Horse Park pump station. 100 gpm Class C duplex Spindletop pump station. 12-in force main that discharges to the LCR-1 pump station. Force main crossing under I-64/75 with highway encroachment. Assisted with easements and roadway encroachment permits. 	Public Project with Commonwealth of Kentucky Funding Meeting LFUCG Standards	Cane Run
Deep Springs Pump Station 1985 Renovation Lynwood Wiseman Lexington, KY	1985	Complete design services including pump station capacity analysis. Also provided bidding and construction contract administration.	<ul style="list-style-type: none"> 650 gpm Class C duplex pump station. Converted old dry pit/wet pit pump station to new submersible pump configuration. Reused existing force main. Pump station was later replaced and is no longer in service. 	Private Project Meeting LFUCG Standards	North Elkhorn
Paradise Lane Pump Station Lexington-Fayette Urban County Government Lexington, KY	2017	Complete design services including pump station/force main capacity analysis. Also provided bidding and construction contract administration.	<ul style="list-style-type: none"> 25 gpm Class D duplex pump station. Submersible pump configuration utilizing grinder pumps. 2-in force main. 	Public Project/LFUCG	North Elkhorn
Hartland Pump Station No. 1 Hartland Development Partners Lexington, KY	1985	Complete design services including pump station/force main capacity analysis. Also provided bidding and construction contract administration.	<ul style="list-style-type: none"> 376 gpm Class C duplex pump station. Submersible pump configuration. 8-in force main. 	Private Project Meeting LFUCG Standards	East Hickman
Hartland Pump Station No. 2 Hartland Development Partners Lexington, KY	1985	Complete design services including pump station/force main capacity analysis. Also provided bidding and construction contract administration.	<ul style="list-style-type: none"> 100 gpm Class C duplex pump station. Submersible pump configuration. 4-in force main. 	Private Project Meeting LFUCG Standards	East Hickman
Hartland Pump Station No. 3 Hartland Development Partners Lexington, KY	1990	Complete design services including pump station/force main capacity analysis. Also provided bidding and construction contract administration.	<ul style="list-style-type: none"> 850 gpm Class C duplex pump station. Submersible configuration. 10-in force main. 	Private Project Meeting LFUCG Standards	East Hickman
Armstrong Mill Road Pump Station First Lexington Company Lexington, KY	1985	Complete design services including pump station/force main capacity analysis. Also provided bidding and construction contract administration.	<ul style="list-style-type: none"> 1,100 gpm Class B duplex pump station. Submersible pump configuration. 12-in force main. 	Private Project Meeting LFUCG Standards	East Hickman
Greenbrier #1 Pump Station Private Developer Lexington, KY	1981	Complete design services including pump station/force main capacity analysis. Also provided bidding and construction contract administration.	<ul style="list-style-type: none"> 325 gpm Class C duplex pump station. Dry pit/wet pit configuration. 8-in force main. 	Private Project Meeting LFUCG Standards	North Elkhorn
Greenbrier #2 Pump Station Private Developer Lexington, KY	1981	Complete design services including pump station/force main capacity analysis. Also provided bidding and construction contract administration.	<ul style="list-style-type: none"> 180 gpm Class C duplex pump station. Dry pit/wet pit configuration. 6-in force main. 	Private Project Meeting LFUCG Standards	North Elkhorn

List of Representative Wastewater Conveyance Projects Completed for Other Clients in the Last Five Years

Strand has been helping Kentucky clients meet wastewater system challenges for over 50 years. Representative projects for other Kentucky clients include large diameter sewer construction, sewer rehabilitation, new collection/conveyance systems for unsewered areas and pumping systems. The following table includes projects for Kentucky clients.

REPRESENTATIVE SANITARY SEWER PROJECTS FOR OTHER CLIENTS					
Project Name	Date	Services Provided	Project Description	Funding	Client Reference
Kentucky Avenue Interceptor Frankfort Sewer Department Frankfort, KY	2017	Complete design services including alignment and sizing analysis. Also provided easement, permitting assistance and SRF funding assistance.	<ul style="list-style-type: none"> Construction of 4,300 LF new 48-in interceptor sewer Project complicated by large number of wastewater sources discharging into interceptor sewer Sensitive alignment adjacent to Kentucky River Bank area and wetlands. Environmental permitting and SRF Funding. Interceptor sewer coordinated with wet weather storage facilities. 	SRF/KIA	Keith Parker, P.E. City Manager City of Frankfort (502) 875-8500
Kentucky Avenue Interceptor Rehabilitation Frankfort Sewer Department Frankfort, KY	2019	Complete design, bidding and construction-related services. Also provided SRF funding assistance.	<ul style="list-style-type: none"> UV cured-in-place lining of 3,900 LF 48- and 42-in sewer Rehabilitation of 12 interceptor manholes. SRF Funding 	SRF/KIA	Keith Parker, P.E. City Manager City of Frankfort (502) 875-8500
2nd Street Tiger Grant Project City of Frankfort Frankfort, KY	On-going	Complete planning and design services for major infrastructure improvement, including transportation, sanitary sewer and storm sewer separation.	<ul style="list-style-type: none"> Relocate utilities from overhead to underground utilities. Provided support for Tiger grant funding. Design for 1,200 LF of sanitary sewer and 2,950 LF storm sewer. Total project cost \$8.4 million. Tiger Grant funding relied heavily on sanitary sewer and separation components for selection. 	Tiger/Local	Chuck Knowles, P.E. Project Manager City of Frankfort (502) 682-5590
Rolling Acres Phase 2 Sewer Rehabilitation Frankfort Sewer Department Frankfort, KY	2019	Complete design, bidding and construction-related services including full time RPR. Also performed evaluation/prioritization of pipe system defects and determined best method for rehabilitation.	<ul style="list-style-type: none"> Open excavation replacement of 6,020 LF of sewer collector piping. In-situ lining of 7,820 LF of sewer collector piping. New service connections with clean-outs to 190 customers. 	Local Funds	Keith Parker, P.E. City Manager City of Frankfort (502) 875-8500
Nolin River Sewer Infrastructure Hardin County Water District No. 2 Glendale, KY	2019	Complete design services including alignment and sizing analysis. Also includes piping and construction administration.	<ul style="list-style-type: none"> 24-in interceptor 1,700 LF plus 10-in sewers (7800 LF) and 8-in sewers (25,900 LF). Four new pump stations. Force mains (16-in 30,000LF, 12-in 7,200 LF, 10-in 7,200 LF, 8-in 14,400 LF, 6-in 14,900 LF, 4-in 8600 LF). 	BRAC Grant/Local	James Jeffries Hardin County Water District No. 2 (270) 737-1056
Burgin Sanitary Sewer System Improvements Mercer County Sanitation District Harrodsburg, KY	2018	Complete design services including alignment and sizing analysis. Also includes bidding, and construction administration services.	<ul style="list-style-type: none"> New sewer system to serve approximately 500 new customers in City of Burgin. 51,000 LF of 12- and 8-in sanitary sewer. Three submersible pump stations ranging in capacity from 45 gpm to 710 gpm. 20,000 LF of 12-in force main located in KYTC rights of way and easements. 	RD/CDBG/KIA/Local Funds	Mike Sanford General Manager Mercer County Sanitation District (859) 748-9654
Kennedy Bridge Sanitary Sewer Improvements Mercer County Sanitation District Harrodsburg, KY	2018	Complete design services including alignment and sizing analysis. Also includes bidding and construction administration.	<ul style="list-style-type: none"> New 18,000 GPD wastewater treatment facility to replace existing infrastructure. 700 LF of sanitary sewer collection system. 1,200 LF of low pressure sewer installation. 12 grinder pump stations 	CDBG and Local Funds	Mike Sanford General Manager Mercer County Sanitation District (859) 748-9654
Jeffersontown Force Main Project Louisville MSD Louisville, KY	2015	Complete design services including alignment study. Also included easement development services.	<ul style="list-style-type: none"> 5.1 miles of 24-in force main. Located in heavily developed residential and commercial areas. Completed permitting including encroachment and environmental permits. 54 easements required. 	Local Funds	Brad Selch, P.E. Louisville MSD (502) 540-6000
Roberts Drive and 6th Street Pump Station and Force Main City of Ashland Ashland, KY	2014	Complete design services including alignment and sizing analysis. Also includes bidding and construction administration.	<ul style="list-style-type: none"> 5,400 LF of 20-in force main. 10,000 LF 30-in force main. Increase pumping capacity from 3.75 MGD to 7.0 MGD. Sensitive crossings of flood protection levee and flood wall. 	Local Funds	Mark Hall City of Ashland, KY (606) 327-2008



Knowledge of LFUCG

Strand's Long-Term Service to LFUCG Provides the Institutional Knowledge to Efficiently Deliver Engineering Services for RMP Projects

Strand has served LFUCG on wastewater projects continuously and successfully since the early 1970s. We are proud of our record of performance and the privilege to be of service to the Urban County Government and to the community. Strand has provided a broad range of wastewater engineering services from initial planning through design and construction phases for numerous collection and conveyance, treatment, trunk sewer rehabilitation, and I/I reduction projects.

Members of Strand's Project Team Have Been Working on LFUCG Projects for Over 35 Years.

The following chart summarizes the number and duration of major wastewater projects delivered for LFUCG beginning with the Eastern Interceptor Sewer System starting in the early 1970s.

MAJOR WASTEWATER PROJECTS	70	75	80	85	90	95	00	05	06	07	08	09	10	11	12	13	14	15	16	17	18	19	20	
Town Branch Secondary Digester																								
Town Branch Digester																								
Town Branch Commons – Midland Avenue Trunk Sewer																								
Town Branch Aeration																								
West Hickman Scum																								
Town Branch Screen and Grit Facility Improvements																								
Town Branch/West Hickman WWTP/PS SCADA/Electrical																								
Sanitary Sewer Capacity Analysis																								
Town Branch WWTP Chlorination Equipment Replacement																								
West Hickman Miscellaneous Equipment Replacement																								
Town Branch Screw Pump Replacement																								
Pump Station Evaluations Project																								
Town Branch Primary Effluent Generator																								
Wastewater Plants Electrical Service Upgrades																								
Town Branch Laboratory Assistance																								
Town Branch WWTP Electrical System Evaluation																								
Town Branch Phosphorous Removal Study																								
North Elkhorn, East Hickman Trunk Sewer Rehabilitation																								
West Hickman Trunk Sewer Rehabilitation																								
201 Facilities Plan Update																								
Lower Town Branch Sewer System Study																								
Lower Cane Run Interceptor, PS & FM																								
West Hickman WWTP Construction																								
Heritage Hall Expansion																								
Georgetown Road Sewer System Study																								
Outer Perimeter Sewerage System Implementation Plan																								
Armstrong Mill Interceptor, PS & FM																								
Town Branch WWTP Expansion																								
Town Branch WWTP																								
North Elkhorn PS & FM																								
Eastern Interceptor																								

Since the early 1970s we have directly served LFUCG Division of Water Quality/Division of Sanitary Sewers for over 25 significant wastewater projects. We have also provided engineering services for other projects that constructed major components of LFUCG's wastewater system. Our project team includes key individuals that have

served LFUCG for over 35 years. Through our project experience we have developed working relationships within DWQ at all levels including leadership, engineering, operations personnel and support staff. These relationships and project experience allow us to work together with LFUCG staff to meet the needs of wastewater projects. The following table shows participation of key individuals in the projects performed during the past 35 years directly for LFUCG. Our project team brings a consistent level of experience serving LFUCG.

Strand's project team reflects 35 years of continuity.

Project	Michael Davis, P.E.	Michael Woolum, P.E.	Liz Dienst, P.E.	Steve Vogel, P.E.	Matt McMackin, P.E.	Emily Epperson, P.E.	Stephen Moore, E.I.T.	Robbie Nguyen, E.I.T.	Bailee Young, E.I.T.
Southeastern Hills	✓	✓		✓	✓				✓
Midland Avenue Trunk Sewer	✓	✓			✓		✓	✓	✓
Sharon Village Pump Station and Force Main	✓	✓	✓	✓	✓		✓	✓	✓
West Hickman Scum Improvements	✓		✓						
Town Branch Primary Digester Complex	✓		✓			✓			
Town Branch Aeration Improvements	✓		✓			✓			
Town Branch Secondary Digester Complex	✓								
Town Branch Screen and Grit Improvements	✓		✓						
Pumping Station Operation Plan for Power Outage	✓	✓							
Sanitary Sewer Pumping Station Design, Capacity and Equipment Adequacy Evaluation	✓	✓							
Lower Cane Run Trunk Sewer, Pump Station and Force Main	✓	✓							
South Elkhorn Trunk Sewer Replacement	✓								
Dixie Trunk Sewer Replacement	✓								
Lansdowne Trunk Sewer Replacement	✓								
West Hickman Miscellaneous Trunk Sewer Repairs	✓								
SE-1-TA South Elkhorn Trunk OPSS Improvements		✓							
NE-3-TE North Elkhorn Trunk OPSS Improvements		✓							
North Elkhorn/East Hickman Sewershed Study	✓	✓							
West Hickman Sewershed Study	✓	✓							
201 Facilities Plan Update	✓	✓							
West Hickman Subarea 4 Collection System Rehabilitation	✓								
West Hickman Subarea 6 Collection System Rehabilitation	✓								
West Hickman Subarea 7 Collection System Rehabilitation	✓								
North Elkhorn/East Hickman Subareas 1 and 2 Collection System Rehabilitation	✓								
Paradise Lane Pump Station	✓	✓	✓		✓				

These projects required a broad range of engineering services during planning, design, construction and start-up phases of project development. The following table summarizes the types of services provided to LFUCG in support of these projects.

Project	Planning	Hydraulic Analysis	Field Investigation	Easement and Rights of Way Services	Permitting	Subsurface Investigation	Environmental Permitting	Pumping Systems	Surveying	Engineering Design and Drawing Production	Specification Production	Structural, Electrical, Mechanical Evaluation and Design	Bid-Phase Services	Construction-Related Services	RPR Services During Construction	Public Involvement	Funding Assistance
Southeastern Hills			✓	✓	✓	✓	✓		✓	✓	✓		✓	✓			
Midland Avenue Trunk Sewer			✓	✓	✓					✓	✓		✓	✓			✓
Sharon Village Pump Station and Force Main		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		
West Hickman Scum Improvements			✓		✓			✓		✓	✓	✓	✓	✓	✓		
Town Branch Primary Digester Complex		✓	✓		✓			✓		✓	✓	✓	✓	✓	✓		
Town Branch Aeration Improvements		✓	✓		✓					✓	✓	✓	✓	✓	✓		
Town Branch Secondary Digester Complex		✓	✓		✓			✓		✓	✓	✓	✓	✓	✓		
Town Branch Screen and Grit Improvements		✓	✓		✓			✓		✓	✓	✓	✓	✓			
Pumping Station Operation Plan for Power Outage	✓		✓														
Sanitary Sewer Pumping Station Design, Capacity and Equipment Adequacy Evaluation	✓	✓	✓					✓									
Lower Cane Run Trunk Sewer, Pump Station and Force Main		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
South Elkhorn Trunk Sewer Replacement		✓	✓		✓				✓	✓	✓		✓	✓			
Dixie Trunk Sewer Replacement		✓	✓		✓	✓			✓	✓	✓		✓	✓		✓	
Lansdowne Trunk Sewer Replacement		✓	✓		✓				✓	✓	✓		✓	✓		✓	
West Hickman Miscellaneous Trunk Sewer Repairs		✓	✓	✓	✓				✓	✓	✓		✓	✓			
SE-1-TA South Elkhorn Trunk OPSS Improvements		✓	✓		✓				✓	✓	✓		✓	✓			
NE-3-TE North Elkhorn Trunk OPSS Improvements		✓	✓		✓				✓	✓	✓		✓	✓			
North Elkhorn/East Hickman Sewershed Study	✓	✓	✓					✓								✓	
West Hickman Sewershed Study	✓	✓	✓					✓								✓	
201 Facilities Plan Update	✓	✓	✓													✓	
West Hickman Subarea 4 Collection System Rehabilitation			✓							✓	✓		✓	✓			
West Hickman Subarea 6 Collection System Rehabilitation			✓							✓	✓		✓	✓			
West Hickman Subarea 7 Collection System Rehabilitation			✓							✓	✓		✓	✓			
North Elkhorn/East Hickman Subareas 1 and 2 Collection System Rehabilitation			✓							✓	✓		✓	✓			
Paradise Lane Pump Station		✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓			



Field Investigation May Include the Following:

- Flow Monitoring
- CCTV Evaluation
- Smoke Testing
- Pump Performance Testing
- Structure Evaluation
- Manhole Inspections

KNOWLEDGE OF TOWN BRANCH AND WOLF RUN WATERSHED

Based on direct knowledge of the LFUCG wastewater infrastructure gained during the successful performance of multiple wastewater projects, Strand brings detailed facility knowledge of the Town Branch and Wolf Run watersheds. In the early 1990s Strand performed broad evaluations in these two watersheds to support the 201 Facilities Plan Update. Investigation completed in this project included the following major components.

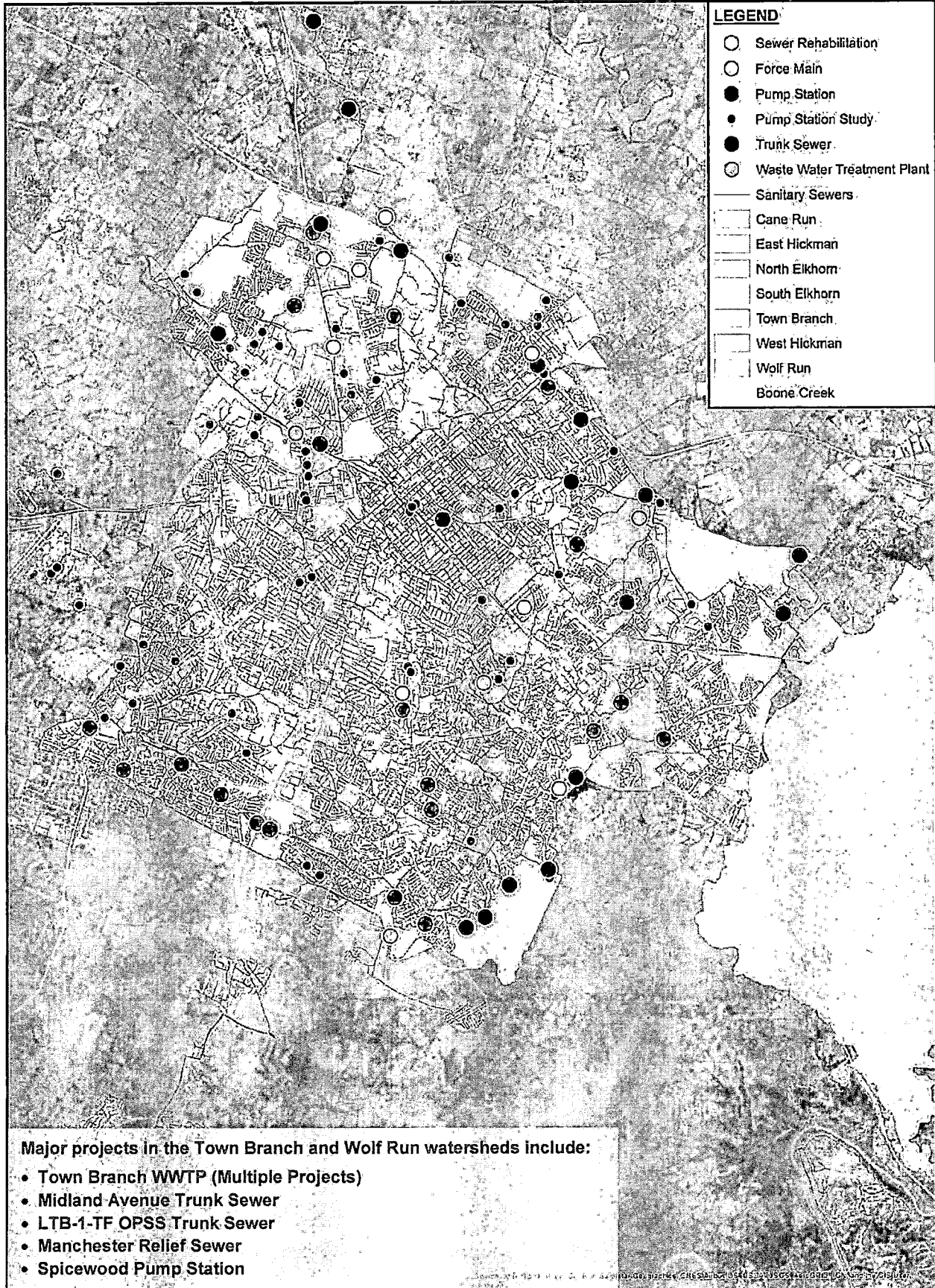
- Flow monitoring of trunk sewers to capture dry and wet weather flows.
- Hydraulic modeling to predict sewer flows during dry weather and selected wet weather events.
- Structure inspections.

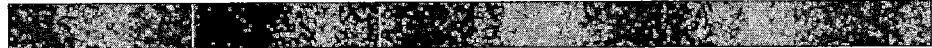
This evaluation demonstrated that a large amount of trunk sewer piping was insufficient to convey flows experienced during wet weather, and that major system improvements were required. Selected projects were identified to upsize or rehabilitate existing trunk sewers. In addition to trunk sewer evaluation, selected collection system areas that were identified as major contributors to inflow and infiltration were evaluated for rehabilitation projects.

The 201 Plan Update evaluated flows tributary to the Town Branch and West Hickman WWTPs and recommended the North Elkhorn diversion project to redirect flow from North Elkhorn pump station to the Town Branch WWTP. This diversion reduced flow to the West Hickman WWTP and also off-loaded conveyance facilities in the East and West Hickman watersheds constructed as part of the Eastern Interceptor system.

In addition to overall study and evaluation of the Town Branch and Wolf Run watersheds, Strand provided design and construction-phase support of the following wastewater infrastructure projects. *See map on the following page.*

Strand's knowledge of the Town Branch and Wolf Run Watershed area is based on field investigation, evaluation and completed projects.





Local Resources/Firm Capacity

Experienced Project Managers with Seasoned Technical Resources Provide Expertise to Support LFUCG's Complete Range of Project Needs

Our Project Team offers the full complement of engineering capabilities that are needed for the many technical challenges that could potentially result through this infrastructure program. We have included project managers with specialized experience directly related to this service discipline who take pride in their work having served on many prior projects on behalf of LFUCG. Our Project Management Team is supported by locally-based engineers and technicians with years of experience involving sanitary sewer pipeline-related projects. Additionally, Strand's collaborative partnership with Vector Engineers, Inc./CTL Engineering, Inc., Third Rock Consultants, LLC and Dave Leonard on previous projects brings familiar expertise related to geotechnical engineering and environmental-related services. We have also included the Underground Detective and Pipe Eyes, LLC who have played similar supporting roles on previous Strand led endeavors. Our Project Team is organized to share responsibilities in an efficient manner, resulting in a project delivery approach designed to meet Consent Decree deadlines. *One-page resumes of key team members, who are likely to contribute more than 10% of the total man hours, follow at the end of this section.*

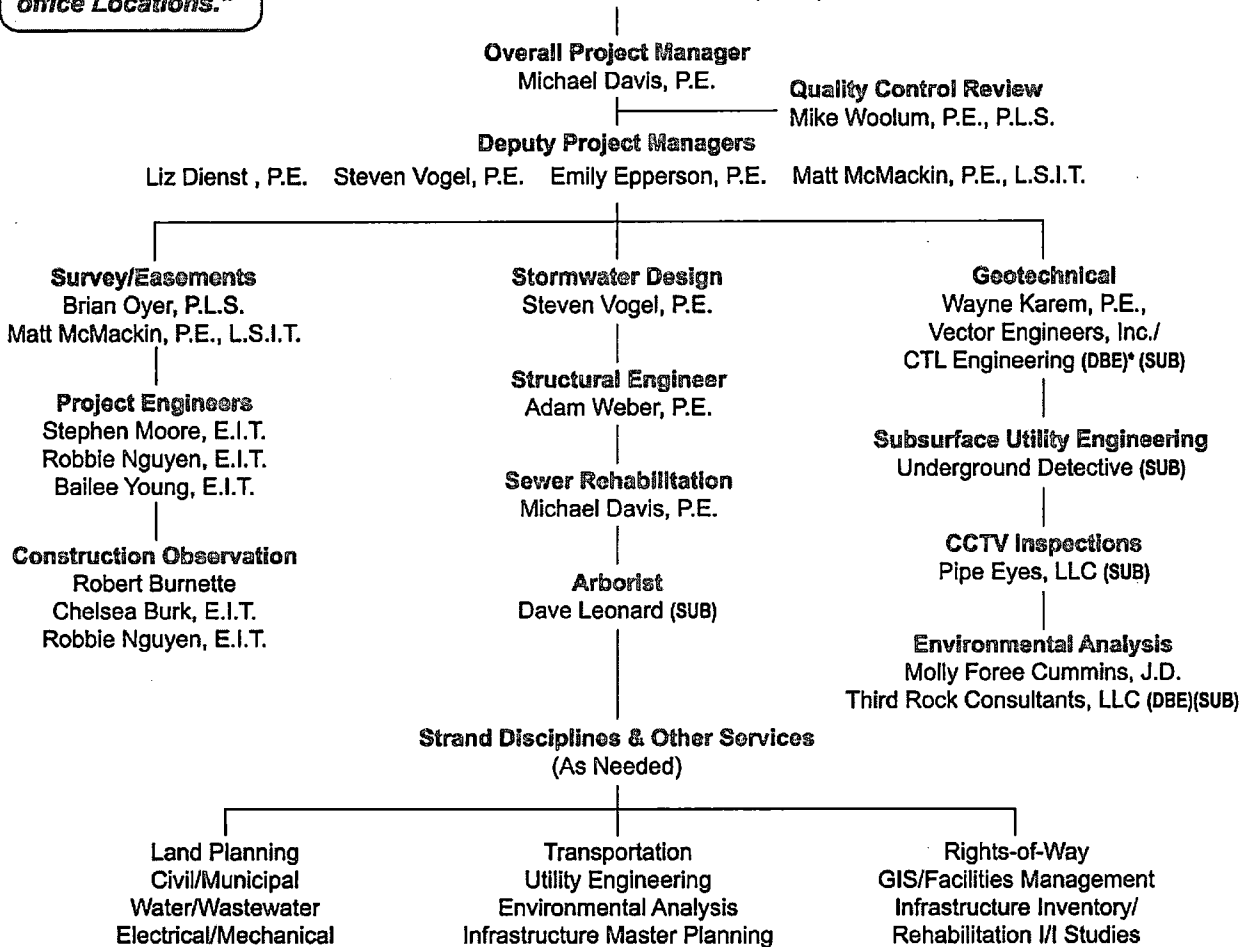
Our Lexington office staff brings the commitment and requisite experience to successfully deliver for this watershed area.

"See table on following page for Strand employee office Locations."



LEXINGTON

DIVISION OF WATER QUALITY (DWQ)



***Note: Vector Engineers, Inc. is currently seeking MBE status with LFUCG. See letter in the "Appendix-Required Forms" tab.**

List of Local Project Team Members for Wastewater Conveyance Projects

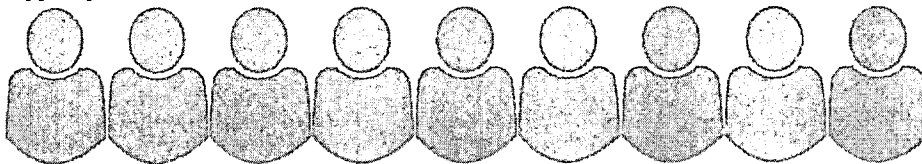
Team Member	Locally-Based	Project Management	Sanitary Sewer Design	Surveying/Easement Development	Contract Documents	Stormwater/SWPP/EPSC	Utility Coordination/Cost Estimating	Permitting (KDOW/401/404/KVT)	Contract Administration	Resident Observation	KIAA Funding Assistance
MICHAEL DAVIS, P.E.	✓	✓	✓		✓		✓	✓	✓		✓
MICHAEL WOOLUM, P.E., P.L.S.	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓
STEVEN VOGEL, P.E.	✓	✓	✓	✓	✓	✓	✓	✓	✓		
MATT MCMACKIN, P.E., L.S.I.T.	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
LIZ DIENST, P.E.	✓	✓	✓		✓	✓	✓	✓	✓		✓
EMILY EPPERSON, P.E.	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
ADAM WEBER, P.E.	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓
BRIAN OYER, P.L.S.	*			✓	✓		✓				
STEPHEN MOORE, E.I.T.	✓		✓	✓	✓	✓	✓	✓		✓	
ROBBIE NGUYEN, E.I.T	✓		✓	✓	✓	✓	✓	✓		✓	
BAILEE YOUNG, E.I.T	✓		✓	✓	✓	✓	✓	✓		✓	
CHELSEA BURK, E.I.T	✓		✓	✓	✓	✓	✓	✓		✓	
ROBERT BURNETTE	✓		✓	✓	✓	✓	✓	✓		✓	

*As surveyor, Brian splits time between Lexington, Louisville, and Cincinnati Projects.

Location of Office and Overall Project Manager Providing Services to DWQ
 Selection of Strand for this project will maximize local employment by utilizing our Lexington office staff to manage and deliver the watershed program. Having established our firm’s operations in Lexington in 1968, our Project Team is locally based and invested in numerous aspects of this community both professionally and personally. We also bring long-term working relationships with LFUCG’s DWQ engineering and plant operations personnel and possess an excellent understanding of its priorities for project delivery. Finally, our two locally based principals offer over 35+ years of applied experience and familiarity to the sewer infrastructure for this community.

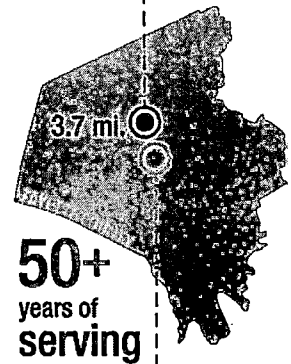
Commitment and Availability of Project Managers and Staff to Provide Services

Our availability is demonstrated through our firm-wide scheduling system which includes the current committed workload for each team member over the next 2-year period. Subtracting the current commitments of our local office staff, we have the availability to commit 9 full-time staff equivalents toward the completion of this watershed program. This equates to four standalone project teams supported by locally based staff to support all needs for this contract. In addition to these four project teams as identified, Strand has availability of other local staff members including engineers, and technical administrative support personnel that would be available to assist on this project if the need arises.



77% available = **1,523** hrs/mo.
 with an average of **9** staff members

Staff capabilities demonstrate our capacity to field up to four locally based project teams at any given point during this contract.



References

References with Satisfied Clients Attest to Strand's Ability to Help Clients Succeed through Excellence in Engineering

We encourage you to contact the following references, whom have had direct involvement in our projects and can give you the best assessment of our continuing service capabilities. We are confident their responses will further document our quality commitment and reinforce your confidence in our ability to address your specific engineering needs.

Strong client relationships are forged by successful project endeavors.

- 1.) Keith Parker, P.E.
City Manager
City of Frankfort
315 W. Second Street
Frankfort, KY 40601
(502) 875-8500
kparker@frankfort.ky.gov

- 2.) Mike Sanford, P.E.
General Manager
Mercer County Sanitation District
P. O. Box 303
Burgin, KY 40310
(859) 748-5642
mike@lakevillagewater.org

- 3.) Mark Hall
Superintendent
City of Ashland
1700 Greenup Ave.
Ashland, KY 41101
(606) 327-2008
mhall@ashlandky.gov

Hourly Rates

Strand's Value Added Commitment will Provide a Measured Return on Investment in Quality Engineering Services

We would welcome the opportunity to review and discuss our capabilities and proposed staffing approach in more detail and provide any supplemental information necessary to meet LFUCG's ultimate project goals and objectives. Hourly billing rates and applicable expenses for this project are summarized in the tables below.

Strand Associates, Inc.

Team Member	Role	Rate
Michael Davis, P.E.	Project Manager	\$245/HR
Michael Woolum, P.E., P.L.S.	QC/QC	\$245/HR
Steven Vogel, P.E.	Deputy Project Manager	\$170/HR
Matt McMackin, P.E., L.S.I.T.	Deputy Project Manager	\$170/HR
Liz Dienst, P.E.	Deputy Project Manager	\$170/HR
Emily Epperson, P.E.	Deputy Project Manager	\$170/HR
Adam Weber, P.E.	Senior Project Engineer	\$185/HR
Brian Oyer, P.L.S.	Surveyor	\$125/HR
Stephen Moore, E.I.T.	Project Engineer	\$139/HR
Robbie Nguyen, E.I.T	Project Engineer	\$139/HR
Bailee Young, E.I.T	Project Engineer	\$139/HR
Chelsea Burk, E.I.T	Project Engineer	\$139/HR
Robert Burnette	Technician/RPR	\$130/HR
Cindy Willey	Production Assistant	\$95/HR
Natalie Mesbah	Production Assistant	\$95/HR

Strand's hourly rates are loaded to include allowances for undefined expenses including mileage, equipment rental, copies and other expenses.

AFFIDAVIT

Comes the Affiant; Joseph M. Bunker, and after being first duly sworn, states under penalty of perjury as follows:

1. His/her name is Joseph M. Bunker and he/she is the individual submitting the proposal or is the authorized representative of Strand Associates, Inc.[®], 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.

Joseph M. Bunker

STATE OF Wisconsin

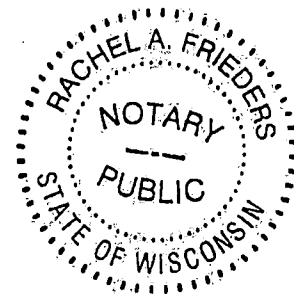
COUNTY OF Dane

The foregoing instrument was subscribed, sworn to and acknowledged before me

by Joseph M. Bunker on this the 24th day
of September, 2019

My Commission expires: March 21, 2021

Rachel A. Frieders
NOTARY PUBLIC, STATE AT LARGE
State of Wisconsin
Dane County



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



9/24/19

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

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

Strand Associates, Inc.[®]
Name of Business



Strand Associates, Inc.®
1525 Bull Lea Road, Suite 100
Lexington, KY 40511
(P) 859-225-8500
(F) 859-225-8501

Equal Employment Opportunity Policy Statement

Strand Associates, Inc.® is committed to a policy of equal opportunity for all employees. It is our policy to seek and employ the best qualified personnel in all positions, to provide equal opportunity for advancement to all employees, including upgrading, promotion and training, and to administer these activities in a manner which will not discriminate against or give preference to any person because of race, color, religion, age, sex, national origin, handicap, marital status, or any other discriminatory basis prohibited by state or federal law.

Strand is further committed to providing a work environment in which employees are treated with courtesy, respect, and dignity. As part of this commitment, we will not tolerate any form of harassment, verbal or physical, with regard to an individual's race, sex, national origin, or any other protected characteristics. Therefore, all employees are encouraged to bring forth any concerns or complaints in this regard to the attention of management by contacting Human Resources, Shawn Cannon, or Ted Richards.

All complaints of sexual harassment, or harassment of any kind, will be investigated promptly and, where necessary, immediate and appropriate action will be taken to stop and remedy any such conduct. Any employee found in violation of this policy will be subject to disciplinary action which could include discharge.



LFUCG MWDBE PARTICIPATION FORM

Bid/RFP/Quote Reference # RFP#38-2019 Request for Qualifications- Engineering Services for Sanitary Sewer Watershed Design

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. Wayne A. Karem, Ph.D., P.E., D. GE: Vector Engineers, Inc./CTL Engineering 1535 Old Finchville Rd. Shelbyville, KY 40065 (502) 633-7585 wayne.karem@vectorky.com	DBE	Geotechnical Engineering	*see note below	*see note below
2. Molly Foree, J.D. Third Rock Consultants, LLC 2526 Regency Road, Ste 180 Lexington, KY, 40503 (859) 977-2000 mforee@thirdrockconsultants.com	WBE	Environmental Engineering	*see note below	*see note below
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.

Strand Associates, Inc.
Company

Joseph M. Brasher
Company Representative

9/27/19
Date

Corporate Secretary
Title

* Note: Strand strives to achieve LFUCG's DBE and VOB participation goals. We regularly utilize DBE and VOB subconsultants as part of our project team. Two MWDBE firms were identified to provide services anticipated for this project. We did not identify a VOB for inclusion on the project team. Strand is committed to identifying opportunities for DBE and VOB businesses as the project scope is finalized. The total dollar value of MWDBE contracts will be determined based on the actual project scope.



September 25, 2019

Mr. Mike Davis, PE
Strand Associates
1525 Bull Lea Road
Lexington, Kentucky 40511

Subject: Vector Engineers, Inc.
Minority Status

Dear Mr. Davis,

As we discussed Vector Engineers, Inc. has recently been acquired by CTL Engineering, Inc. headquartered in Columbus Ohio. The purchase was a stock sale, so Vector Engineers is a wholly owned subsidiary of CTL Engineering. As such, CTL Engineering is listed as a MBE firm with the Louisville MSD. We are in the process of obtaining similar status with the City of Lexington and other entities. In the meantime, attached is a cut out of the MBE certification from the Louisville MSD website.

I hope this will be acceptable to projects requiring an MBE participation.

Yours truly

Wayne A. Karem, PhD, PE, PG, D.GE
President of Vector Engineers, Inc.



List of Active MBE/WBE Certified Businesses

Wednesday, September 26, 2019 @ 7:10:15 AM

Total Record(s) : 1

CTL Engineering, Inc.

MBE

Address : 2880 Fisher Road, Columbus, OH 43204

Telephone : (614) 278-8123, Fax : (614) 278-8377

Email : ck@ctleng.com

Attn : Mr. C. K. Satyapriya

Web Site : ctleng.com

Type Of Work : NMSDC/OMSDC certification expiration date - 04/30/2020 - Asian Pacific Male. Certified Business Capabilities: Full-service consulting engineering firm specializing in Civil Engineering, Geotechnical Engineering, Mining Engineering, Construction Inspection and Testing, Building Envelope and Roofing Services, and Product Testing.

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LFUCG STATEMENT OF GOOD FAITH EFFORTS

Bid/RFP/Quote # ~~RFP#38-2019~~ Request for Qualifications- Engineering Services for Sanitary
Sewer Watershed Design

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 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.

Strand Associates, Inc.
Company
9/27/19
Date


Company Representative
Corporate Secretary
Title

Vogel, Steven

From: Justin Drury <jdd75@msn.com>
Sent: Friday, September 20, 2019 8:11 AM
To: Vogel, Steven
Subject: Re: 2020 Surveying

Yep, Dad is 100% retired. He still has 2020 as entity active, but is not planning to take any work.

Regards

Justin Drury PLS
Director of Survey Operations
859-351-2171
jdd75@msn.com



From: Vogel, Steven <Steven.Vogel@strand.com>
Sent: Thursday, September 19, 2019 8:09 AM
To: Justin Drury (JDD75@msn.com) <JDD75@msn.com>
Subject: 2020 Surveying

Justin,

I wanted to confirm again that 2020 Surveying is no longer taking any new work. We were looking for a veteran owned business to partner with and your dad's company is still on the list.

Thanks,



Steven Vogel, P.E.
Strand Associates, Inc.®
859.225.8500 ext. 2224
steven.vogel@strand.com | www.strand.com
P.E. (KY)

Excellence in Engineering Since 1946.

WORKFORCE ANALYSIS FORM

Name of Organization: Strand Associates, Inc.

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	11	9	1						1							9	2
Professionals	295	229	50	4		1				8				1	2	243	52
Superintendents	-															-	-
Supervisors	-															-	-
Foremen	-															-	-
Technicians	53	45	5	1		2										48	5
Protective Service	-															-	-
Para-Professionals	-															-	-
Office/Clerical	53	9	38	1	2		1		1	1						11	42
Skilled Craft	-															-	-
Service/Maintenance	4	1				3										4	-
Total:	416	293	94	6	2	6	1	-	2	9	-	-	-	1	2	315	101

Prepared By: Audra Wells, H/R Coordinator
(Name and Title)

Date: 09 / 23 / 19

Revised 2015-Dec-15

EXHIBIT D

Further Description of Basic Engineering Services

and

Related Services

LFUCG TASK ORDER NO. _____
UNDER LFUCG AGREEMENT WITH _____ FOR

CONSULTANT

OWNER

Street Address	<hr/>	Lexington Fayette Urban County Government
City, State, Zip	<hr/>	200 East Main Street
Contact Person	<hr/>	Lexington, KY 40507
Telephone	<hr/>	Charles Martin
Fax	<hr/>	859-425-2400
E-Mail	<hr/>	859-254-7787
		<hr/>
		cmartin@lexingtonky.gov

Task Order Date: _____

Task Name: _____

Task ID: _____

SCOPE OF WORK/DELIVERABLES

See Attached

SCHEDULE OF WORK

See Attached

FEE

See Attached

ADDITIONAL PROVISIONS

Because this is a Commonwealth Environmental Project, **CONSULTANT** understands and agrees that the performance of these services is related to the Consent Decree entered in a case styled *United States & Commonwealth of Kentucky v. Lexington Fayette Urban County Government*, United States District Court for the Eastern District of Kentucky, Civil Action No. 5:06-cv-386-KSF (the "**CONSENT DECREE**"), a copy of which has been made available for review by the **CONSULTANT**, and which is incorporated herein by reference. The **CONSULTANT** further agrees that the services performed pursuant to this task order are necessary for the **OWNER** to meet the deadlines of the **CONSENT DECREE** and that the following requirements and conditions, which are in addition to those provided in the Engineering Services Agreement, shall apply to all work and services performed by the **CONSULTANT** under this task order:

1. Time is of the essence in the performance of the work and services. **CONSULTANT** is aware that the **OWNER** is subject to penalties for non-compliance with the **CONSENT DECREE** deadlines.

2. If delays result solely by reason of acts of the **CONSULTANT**, the **CONSULTANT** shall be held liable for any financial penalties incurred by the **OWNER** as a result of the delay, **including but not limited to those assessed pursuant to the CONSENT DECREE**. Section 6.5 of this Engineering Services Agreement (**Disputes**), shall apply in the event the parties cannot mutually agree upon the cause(s) associated with delays in completing project deliverables. The **CONSULTANT** must immediately notify the **OWNER** in the event of such delay, and provide the **OWNER** a written action plan within five (5) business days on how it will attempt to resolve the delay.

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

ACCEPTED BY:

AUTHORIZED BY:

Consultant's Authorized Signature

Owner's Authorized Signature

Date Signed

Date Signed

*Two originals of this work order shall be executed by the Consultant and returned to the Owner _____.
A fully executed copy will be returned to the Consultant.*