

## PROFESSIONAL SERVICES AGREEMENT

**THIS AGREEMENT**, made on the \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, an urban county government existing pursuant to KRS Chapter 67A, hereinafter called "LFUCG" and **Stantec Consulting Services Inc.**, a foreign corporation with offices located at 400 East Vine St., Suite 300, Lexington, Kentucky 40507" hereinafter called "CONSULTANT."

**WHEREAS**, LFUCG has been allocated federal funds from the Kentucky Transportation Cabinet under Title 23, United States Code, Section 133(b), Catalog of Federal Domestic Assistance number 20.205 for Intelligent Transportation System and Congestion Management System Traffic Improvements;

**WHEREAS**, LFUCG issued a request for proposals for a Beaumont Centre-Harrodsburg Road Traffic Operations Study (RFQ #10-2016) in order to study the multimodal transportation system within and adjacent to the Beaumont Centre area, identify any deficiencies, and develop a prioritized list of multimodal solutions; and

**WHEREAS**, CONSULTANT responded to RFQ #10-2016 and LFUCG has determined that CONSULTANT is the successful bidder;

**NOW, THEREFORE**, LFUCG and CONSULTANT, in consideration of their mutual covenants herein AGREE with respect to the performance of a Traffic Video Distribution and Management System and the payment for those services by LFUCG as set forth below.

**WITNESSETH:** That CONSULTANT and the LFUCG in consideration of the negotiated hours required to complete the work by the CONSULTANT, hereby agree to commence and complete the scope of services described as follows:

### **1.0 SCOPE OF WORK**

CONSULTANT shall perform the work as outlined in RFQ #10-2016, which is attached hereto as Exhibit "A" (the "RFQ"), CONSULTANT'S response, which is attached hereto as Exhibit "B" (the "Response"), and Revised Scope of Work and Revised Man-Hour/Fee Proposal, which is attached hereto as Exhibit C ("SOW and Fee Schedule"). All of the terms and provisions of the RFQ the Response, and the SOW and Fee Schedule are incorporated herein by reference as if fully stated. To the extent of any conflict between or among the documents, the terms of this Agreement shall take precedence, followed by the SOW and Fee Schedule, the RFQ and the Response.

## **1.1 Timely Reports**

CONSULTANT hereby agrees to provide monthly reports of all activities to LFUCG PROJECT MANAGER. Reports may be submitted electronically.

## **1.2 Applicable Laws**

CONSULTANT shall perform work in accordance with applicable Federal and State laws and regulations including all of Title 49 United States Code (USC), Title 23 United States Code (USC), 49 Code of Federal Regulations, and 23 Code of Federal Regulations.

## **2.0 INCORPORATED DOCUMENTS**

Exhibit A –RFQ #10-2016 Beaumont Centre-Harrodsburg Road Traffic Operations Study.

Exhibit B – Response of Stantec Consulting Services Inc. to RFQ #10-2016”.

Exhibit C –Revised Scope of Work and Revised Man-Hour/Fee Proposal , for completed tasks defined within RFQ #10-2016.

## **3.0 PERIOD OF SERVICE**

The time period of service authorized by the LFUCG for the proper execution of the Work by the Contract, in full, is hereby fixed as one hundred eighty days (180) from the date specified in the Notice to Proceed.

## **4.0 INDEMNIFICATION CLAUSE**

The Risk Management Provisions of RFQ #10-2016 are incorporated herein by reference as if fully stated. Copies of the required Certificates of Insurance shall be provided to **OWNER** as required therein.

## **5.0 PAYMENTS TO CONSULTANT**

Payment for services under this agreement will be made on time and expense basis, in an amount not to exceed \$124,984.63, subject to sufficient appropriation of funds and the following requirements:

- a. All invoices shall reflect the worked performed in accordance RFQ #10-2016 and the corresponding amount due based on the budget allotted for each task or deliverable set forth in Exhibit C.

## **5.1 Time of Payment**

CONSULTANT shall submit monthly statements for work completed. LFUCG shall respond to CONSULTANT's monthly statements within thirty (30) days, either denying payment or making payments.

## **5.2. Other Provisions Concerning Payments.**

**5.2.1.** In the event the Agreement is terminated by the LFUCG without fault on the part of the CONSULTANT, the CONSULTANT shall be paid for the work performed or services rendered an amount bearing the same ratio to the total Agreement fee as the amount of work completed or partially completed and delivered to the LFUCG is to the total amount of work provided for herein, as determined by mutual agreement between the LFUCG and the CONSULTANT.

**5.2.2.** In the event the services of the CONSULTANT are terminated by the LFUCG for fault on the part of the CONSULTANT, the CONSULTANT shall be paid reasonable value of the work performed or services rendered and delivered, and the amount to be paid shall be determined by the LFUCG.

**5.2.3.** In the event the CONSULTANT shall terminate the Agreement because of gross delays caused by the LFUCG, the CONSULTANT shall be paid as set forth in Section 5.2.1 above.

## **6.0 SUCCESSORS AND ASSIGNS**

**6.1** CONSULTANT binds itself and his partners, successors, executors, administrators, assigns and legal representatives to this Agreement in respect to all covenants, agreements and obligations of this Agreement. CONSULTANT shall not assign any interest, obligation or benefit in this Agreement nor transfer any interest in the same, whether by assignment or novation, without prior written consent of LFUCG.

**6.2** The CONSULTANT shall not subcontract more than fifty percent (50%) of the work, based upon dollar value, to be provided under this Agreement. The CONSULTANT shall obtain written approval prior to subletting or assigning any services contained in this Agreement, and consent to sublet or assign any part of this Agreement shall not be construed to relieve the CONSULTANT of any responsibility for compliance with the provisions of this Agreement.

## **7.0 Optional Tasks and Services**

LFUCG may desire to have 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 "Optional Task and Services," 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 written authorization is given by LFUCG. This work shall be considered as "Optional Work & Tasks" and shall be paid on a lump sum basis by task in accordance with the negotiated rates as provided by CONSULTANT in response to RFQ#10-2016 in Exhibit C.

## **8.0 GENERAL CONSIDERATIONS**

### **8.1 Termination**

The obligation to provide services under this Agreement may be terminated by either party upon thirty (30) days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.

Notwithstanding the above, LFUCG may terminate the Agreement at any time upon seven (7) days written notice to the CONSULTANT.

### **8.2 Ownership and Reuse of Documents**

All documents, prepared by CONSULTANT pursuant to this Agreement shall be delivered to and become the property of the LFUCG. LFUCG shall have the right to reuse same without restriction or limitation, but without liability or legal exposure to CONSULTANT.

### **8.3 Incorporation of Bid Documents**

All bid documents related to RFQ #10-2016, including the Advertisement for Bids, Information to Bidders, CONSULTANT's Response to LFUCG's Invitation to Bid, General and Special Conditions, Basis for Payment, Form of Proposal, Certificates of Insurance, Affirmative Action Plan, Equal Opportunity Agreement, Non-Appropriation Conditions, Addenda and any other document(s) related to the bid be and hereby are incorporated herein as if fully set forth herein.

### **8.4 Relationship of Parties**

CONSULTANT acknowledges and agrees that its employees or agents are not employees of LFUCG for any purpose whatsoever. CONSULTANT shall be considered an independent contractor at all times during the performance of services specified herein.

## **8.5 Notices**

Any notice required or permitted to be sent under this Agreement shall be delivered by hand or mailed by certified mail, return receipt requested, or sent by reliable overnight carrier to the address of the parties first set forth in this Agreement.

## **8.6 Governing Law**

This Agreement shall be governed by the laws of the Commonwealth of Kentucky, without regard to its conflict of laws provisions in accordance with the provisions of RFQ #10-2016.

## **8.7 Severability**

If any of the provisions of this Agreement, including any incorporated documents, are declared to be invalid, such provisions shall be severed from this Agreement and the other provisions hereof shall remain in full force and effect.

## **9.0 . RIGHT TO REVIEW, AUDIT AND INSPECT**

**CONSULTANT** understands and agrees that upon reasonable notice that officials of the Lexington-Fayette Urban County Government, the Kentucky Transportation Cabinet, and the Federal Highway Administration may review, audit, and inspect any and all of the **CONSULTANT'S** records and operations relative to the services performed under this Agreement to assure compliance with the Agreement.

## **10.0 DISPUTE RESOLUTION**

Disputes not settled between **CONSULTANT** and **LFUCG** shall be submitted to non-binding mediation by request filed in writing with the other party to this Agreement, and shall include a list of not less than three (3) nor more than six (6) names, addresses, and qualifications of industry-experienced mediators, from which the other party shall select a qualified mediator. Mediation shall proceed in advance of legal or equitable proceedings. **CONSULTANT AND LFUCG** shall share the mediator's fee and filing fees equally. Mediation pursuant to this Agreement shall be held in the place where the **PROJECT** is located, unless another location is mutually agreed upon. Any agreement reached in mediation shall be enforceable as a settlement agreement in any court having competent jurisdiction.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the date and year above written.

**LEXINGTON-FAYETTE URBAN COUNTY  
GOVERNMENT**

ATTEST:

\_\_\_\_\_  
Clerk of the Urban County Council

BY: \_\_\_\_\_  
Jim Gray  
MAYOR

**Stantec Consulting Services Inc.,**  
400 East Vine St., Suite 300  
Lexington, Kentucky 40507

\_\_\_\_\_  
(Secretary)

BY: David Sigler  
ITS: Senior Principal

\_\_\_\_\_  
(Witness)

00537502

EXHIBIT A – RFQ #10-2016 BEAUMONT CENTRE-HARRODSBURG ROAD  
TRAFFIC OPERATIONS STUDY

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EXHIBIT B – RESPONSE OF STANTEC CONSULTING SERVICES INC. TO RFQ  
#10-2016

(59 PAGES)

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EXHIBIT C – REVISED SCOPE OF WORK AND REVISED MAN-HOUR/FEE  
PROPOSAL FOR COMPLETED TASKS DEFINED WITHIN RFQ #10-2016

REVISED SCOPE OF WORK, DATED JUNE 1, 2016 (7 PAGES)

REVISED MAN-HOUR/FEE PROPOSAL, DATED MAY 27, 2016 (1 PAGE)

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