

**PURCHASE OF SERVICE AGREEMENT**

THIS PURCHASE OF SERVICE AGREEMENT, made and entered into on the 22 day of March 2024, by and between the **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, an urban county government of the COMMONWEALTH OF KENTUCKY created pursuant to KRS Chapter 67A ("LFUCG"), 200 East Main Street, Lexington, Kentucky 40507, and **FRIENDS OF WOLF RUN, INC.** ("Organization"), whose post office address is 639 Cardinal Lane, Lexington, KY 40503.

**WITNESSETH**

**WHEREAS**, LFUCG has been awarded federal funds pursuant to Section 319(h) of the Clean Water Act, from the Commonwealth of Kentucky Energy and Environment Cabinet, Department for Environmental Protection, Kentucky Division of Water (Award No. PON2 129 2400000129);

**WHEREAS**, LFUCG's approved work plan provides for a partnership with a citizen organization, Organization, that will be responsible for performing work related to the development of a watershed based plan;

**WHEREAS**, LFUCG's responsibility for ensuring compliance with all grant requirements necessitates a written agreement with Organization;

**NOW, THEREFORE**, in consideration of the foregoing and mutually agreed upon promises, conditions, and covenants hereinafter set forth, pursuant to grant requirements, the parties hereto agree as follows:

**1. EFFECTIVE DATE; TERM.** This Agreement shall commence on July 1, 2024 and shall last for a period of 2 years, unless terminated by LFUCG at an earlier time.

**2. RELATED DOCUMENTS.** This Agreement shall consist of the terms herein as well as the following additional documents, which are attached hereto as exhibits and incorporated herein by reference as if fully stated:

- a. Exhibit "A" – Scope of Work
- b. Exhibit "B" – Certification of Compliance for Expenditures using Federal Grant Funds
- c. Exhibit "C" – LFUCG's Grant Contract with Commonwealth of Kentucky

To the extent that there is any conflict between or among any of these documents, the terms and provisions of Exhibit B shall prevail first, then C, then the terms and conditions of this Agreement, then the terms and conditions of A, in that order.

**3. SCOPE OF SERVICES.** Organization shall perform the services outlined in the attached Exhibit "A" – Scope of Work for LFUCG in a timely, workmanlike and professional manner (the "Services").

**4. PAYMENT.** LFUCG shall pay Organization a total amount not to exceed Four Thousand Eight Hundred Dollars and Zero Cents (\$4,800.00) annually (for a cumulative amount of Nine Thousand Six Hundred Dollars and Zero Cents (\$9,600.00) over the entire term) for the performance of the approved Services. Payments shall be made quarterly for expenditures the Organization actually incurred, only after receipt of quarterly invoices. The funds are limited to the approved Services provided herein and may not be spent by the Organization for any other purpose without the prior written consent of LFUCG. In no event shall Organization receive more than Twelve Hundred Dollars and Zero Cents (\$1,200.00) per convened Watershed Council meeting, up to the "not to exceed" amount provided above. Absent any additional written agreement stating otherwise any travel or other expenses are included in the above payment.

a. LFUCG shall make payment under this Agreement upon timely submission of an approved invoice(s) from Organization specifying the information required in Section 11 of this Agreement, accompanied by data satisfactory to LFUCG to document entitlement to payment for the Services performed to date. LFUCG shall have thirty (30) days from the date of receipt of an approved invoice to pay the invoice amount. LFUCG reserves the right to refuse payment if it is determined by LFUCG that the Services performed or materials provided for the Services are inadequate or defective.

b. LFUCG also reserves the right to reject any invoice submitted for services rendered in previous quarters. Termination of the Agreement and reallocation of unspent funds may occur for failure to submit an invoice, at the discretion of the LFUCG.

**5. FEDERAL LAW.** The Organization understands that the Funds paid by LFUCG were awarded under Section 319(h) of the Clean Water Act. Organization agrees to comply with any requests from LFUCG related to LFUCG's ongoing monitoring and reporting obligations set by federal law. Organization understands that the failure to comply may result in termination of this Agreement. Organization further agrees and by entering this Agreement, it hereby certifies to its ability to comply with all terms included within Exhibit B attached hereto. Organization further agrees to comply with all elements of LFUCG's work plan as provided for in its approved grant application.

**6. UNABLE TO COMPLETE; RETURN OF FUNDS.** If it becomes apparent to Organization that it will be unable to complete the Services either in the manner or for the amount described in this Agreement, then the Organization shall immediately provide written notice to the LFUCG with a complete and detailed written explanation of its inability to comply with the terms of the Agreement, any proposed changes, and the

reasons for those changes. If the Organization fails to use any amount of funds provided under this Agreement within the term provided above, then the Organization agrees to return the balance of the funds to the LFUCG within thirty (30) days of the termination of this Agreement.

**7. RECAPTURE OF FUNDS; SUSPENDING AUTHORITY TO DRAW FUNDS.**

In the event of any of the following events, LFUCG may suspend Organization's authority to request payment by giving thirty days (30) days written notice:

- (a) Organization fails to diligently pursue the activities detailed in Exhibit A.
- (b) Organization violates any of the terms of this Agreement or any federal law governing the use of these funds;
- (c) Any representation or warranty made herein, or in any certificate, report, or statement furnished to the LFUCG in connection with the funds proves to have been untrue or misleading in any material respect when made.

After providing the aforementioned written notice of the Breach, LFUCG has the right, in its sole discretion, to terminate the Agreement by providing written notice in accordance with this Agreement, which shall thereby terminate any obligation to disburse any remaining Funds allocated under this Agreement, and/or require repayment of Funds already disbursed. Organization expressly agrees that LFUCG may exercise any available remedies at law, in equity, or in bankruptcy, if the Organization commits any Breach specified above.

**8. PERFORMANCE MONITORING.** The LFUCG's Department of Environmental Quality, Division of Environmental Services shall monitor the performance of the Organization under the terms of the Agreement. Substandard performance as determined by the LFUCG will constitute noncompliance with the Agreement. If action to correct such substandard performance is not taken within the period specified in Section 9 of this Agreement after being notified by the Government, the LFUCG may take any action specified herein.

**9. TERMINATION.** LFUCG, through the Mayor or the Mayor's designee, may terminate this Agreement for any reason whatsoever by providing Organization with at least thirty (30) days advance written notice. Organization shall be entitled for payment of all work performed up to that period of time, calculated on a reasonable basis.

a. In the event of a termination based upon a material condition of non-performance or default by Organization, LFUCG shall provide Organization advance written notice and a reasonable period of time to cure the breach.

b. Organization may only terminate this Agreement based upon LFUCG's failure to timely pay for properly invoiced and accepted work. Organization shall provide LFUCG with at least thirty (30) days advance written notice and an opportunity to cure prior to termination.

c. Organization acknowledges that LFUCG is a governmental entity, and that the validity of this Agreement is based upon the availability of appropriated funding. In the event that such funding is not appropriated in a future fiscal year, LFUCG's obligations under this Agreement shall automatically expire without penalty to the LFUCG thirty (30) days after written notice to Organization. LFUCG shall exercise any application of this provision in good faith.

**10. LICENSE.** If this Agreement results in any copyrightable material or inventions, the LFUCG and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, the work or materials for LFUCG's purposes.

**11. REPORTING.** With each quarterly invoice, Organization shall also provide LFUCG with reports and updates related to the provisions of the Services in the form and manner reasonably specified by LFUCG for the previous quarter. Organization shall enter the information of each person serviced and all activities assisted into the Neighborly program or as otherwise provided by the LFUCG.

**12. REGISTRATION; COMPLIANCE; AUTHORITY TO SIGN.** Organization shall be lawfully registered or authorized to do business in the Commonwealth of Kentucky and Lexington-Fayette County and shall at all times comply with any and all applicable federal, state, and local laws, ordinances, and regulations. LFUCG may request proof that Organization has timely filed federal, state, or local tax forms which shall be provided by Organization on a timely basis. The person signing this Agreement on behalf of Organization is fully authorized to do so.

**13. INSURANCE; INDEMNITY.**

a. At all times relevant to the performance of this Agreement, Organization shall maintain insurance coverages in at least the following amounts, which shall be properly filed and approved by the Kentucky Department of Insurance. Evidence of such coverage shall be made available to LFUCG upon request. General Liability (\$1 million per occurrence, \$2 million aggregate or \$2 million combined single limit); Commercial Automobile Liability (combined single, \$1 million per occurrence); (if applicable) Professional Liability (\$1 million per occurrence, \$2 million aggregate); Worker's Compensation (Statutory); and Employer's Liability (\$1 million).

b. Organization shall indemnify, defend and hold harmless LFUCG and its elected and appointed officials, employees, agents, volunteers, and successors in interest, from and against any and all liability, damages, and losses, including but not limited to: demands, claims, liens, suits, notices of violation from governmental agencies, obligations, causes of action, judgments, penalties, fines, liens, costs, expenses, interest, defense costs and reasonable attorney's fees that are in any way incidental to



or connected with, or that arise or are alleged to have arisen, directly or indirectly, from or by Organization's performance of, or breach of this Agreement and/or the provision of goods or services, provided that (a) it is attributable to personal injury, bodily injury, sickness, or death, or to injury to or destruction of property (including the loss of use resulting therefrom), or to or from the negligent acts, errors or omissions or willful misconduct of Organization or its officials, employees, or agents; and (b) not caused solely by willful misconduct of LFUCG.

c. Organization understands and agrees that its obligation to defend LFUCG includes the obligation to investigate, handle, respond to, resist, provide a defense for, and defend claims, at Organization's expense, using attorneys approved in writing by the LFUCG, which approval shall not be unreasonably withheld.

d. Organization further understands and agrees that its obligation to indemnify includes, but is not limited to: attorney fees and expenses, costs of litigation, court and administrative costs, expert witness fees and expenses, judgments, fines, penalties, interest, all environmental cleanups and remediation costs of whatever kind, and any liability arising from death, injury, or damage of any kind, to any person, including employees and agents of Organization and LFUCG, and damage to, or destruction of, any property, including the property of LFUCG.

e. This provision shall in no way be limited by any financial responsibility or insurance requirements, and shall survive the termination of this Agreement.

f. Organization understands that LFUCG is a political subdivision of the Commonwealth of Kentucky and acknowledges and agrees that LFUCG is unable to provide indemnity or otherwise save, hold harmless, or defend the Organization in any manner.

**14. RECORDS.** Organization shall keep and make available to LFUCG, the grantor agency or their designees, or the federal or state governments, any records related to this Agreement as are necessary, in the discretion of the LFUCG, the grantor agency or their designees, or the federal or state governments, to support its performance of the services, or to audit or examine such performance, for a period of at least five (5) years following the expiration or termination of this Agreement, or as otherwise required depending upon the source of funds. Books of accounts shall be kept by Organization and entries shall be made therein of all money, goods, effects, debts, sales, purchases, receipts, payments and any other transactions of Organization related to this Agreement and shall be made available to LFUCG upon request.

a. LFUCG shall be the owner of all final documents, data, studies, plans, reports, and information prepared by Organization under this Agreement.

b. Organization understands and agrees that this Agreement and any related documents may be subject to disclosure under the Kentucky Open Records Act and will

comply with any reasonable request by LFUCG to provide assistance with such a request.

**15. ACCESS.** Organization shall allow LFUCG any necessary reasonable access to monitor its performance under this Agreement.

**16. CONTRACTUAL RELATIONSHIP ONLY.** In no event shall the parties be construed, held or become in any way for any purpose the employee of the other party, or partners, associates or joint ventures in the conduct of their respective endeavors or otherwise.

**17. EQUAL OPPORTUNITY; FAIRNESS ORDINANCE.** Organization shall provide equal opportunity in employment for all qualified persons, and shall (a) prohibit discrimination in employment because of race, color, creed, national origin, sex, age, sexual orientation, gender identity, or handicap, (b) promote equal employment through a positive, continuing program of equal employment, and (c) cause any subcontractor or agency receiving funds provided pursuant to this Agreement to do so. This program of equal employment opportunity shall apply to every aspect of its employment policies and practices. Organization shall include, in all solicitations or advertisements for employees that it is an Equal Opportunity Employer. Organization agrees to comply with LFUCG's Fairness Ordinance (Ordinance No. 201-99) and all sources of applicable law, including those specified in any Exhibit attached to this Agreement and incorporated herein by reference.

**18. SEXUAL HARASSMENT.** Organization must adopt or have adopted a written sexual harassment policy, which shall, at a minimum, contain a statement of current law; a list of prohibited behaviors; a complaint process; and a procedure which provides for a confidential investigation of all complaints. The policy shall be given to all employees and clients and shall be posted at all locations where Organization conducts business. The policy shall be made available to LFUCG upon request.

**19. CLOSE-OUTS.** Except for all requirements that shall survive termination of this Agreement, including, but not limited to any indemnification requirements, insurance requirements, applicable federal law requirements, and record retention requirements, Organization's obligations to the LFUCG shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances and accounts receivable to the LFUCG and determining the custodianship of records.

**20. INVESTMENT.** Any investment of the funds received pursuant to this Agreement must fully comply with any restrictions imposed by law.

**21. NO ASSIGNMENT.** Organization may not assign any of its rights and duties under this Agreement without the prior written consent of LFUCG.

**22. NO THIRD PARTY RIGHTS.** This Agreement does not create a contractual relationship with or right of action in favor of a third party against either Organization or LFUCG.

**23. KENTUCKY LAW AND VENUE.** This Agreement shall be governed in all respects by the laws of the Commonwealth of Kentucky and venue for all actions shall lie in the Circuit Court of Fayette County, Kentucky.

**24. AMENDMENTS.** By mutual agreement, the parties to this Agreement may, from time to time, make written changes to any provision hereof. Organization acknowledges that LFUCG may make such changes only upon approval of its legislative authority, the Lexington-Fayette Urban County Council, and the signature of its Mayor.

**25. NOTICE.** Any written notice required by the Agreement shall be delivered by certified mail, return receipt requested, to the following:

For Organization:

Friends of Wolf Run, Inc.  
c/o Ken Cooke  
639 Cardinal Ln  
Lexington, Ky 40503

For Government:

Lexington-Fayette Urban County Government  
Division of Environmental Services  
200 East Main Street, 9<sup>th</sup> Floor  
Lexington, Kentucky 40507  
Attn: Demetria Kimball-Mehlhorn

**26. WAIVER.** The waiver by either party of any breach of any provision of this Agreement shall not constitute a continuing waiver or waiver of any subsequent breach by either party of either the same or another provision.

**27. ENTIRE AGREEMENT.** This Agreement shall constitute the entire agreement between the parties and no representations, inducements, promises or agreements, oral or otherwise, which are not embodied herein shall be effective for any purpose. This Agreement shall replace any previous agreement between the parties on the same subject matter. Notwithstanding the above, this Agreement shall not replace those parts of previous agreements pertaining to the same subject matter which cover previous terms.

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

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

*Linda Gorton*

Linda Gorton, Mayor

ATTEST:

*Mackenzie Gock*  
Clerk of the Urban County Council

*Deputy*

FRIENDS OF WOLF RUN, INC.

*Ken Cole*

OFFICER WITH AUTHORITY TO BIND ORGANIZATION

COMMONWEALTH OF KENTUCKY )  
 )  
COUNTY OF FAYETTE )

The foregoing instrument was acknowledged before me this the 31<sup>st</sup> day of January, 2024, by Kenneth B. Cooke Treasurer of Friends of Wolf Run, Inc., a Kentucky nonprofit organization.

*James King*  
Notary Public, State At Large, Kentucky

My Commission Expires: 4/20/2026

Commission Number: KY NR 49086





## **EXHIBIT "A"**

### Lexington/Fayette Urban County Government Scope of Work

1. Work with LFUCG and its contractors on identifying Watershed Council participants.
2. Work with LFUCG and contractors to develop Watershed Council meeting schedules, agendas and expected outcomes.
3. Convene and administer up to 4 Watershed Council meetings per year for the duration of the grant.
4. Make facility arrangements for meeting space for each meeting. This includes setup, refreshments and cleanup.
5. Send out meeting announcements/invitations and agendas to interested parties.
6. Provide Watershed Council meeting facilitation, including speaker services/assistance and audiovisual support.
7. Providing meeting notes/minutes and records of participation.
8. Participate in Technical Committee meetings and BMP design Public Input meetings.
9. Provide documentation of volunteer hours worked by Watershed Council participants that can be used as match for the grant at a rate of \$26.85 an hour.
10. Identify a Primary Point of Contact to serve as the "Wolf Run Watershed Council Administrator" to participate in project planning meetings as requested by the LFUCG Grant Administrator.

## EXHIBIT "B"

### CERTIFICATION OF COMPLIANCE FOR EXPENDITURES USING FEDERAL FUNDS

The Lexington-Fayette Urban County Government ("LFUCG") may use Federal funding to pay for the goods and/or services that are the subject matter of the Memorandum of Agreement, executed \_\_\_\_\_, 2024. That Federal funding may include funds received by LFUCG under the American Rescue Plan Act of 2021. Expenditures using Federal funds require evidence of the contractor's compliance with Federal law. Therefore, by the signature below of an authorized company representative, you certify that the information below is understood, agreed, and correct. Any misrepresentations may result in the termination of the contract and/or prosecution under applicable Federal and State laws concerning false statements and false claims.

**The contractor agrees and understands that the following conditions will apply toward payment of goods and/or services referenced in this Agreement. The contractor also agrees and understands that if there is a conflict between the terms included elsewhere in this Agreement and the terms of this Exhibit B, then the terms of Exhibit B shall control. The contractor further certifies that it can and will comply with these conditions in the performance of this Agreement:**

1. This Agreement may be governed in accordance with 2 CFR Part 200, 40 CFR Parts 7, 29, 34, 35, 39, 45, and 47, and all other applicable Federal law and regulations and guidance issued by the U.S. Department of the Treasury and the U.S. Environmental Protection Agency, as applicable.
2. Pursuant to 24 CFR § 85.43, this Agreement can be terminated if the contractor fails to comply with any term of the award. This Agreement may be terminated for convenience in accordance with 24 CFR § 85.44 upon written notice by LFUCG. Either party may terminate this Agreement with thirty (30) days written notice to the other party, in which case the Agreement shall terminate on the thirtieth day. In the event of termination, the contractor shall be entitled to that portion of total compensation due under this Agreement as the services rendered bears to the services required. However, if LFUCG suspects a breach of the terms of the Agreement and/or that the contractor is violating the terms of any applicable law governing the use of Federal funds, LFUCG may suspend the contractor's ability to receive payment by giving thirty (30) days' advance written notice. Further, either party may terminate this Agreement for cause shown with thirty (30) days written notice, which shall explain the party's cause for the termination. If the parties do not reach a settlement before the end of the 30 days, then the Agreement shall terminate on the thirtieth day. In the event of a breach, LFUCG reserves the right to pursue any and all applicable legal, equitable, and/or administrative remedies against the contractor.

3. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

- (1) Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- (4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- (7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part, and the contractor may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

Provided, however, that in the event a contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

4. If fulfillment of the contract requires the contractor to employ mechanic's or laborers, the contractor further agrees that it can and will comply with the following:
  - (1) Overtime requirements: No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such a workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such a workweek.
  - (2) Violation: liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.



- (3) Withholding for unpaid wages and liquidated damages. LFUCG shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
  - (4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower-tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.
5. The contractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
6. The contractor shall report each violation to LFUCG and understands and agrees that LFUCG will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency Regional Office.
7. The contractor shall include these requirements in numerical paragraphs 5 and 6 in each subcontract exceeding \$100,000 financed in whole or in part with Federal funding.
8. The contractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.
9. The contractor shall report each violation to LFUCG and understands and agrees that LFUCG will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency Regional Office.
10. The contractor shall include these requirements in numerical paragraphs 8 and 9 in each subcontract exceeding \$100,000 financed in whole or in part with Federal funds.

11. The contractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.

12. The contractor shall report each violation to LFUCG and understands and agrees that LFUCG will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency regional office.

13. The contractor shall include these requirements in numerical paragraphs 11 and 12 in each subcontract exceeding \$100,000 financed in whole or in part with American Rescue Plan Act funds.

14. The contractor agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086. The Contractor agrees that no person shall on the ground of race, color, creed, religion, sex, age, handicap, disability, ancestry, national origin, marital status, familial status, or any other basis prohibited by applicable law be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with Federal funds. The Organization agrees to comply with any federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), which prohibits discrimination against the handicapped in any federally assisted program.

15. The contractor shall include this language in any subcontract it executes to fulfill the terms of this Agreement: "the sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with 'Limited English Proficiency' in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement."

16. a. The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an

officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

b. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

17. The contractor acknowledges and certifies that it has not been debarred or suspended and further acknowledges and agrees that it must comply with regulations regarding debarred or suspended entities in accordance with 24 CFR § 570.489(l). Funds may not be provided to excluded or disqualified persons.

18. The contractor agrees and certifies that to the greatest extent practicable, it will prefer the purchase, acquisition, and use of all applicable goods, products or materials produced in the United States, in conformity with 2 CFR 200.322 and/or section 70914 of Public Law No. 117-58, §§ 70901-52, also known as the Infrastructure Investment and Jobs Act, whichever is applicable.

19. The contractor agrees and certifies that all activities performed pursuant to any Agreement entered as a result of this Agreement, and all goods and services procured under that Agreement, shall comply with 2 C.F.R. § 200.216 (Prohibition on certain telecommunications and video surveillance services and equipment) and 2 C.F.R. 200 § 200.323 (Procurement of recovered materials), to the extent either section is applicable.

20. If this Agreement involves construction work for a project totaling \$10 million or more, then the contractor further agrees that all laborers and mechanics, etc.,

employed in the construction of the public facility project assisted with funds provided under this Agreement, whether employed by contractor, or contractor's contractors, or subcontractors, shall be paid wages complying with the Davis-Bacon Act (40 U.S.C. 3141-3144). Contractor agrees that all of contractor's contractors and subcontractors will pay laborers and mechanics the prevailing wage as determined by the Secretary of Labor and that said laborers and mechanics will be paid not less than once a week. The contractor agrees to comply with the Copeland Anti- Kick Back Act (18 U.S.C. § 874) and its implementing regulations of the U.S. Department of Labor at 29 CFR part 3 and part 5. The contractor further agrees to comply with the applicable provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. Section 327-333), and the applicable provisions of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. et seq.). Contractor further agrees that it will report all suspected or reported violations of any of the laws identified in this paragraph to LFUCG.

21. The contractor is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities, sectarian or religious activities, lobbying, political patronage, and nepotism activities. The contractor agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

22. The contractor shall administer a policy designed to ensure that the organization is free from the illegal use, possession, or distribution of drugs or alcohol by its employees and beneficiaries.

23. The contractor shall administer its program in conformance with 20 CFR 200, Subpart E. These cost principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

4861-0063-8623, v. 2



**EXHIBIT "C"**

LFUCG's Grant Contract with Commonwealth of Kentucky



# Commonwealth of Kentucky

## CONTRACT

|                       |                     |            |              |
|-----------------------|---------------------|------------|--------------|
| <b>DOC ID NUMBER:</b> | PON2 129 2400000129 | Version: 1 | Record Date: |
|-----------------------|---------------------|------------|--------------|

|                                 |  |
|---------------------------------|--|
| <b>Document Description:</b>    | Wolf Run Watershed Water Quality Basins and Update |
| <b>Cited Authority:</b>         | PL319<br>Federal Clean Water Act                   |
| <b>Reason for Modification:</b> |  |

|                        |                  |
|------------------------|------------------|
| <b>Issuer Contact:</b> |                  |
| Name:                  | MICHAEL REED     |
| Phone:                 | 502-782-7046     |
| E-mail:                | Mike.Reed@ky.gov |

|                                       |                       |                           |
|---------------------------------------|-----------------------|---------------------------|
| <b>Vendor Name:</b>                   | Vendor No.            | KY0032969                 |
| LEXINGTON FAYETTE URBAN CO GOVERNMENT | <b>Vendor Contact</b> |                           |
| 200 EAST MAIN STREET                  | Name:                 | Demetria Kimball Mehlhorn |
| LEXINGTON KY 40507                    | Phone:                | 8594252554                |
|                                       | Email:                | dkimball@lexingtonky.gov  |

**Effective From:** 11/01/2023      **Effective To:** 09/30/2027

| Line Item | Delivery Date | Quantity | Unit | Description  | Unit Price | Contract Amount | Total Price  |
|-----------|---------------|----------|------|--|------------|-----------------|--------------|
| 1         |               | 0.00000  |      | Wolf Run Watershed Water Quality Basins and Update | \$0.000000 | \$320,000.00    | \$320,000.00 |

**Extended Description:**

Through this project, LFUCG will improve water quality within the Wolf Run Watershed through implementing Best Management Practices (BMPs) and Chapter 7 as recommended by the Wolf Run Watershed Management Plan (WRWMP, 2013). BMP #48 will improve warm water habitat and reduce nonpoint source (NPS) pollution from entering Wolf Run Creek through retrofitting the Regency Road Detention Basin. BMP #49 will improve warm water habitat and reduce NPS pollution from entering Wolf Run Creek through creation of a detention basin, as suggested in the Southland Association's Green Infrastructure Feasibility Study. Implementing Chapter 7 recommendations to update the BMP Table when significant changes have occurred, and new monitoring data has been collected will allow continued momentum in this watershed and new projects to be identified.

|  |  |
|--|--|
| <b>Shipping Information:</b>                   | <b>Billing Information:</b>                    |
| Division of Water<br>300 Sower Blvd, 3rd Floor | Division of Water<br>300 Sower Blvd, 3rd Floor |
| Frankfort KY 40601                             | Frankfort KY 40601                             |

|                               |                     |
|-------------------------------|---------------------|
| <b>TOTAL CONTRACT AMOUNT:</b> | <b>\$320,000.00</b> |
|-------------------------------|---------------------|

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| <b>2400000129</b> | <b>Wolf Run Watershed Water Quality Basins and Update</b> |               |

**Memorandum of Agreement Terms and Conditions**  
**Revised October 2020**

This Memorandum of Agreement (MOA) is entered into, by and between the Commonwealth of Kentucky, Energy and Environment Cabinet, Department for Environmental Protection, Division of Water (“the Commonwealth”) and the Lexington Fayette Urban County Government (LFUCG) (“the Contractor”) to establish an agreement for the implementation of the “Wolf Run Watershed Water Quality Basins and Update” project. The initial MOA is effective from November 1, 2023 through September 30, 2027.

**I. Scope of Services:**

Through this project, LFUCG will improve water quality within the Wolf Run Watershed through implementing Best Management Practices (BMPs) and Chapter 7 as recommended by the Wolf Run Watershed Management Plan (WRWMP, 2013). BMP #48 will improve warm water habitat and reduce nonpoint source (NPS) pollution from entering Wolf Run Creek through retrofitting the Regency Road Detention Basin. BMP #49 will improve warm water habitat and reduce NPS pollution from entering Wolf Run Creek through creation of a detention basin, as suggested in the Southland Association’s Green Infrastructure Feasibility Study. Implementing Chapter 7 recommendations to update the BMP Table when significant changes have occurred, and new monitoring data has been collected will allow continued momentum in this watershed and new projects to be identified.

LFUCG shall complete the following goals, objectives and activities.

**Goal:** Improve warm water habitat and reduce NPS pollution from entering Wolf Run Creek through retrofitting the Regency Road Detention Basin (BMP #48 in the WRWMP, 2013).

**Objective:** Reduce stormwater runoff and pollutant levels through infiltration or storage (WRWMP Objective 2.1).

**Activities:**

LFUCG will remove the concrete channels (500 LF) from existing commercial stormwater basin and, if possible, naturalize channels to encourage infiltration and dispersal of stormwater flows across more of the basin bottom.

**Objective:** Reduce nutrients entering Wolf Run Creek (WRWMP Objective 4.2).

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**Activities:**

Install native plants and trees in the water quality basin to filter and absorb excess nutrients.

**Objective:** Reduce temperature of stormwater discharge (WRWMP Objective 4.1).

**Activities:**

Install native trees in water quality basin and upstream watershed, where possible.

**Objective:** Create passive recreational and educational opportunities (WRWMP Objective 4.3).

**Activities:**

Determine if existing chain-link fence may be removed to create public access to basin. Hold one on-site meeting, to engage local stakeholders, to comment on draft project design.

Create and install educational signage. Topics could include, but are not limited to, how native plants work, habitat creation within basin, and/or how citizens can help the environment.

If the fence is removed, benches will be placed at the edges of the basin to provide an outdoor setting for lunches and breaks for nearby offices.

Remove invasive species and replant with native species to promote pollinator species.

**Objective:** Determine effectiveness of project (WRWMP Objective 5.2).

**Activities:**

Complete two pre- and post-construction water quality monitoring events, per LFUCG 2017 approved Watershed-Focused Monitoring Program QAPP.

Publish results at appropriate locations, including but not limited to the following webpages: LFUCG Wolf Run Watershed, KY River Watershed Watch, and/or Friends of Wolf Run.

**Goal:** Improve Warm Water Habitat and Reduce Non-Point Source Pollution from Entering Wolf Run Creek through creation of a detention basin, as suggested in the Southland Association's Green Infrastructure Feasibility Study (BMP #49 in the WRWMP, 2013).

**Objective:** Reduce pollutant levels through stormwater treatment, storage or redirection (WRWMP Objective 5.1).

**Activities:**

Divert stormwater from a drainage channel parallel to the railroad tracks into a constructed filtration basin on Derby Drive, and discharge the filtered flow back into the storm sewer parallel to Regency Road.



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Investigate and install, if funding allows, best value-added BMP (structural or chemical) to reduce fine sediment from railroad tracks.

**Objective:** Reduce nutrients entering Wolf Run Creek (WRWMP Objective 4.2).

**Activities:**

Install native plants and trees in water quality basin to filter and absorb excess nutrients.

**Objective:** Reduce temperature of stormwater discharge (WRWMP Objective 4.1).

**Activities:**

Install native trees in water quality basin and upstream watershed, where possible.

**Objective:** Create passive recreational and educational opportunities (WRWMP Objective 4.3).

**Activities:**

Hold one on-site meeting, to engage local stakeholders, to comment on draft project design.

Create and install educational signage. Topics could include, but are not limited to, how native plants work, habitat creation within basin, and/or how citizens can help the environment.

Remove invasive species and replant with native species to promote pollinator species.

**Objective:** Determine effectiveness of project (WRWMP Objective 5.2).

**Activities:**

Complete two pre- and post-construction water quality monitoring events, per LFUCG 2017 approved Watershed-Focused Monitoring Program QAPP.

Publish results at appropriate locations, including but not limited to the following webpages: LFUCG Wolf Run Watershed, KY River Watershed Watch, and/or Friends of Wolf Run.

**Goal:** Implement Chapter 7 Recommendations of the WRWMP (2013) to update the BMP Table when significant changes have occurred and new monitoring data has been collected by following Division of Water (DOW) NPS & Basin Team Section Watershed Plan Update Guidance (2022).

**Objective:** Implement water quality monitoring.

**Activities:**

Complete two instream wet weather monitoring activities, per LFUCG 2017 approved Watershed-Focused Monitoring Program Quality Assurance Project Plan (QAPP).

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**Objective:** Update pollutant load reduction spreadsheet.

**Activities:**

Compile all existing water quality data from 2013 to present.

Update pollutant load reduction tables from WRWMP 2013.

Compare pollutant load tables from 2013 to present.

Determine additional BMPs, if any, needed to achieve water quality standards/benchmarks.

Update Water Quality Maps.

**Objective:** Update WRWMP BMP Table.

**Activities:**

Reconvene Wolf Run Watershed Council (WRWC) and meet, at a minimum, every quarter during grant.

Update WRWMP BMP Table using information from Goal Objective 3.2 and following Chapter 6 of the Kentucky (KY) Watershed Planning Guidebook.

Update WRWMP BMP Maps.

Create an addendum in the WRWMP showing all projects completed to date.

**Plan of Work**

The overall goal of implementing water quality projects recommended in the WRWMP (2013) and by updating the BMP Table in the WRWMP is to continue the momentum to improve water quality that the residents, professionals, and government officials have created over the years of dedication to the Wolf Run Watershed. This will be achieved through several activities noted above and detailed below.

One project the WRWMP BMP Table (#48) recommends is to retrofit a commercial basin that drains 22 acres of professional office area. There is 500LF of concrete channel running through this basin, 280LF is classified as an ephemeral stream, and the entire concrete channel will be removed and a more natural drainage waterway within the detention basin will be created. This drainage channel will not be a full stream restoration due to constraints and integrity of the detention basin; however, by removing the concrete channels, it will encourage infiltration, dispersal of stormwater flows across more of the basin bottom, and filtration through native plants and trees. The basin is currently turf mowed, but through this retrofit process, the grass and any invasive species will be removed and native plants and trees installed. In addition, evaluation of the necessity of the chain-link fence will occur. If possible, this fence will be removed and benches will be placed at the edges of the basin to provide an outdoor setting for passive recreation.

LFUCG Division of Water Quality (DWQ) completed a portion of WRWMP BMP #49 - Southland Association's Green Infrastructure Feasibility Study (aka Southland Area Storm Drainage Project) in 2018. One project the Southland Study recommended was

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to divert stormwater from a drainage channel parallel to the railroad tracks (3,200 LF) into a filtration basin to capture pollutants, specifically sediment, from this drainage area (21 acres). There is a storm sewer system that captures this drainage area 75 feet from LFUCG-owned water quality lots off Derby Drive. This project proposes to divert this stormwater onto city property, thru an existing utility easement, and allow it to migrate through a filtration basin prior to it flowing back into the stormwater system off Regency Road. This property is within a small neighborhood and to enhance the look, along with function, flowering native plants and trees will be installed for color and to encourage pollinator species to use this area. Additionally, educational signage will be installed and this area will be used for BMP tours, a geocaching location, passive recreation (bird watching), etc.

To determine effectiveness of these two BMPs, pre- and post–construction monitoring at the instream outfall on Southland Drive will occur during 4 wet weather events (2 pre and 2 post). These monitoring events will follow the QAPP approved for the LFUCG Watershed-Focused Monitoring Program. The results will be incorporated into the updated WRWMP, 2013, discussed below.

Public input and education is a large part of the detention basin projects. As a part of this grant, the WRWC will be reactivated to meet, at a minimum, on a quarterly basis to discuss design ideas, educational signs, and monitoring results. The public will be invited to attend these meetings through advertisement in various platforms and outlets, such as, but not limited to, Facebook (Live Green Lexington, Friends of Wolf Run, etc.), Council Member Newsletters, Next Door, and email.

While the Council is reconvened, it is also an ideal time to update the BMP Table of the WRWMP using the Watershed Plan Update Guidance (KDOW 2022). The WRWC will also work closely with other stakeholders in the watershed, including but not limited to, Friends of Wolf Run, University of Kentucky, Kentucky River Watershed Watch, etc., to assist in updating this BMP Table.

Since the completion of the approved WRWMP, 2013, 30-40 projects have been implemented and recommended studies completed. In addition, the LFUCG Watershed-Focused Monitoring Program is completing an instream sampling within the Wolf Run Watershed in 2022-2023. The results from this monitoring program, and two additional wet weather monitoring events, will be used to compare to the original water quality data to see if these projects have made an improvement in the watershed. Not only will this comparison be made, the new water quality monitoring information will be used to update the pollutant load calculation worksheets and determine if any additional projects need to be added to the WRWMP BMP Table. Several other studies, such as the Urban Tree Canopy Report (UTC, 2022) will also be used to identify additional small scale projects with the watershed. The BMP Table will also be updated by removing the projects completed to date and creating an addendum to the WRWMP with project information. In addition, water quality maps and BMP implementation maps will be

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updated. This information will be shared through an interactive map on-line (similar to the tool created for the West Hickman Watershed). The end goal is to add this updated BMP Table as an approved addendum to the WRWMP, 2013.

Through the purchasing process, LFUCG will contract with a qualified engineering firm to complete all required work associated with the two detention basin projects and the BMP Table update. In addition, LFUCG will hire Friends of Wolf Run to assist in advertising and running on-site public input meetings and Wolf Run Watershed Council meetings.

**Quality Assurance Project Plan (QAPP)**

This section is only applicable if monitoring or sampling occurs during this project.

LFUCG will develop and submit to the Cabinet for review and approval, a QAPP for the environmental monitoring activities associated with the project described in this Agreement. No project monitoring activities will occur until the QAPP has been reviewed and approved by the Cabinet. LFUCG will ensure that all environmental monitoring activities in this Agreement will be conducted in accordance with the approved QAPP. The approved QAPP will be incorporated into this Agreement by reference.

The Kentucky Division of Water (DOW) requires submittal of a data package after each sampling period, which should include Chain-of-Custody forms, field notes, calibration records of all instrumentation, and a raw data file as submitted from the laboratory. The package will also include relevant notes from field work identifying issues encountered, action needed or changes made to the sampling plan or QAPP. All issues or changes must also be communicated to DOW nonpoint source staff as soon as possible.

A final summary of overall project quality assurance will be submitted at the end of the project. The final Quality Assurance (QA) report should explain and detail the quality processes and controls used in sampling, both by the laboratory and in the field. Examples of QA report content are listed below. The report should summarize the sampling results and outline any and all deficiencies or discrepancies in the data collection and analysis process.

Examples of a QA report content are:

- Types and results of quality control samples; field blanks, field splits, field duplicates.
- Discussion of how the Quality Control (QC) samples met the precision, accuracy, completeness, bias data quality objectives from the QAPP. Explanation of data qualifiers and how it affected the data results (data that is flagged by the laboratory).
- Corrective action taken for any data quality issues.

**Best Management Practices Implementation Plan**

This section is only applicable if BMP's occur during this project.



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LFUCG shall develop and submit to the Cabinet for review and approval, a Best Management Practices (BMP) Implementation Plan for all BMP implementation activities associated with the project described in this Agreement. No BMP implementation activities shall occur until the BMP Implementation Plan has been approved by the Cabinet. LFUCG shall ensure that all BMP implementation activities in this Agreement shall be conducted in accordance with the approved BMP Implementation Plan. The approved BMP Implementation Plan shall be incorporated into this Agreement by reference.

The BMP Implementation Plan shall include: (1) a list of BMP technologies to be installed; (2) a description of the technology selection process, to include the estimated cost, relative treatment efficiency, and the minimum operation and maintenance required for the BMP to operate efficiently; (3) a description of how BMPs shall be targeted to specific locations and if locations are known, a map(s) clearly showing the location where the BMP technologies shall be demonstrated; (4) a means of notifying the Division of Water, Nonpoint Point Source (NPS) Section prior to BMP implementation; (5) a financial plan of action, which describes how financial assistance shall be provided for technology demonstration; (6) the type of maintenance agreement to be made with the landowner; and (7) a statement that ensures that all agricultural or forestry BMPs will be consistent with the Kentucky Agriculture Water Quality Act and/or the Forest Conservation Act.

#### **Education Materials**

LFUCG shall ensure that all materials to be used in school-based education shall conform to the Kentucky Academic Standards for Assessment. When materials are submitted, the corresponding section of the Kentucky Academic Standards must be cited.

LFUCG shall ensure that all outreach materials conform to the North American Association for Environmental Education's (NAAEE) *Environmental Education Materials: Guidelines for Excellence* ([www.NAAEE.org](http://www.NAAEE.org)).

#### **Geographic Information System (GIS) Activities**

LFUCG shall ensure that all geospatial data created shall be consistent with Federal Geographic Data Committee (FGDC) endorsed standards. Information on these standards shall be obtained from the web site "www.fgdc.gov" under the topics of "standards" and "publications".

#### **Animal Feeding Operation (AFO) Activities**

LFUCG shall ensure that any AFO receiving financial assistance from 319(h) funds will implement a nutrient management plan. An AFO is defined by 40 C.F.R. § 122.23(b) as any lot or facility (other than an aquatic animal production facility) where i) animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12 month period, and ii) where crops,

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vegetation forage growth, or post-harvest residues are not sustained over any portion of the lot or facility.

**Training**

All personnel involved in monitoring activities that are performed by LFUCG or sub-contractor will be provided (or required to develop) standard operating procedures (SOPs), and will be trained in sampling techniques by DOW staff. This training will be a part of the NPS project conditions, and will not incur any additional cost to the vendor.

**Measures of Success**

LFUCG staff will:

**Goal:** Improve Warm Water Habitat and Reduce Non-Point Source Pollution from entering Wolf Run Creek through Retrofitting the Regency Road Detention Basin (BMP #48 in the WRWMP, 2013).

**Objective:** Reduce stormwater runoff and pollutant levels through infiltration or storage.

**Measures of Success:**

- In-Stream Water Quality Monitoring Results
- Pre, Mid & Post Construction Photo Documentation
- Square Feet (SqFt) of Native Plants Installed
- Numbers of Trees Installed

**Objective:** Reduce nutrients entering Wolf Run Creek.

**Measures of Success:**

- In-Stream Water Quality Monitoring Results
- Pre, Mid & Post Construction Photo Documentation
- SqFt of Native Plants Installed
- Numbers of Trees Installed

**Objective:** Reduce temperature of stormwater discharge.

**Measures of Success:**

- In-Stream Water Quality Monitoring Results
- SqFt of Native Plants Installed
- Numbers of Trees Installed

**Objective:** Create passive recreational and educational opportunities.

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**Measures of Success:**

SqFt of Native Plants Installed  
 Numbers of Trees Installed  
 Numbers of Educational Signs Installed  
 Attendance at Public Meetings  
 Updated WRWMP BMP Table  
 Update WRWMP Water Quality & BMP Maps  
 Create online interactive map with BMP information

**Objective:** Determine effectiveness of project.

**Measures of Success:**

In-Stream Water Quality Monitoring Results  
 Pre, Mid & Post Construction Photo Documentation

**Goal:** Improve Warm Water Habitat and Reduce Non-Point Source Pollution from Entering Wolf Run Creek through creation of a detention basin, as suggested in the Southland Association's Green Infrastructure Feasibility Study (BMP #49 in the WRWMP, 2013).

**Objective:** Reduce pollutant levels through stormwater treatment, storage or redirection.

**Measures of Success:**

In-Stream Water Quality Monitoring Results  
 Pre, Mid & Post Construction Photo Documentation  
 SqFt of Native Plants Installed  
 Numbers of Trees Installed

**Objective:** Reduce nutrients entering Wolf Run Creek.

**Measures of Success:**

In-Stream Water Quality Monitoring Results  
 Pre, Mid & Post Construction Photo Documentation  
 SqFt of Native Plants Installed  
 Numbers of Trees Installed

**Objective:** Reduce temperature of stormwater discharge.

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**Measures of Success:**

In-Stream Water Quality Monitoring Results  
 SqFt of Native Plants Installed  
 Numbers of Trees Installed

**Objective:** Create passive recreational and educational opportunities.

**Measures of Success:**

SqFt of Native Plants Installed  
 Numbers of Trees Installed  
 Numbers of Educational Signs Installed  
 Attendance at Public Meetings  
 Updated WRWMP BMP Table  
 Update WRWMP Water Quality & BMP Maps  
 Create online interactive map with BMP information

**Objective:** Determine effectiveness of project.

**Measures of Success:**

In-Stream Water Quality Monitoring Results  
 Pre, Mid & Post Construction Photo Documentation

**Goal:** Implement Chapter 7 Recommendations of the WRWMP (2013) to update the BMP Table when significant changes have occurred and new monitoring data has been collected by following DOW NPS & Basin Team Section Watershed Plan Update Guidance (2022).

**Objective:** Implement water quality monitoring.

**Measures of Success:**

In-Stream Water Quality Monitoring Results  
 Pre, Mid & Post Construction Photo Documentation

**Objective:** Update pollutant load reduction spreadsheet.

**Measures of Success:**

In-Stream Water Quality Monitoring Results  
 Update WRWMP Water Quality & BMP Maps

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**Objective:** Update WRWMP BMP Table

**Measures of Success:**

Updated WRWMP BMP Table  
 Update WRWMP Water Quality & BMP Maps  
 Create online interactive map with BMP information

**Reports**

LFUCG shall:

Provide a quarterly programmatic report. The report shall cover progress to date, any problems encountered and actions taken and any anticipated activity and work products expected during the next quarter as outlined in the Project Status Report Template below. Provide a final report detailing activities and deliverables completed during the agreement period. The final report is due 30 days after the end of the project. All reports shall be submitted electronically to the Commonwealth within specified timeframes listed above and in the format included in the Project Status Report Template.

**Project Status Report Template**

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**Grant Recipient Name:** Lexington Fayette Urban County Government

**Project Name:** Wolf Run Watershed Water Quality Basins and Update

**Principal Investigator/Project Manager:** Demetria Kimball Mehlhorn

**Reporting Period:** (month & year)

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**Accomplishments, publicity, news:**

*(Provide an update on project activities, any publicity on the project, including links to articles)*

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**Performance outcome data/metrics:**

*(Provide updates on specific activity targets, project timelines and/or metrics from the grant agreement)*



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**Problems, issues, variances from plan:**

*(Provide updates on any problems with project activities, timelines, any variances from the original work plan)*

**Project Status Report Template**

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Section 319(h) Nonpoint Source Project Progress Report

Reporting Period:--/-- to --/--/-- Grant: PPG --BG-00D21423 State: Kentucky

Project Name: Wolf Run Watershed Water Quality Basins and Update

Contractor: LFUCG

Federal amount: \$320,000

Budget Period Start Date: 11/1/23 End Date: 9/30/27 Total Project Cost: \$533,333

Expended this Period: \$\_\_\_\_\_ Total Expenditures to Date: \$\_\_\_\_\_

**Waterbody/Watershed Identification:** Kentucky

**NPS Category:** Sedimentation/Siltation, Suspended Solids, Pathogens/Bacteria, Pesticides, Oil and Grease, Nutrients

**Purpose Statement:** The goal of this project is to improve water quality within the Wolf Run Watershed through implementing Best Management Practices (BMPs) and Chapter 7 as recommended by the Wolf Run Watershed Management Plan (WRWMP, 2013).

**LFUCG's Milestones**

All milestones will begin on November 1, 2023 and end on September 30, 2027.

Develop and submit materials to Division of Water for review and comment. Duration of Contract

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Submit advanced written notice to Nonpoint Source (NPS) Program staff for all educational public meetings, field days, workshops, etc. Duration of Contract

Submit draft news articles, brochures, newsletter articles and other educational outreach materials to NPS Program staff for approval - includes drafts of flyers and postcards inviting public to meetings and events. Duration of Contract

Submit an Annual Load Reduction Report to NPS program staff if requested. Duration of Contract

Notice to Proceed & Council Acceptance. November 2023 – November 2024

Obtain Consulting Engineer through LFUCG Procurement Process for Engineering Services. November 2023 – January 2024

Start gathering information and contacts for public involvement. November 2023 – January 2024

Quarterly Wolf Run Watershed Council Meetings, Duration of Contract

Update Webpage with project information as available. Duration of Contract

Develop and submit a BMP Implementation Plan for DOW staff approval. January 2024 – February 2024

Submit Approved LFUCG Watershed-Focused Monitoring QAPP with updated Wolf Run Sampling Location, if needed, to DOW. February 2024

Create preliminary design plans and hold public input meeting. February 2024 – June 2024

Complete two rounds of wet weather in-stream water quality monitoring. March 2024 – May 2024

Meet with permitting agencies on stream permitting requirements. March 2024

Update pollutant load reduction calculation sheet. May 2024 – July 2024

Submit preliminary design plans for review to DOW NPS staff, LFUCG staff, utilities, and Wolf Run Watershed Council. June 2024

Submit Pollutant Load Reduction Information to DOW and share with WRWC. July 2024

Create addendum to WRWMP of completed projects. July 2024 – July 2025

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Prepare design plans for permit submittals. July 2024 – September 2024

Submit required permit applications. September 2024

Prepare final design plans, specifications, quantity take-offs, and construction cost estimates. October 2024 – January 2025

Update WRWMP BMP Table & Maps. October 2024 – July 2025

Obtain Construction Contractor through LFUCG Bid Procurement Process for Construction Contracts. January 2025 – March 2025

Design & Submit Educational Signage to KDOW NPS staff and WRWC for review and approval. January 2025 – March 2025

Construct Improvements. April 2025 – September 2026

Submit WRWMP Completed Projects Addendum & Updated BMP Table to KDOW. August 2025 – November 2025

Install Education Signage. March 2026 – May 2026

Project Completion Tour. September 2026

Complete two post-construction monitoring events. May 2026 – September 2026

Prepare and Submit Draft Final Report. August 2027

Incorporate any changes and submit Approved Final Report. September 2027

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Signature      Date

***Notifications***

All notices, requests, demands, waivers, and other communications given as provided in this Agreement shall be in writing and sent to the following:

LFUCG  
 Attn: Demetria Kimball Mehlhorn  
 200 East Main Street, 9<sup>th</sup> Floor  
 Lexington, Kentucky 40507  
 859-425-2554  
 dkimball@lexingtonky.gov  
 Vendor UEI Number: VM1GLHWZXA96

Division of Water  
 Attn: Mike Reed  
 300 Sower Blvd., Third Floor NW/29  
 Frankfort, Kentucky 40601  
 502-782-6892  
 Mike.Reed@ky.gov

**II. Pricing:**

The Commonwealth shall reimburse LFUCG up to \$320,000 for services and activities as outlined in the Program Budget table below.

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Program Budget

| <b>Categories</b>  | <b>The Commonwealth</b> | <b>Cost Share/ In-kind Match</b> | <b>Total</b>     |
|--|-------------------------|----------------------------------|------------------|
| Personnel  | \$0                     | \$0                              | \$0              |
| Fringe Benefits  | \$0                     | \$0                              | \$0              |
| Travel   | \$0                     | \$0                              | \$0              |
| Equipment  | \$0                     | \$0                              | \$0              |
| Supplies   | \$0                     | \$6,000                          | \$6,000          |
| Construction   | \$0                     | \$0                              | \$0              |
| Other  | \$0                     | \$0                              | \$0              |
| <b>Total Direct Charges</b>  | <b>\$0</b>              | <b>\$6,000</b>                   | <b>\$6,000</b>   |
| Indirect Charges (up to 10% of the Commonwealth's Total Direct Charges) ** | \$0                     | \$0                              | \$0              |
| Contractual  | \$320,000               | \$207,333                        | \$527,333        |
| <b>Total</b>   | <b>\$320,000</b>        | <b>\$213,333</b>                 | <b>\$533,333</b> |
| Program Income   | \$0                     | \$0                              | \$0              |

A detailed budget template provided by the Commonwealth shall be completed and submitted to DOW prior to the start of the project and before the start of each fiscal year

**INDIRECT COST:**

If the contractor is receiving state funds the contractor may not charge indirect costs in excess of ten (10) percent of total direct costs. An indirect rate **shall not** be charged on contractual expenditures. Indirect charges exceeding the ten (10) percent shall be considered as cost share provided by the contractor.

If the contractor is receiving federal funds the Contractor shall use the indirect rate corresponding with the agreement the contractor has with the federal entity or ten (10) percent. The contractor shall provide a copy of the indirect agreement prior to the federal funds being awarded.

**III. Invoicing**

LFUCG shall:

Invoice the Commonwealth quarterly for authorized expenditures by budget line item.

The invoice must indicate:



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1. The Document ID number, which can be found at the top of the MOA/PSC. The Document ID number can be recognized by the beginning letters "PON2" or "SC"
2. Invoice number
3. Invoice date
4. Dates of service covered
5. Current expenditures with each item listed separately
6. Cumulative expenditures to date
7. Current cost share or match, if identified in the Program Budget
8. Cumulative cost share or match
9. Include a copy of the transaction detail report if available and/or receipt

Backup documentation must be maintained for each invoice, as required by the record retention schedule in Kentucky's Administrative Regulation 725 KAR 1:061 and/ or 2CFR 200.334 through 200.338. The backup documentation can either be submitted with the invoice or kept for inspection by the Commonwealth, if or when requested.

Examples of backup documentation may include:

1. Personnel – payroll spreadsheet showing time worked within the invoice period. Spreadsheet shall contain salary information, name of employee or some identifiable number, percent of time applied to grant, along with the number of hours and fringe benefits per person.
2. Fringe – include in payroll spreadsheet.
3. Travel – travel voucher or invoices showing airfare, hotel expenses, etc. Mileage will be paid based on rate established through a travel policy by the recipient. If no rate has been established, the recipient may use the state or federal mileage rate.
4. Equipment – receipt marked paid (an invoice shall be submitted after equipment is paid for).
5. Supplies – receipt marked paid (an invoice shall be submitted after supplies are paid for).
6. Contractual – invoice and documentation that item has been paid (recipient shall verify invoice).
7. Construction – invoices, receipts marked paid and any other documents that properly verify expenses.
8. Indirect costs – will be verified not to exceed the allowable rate established in the MOA.

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9. Other – invoice and documentation that item has been paid (recipient shall verify invoice).

In the event that LFUCG incurs no expenses within a reporting timeframe, LFUCG shall submit an invoice for zero (0) dollars or provide a “notice of no expenses,” based on the Commonwealth’s requirements.

Final Invoice: The final invoice should be clearly marked as “FINAL INVOICE” to indicate that all funds that will be expended, have been expended.

**Where to submit invoices:**

All invoices shall be submitted via email to:

Division of Water  
 Attn: Mike Reed  
 300 Sower Blvd., Third Floor NW/29  
 Frankfort, Kentucky 40601  
 502-782-6892  
 Mike.Reed@ky.gov

In the subject line of the email list:

**Project Number 23-07, Invoice #**

**IV. Assurances:**

Award Number: FFY-2023 Performance Partnership Grant–PPG BG - 00D21423, CFDA 66.605.

The parties shall abide by all terms of the award:

LFUCG agrees to comply with the current EPA general terms and conditions available at

<https://www.epa.gov/grants/epa-general-terms-and-conditions-effective-october-1-2019-or-later>

The following is a list of statutory, regulatory, and Executive Order requirements for subrecipients on EPA funded projects per 2 CFR 200.331(a) (2). As a subrecipient of EPA funding, you must agree to abide by the applicable requirements listed below.

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## **1. Nondiscrimination Laws and Social Policies**

Most EPA financial assistance recipients are subject to the laws and policies described below. This list of nondiscrimination and social policy requirements is for informational purposes only and is not intended to provide guidance on compliance in the context of a particular EPA assistance agreement.

### **Disadvantaged Business Enterprises**

EPA regulations at 40 CFR Part 33, "Participation by Disadvantaged Business Enterprises in U.S. Environmental Protection Agency Programs" set forth requirements for making good faith efforts to ensure that Disadvantaged Business Enterprises, including Minority Business Enterprises and Women's Business Enterprises receive a fair share of contracts awarded with funds provided by EPA financial assistance agreements. These requirements apply to subrecipients in accordance with 40 CFR 33.102 and the definition of "Recipient" in 40 CFR 33.103.

## **2. Financial Management Policies**

These policies apply to transactions financed by EPA financial assistance funds and apply to both pass-through entities and subrecipients on the basis of either regulatory requirement or the General Terms and Conditions (T&C) of the pass-through entity's agreement with EPA.

### **Federal Funding Accountability and Transparency Act**

As set forth in the General Condition of the pass-through entity's agreement with EPA entitled "Reporting Subawards and Executive Compensation" the pass-through entity must ensure that subrecipients comply with Federal Funding Accountability and Transparency Act (FFATA) reporting requirements.

### **Suspension and Debarment**

The pass-through entities responsibilities are described at 2 CFR Part 180, Subpart C and the "Debarment and Suspension" T&C of the pass-through entity's agreement with EPA. These requirements, which include checking SAM to ensure that potential contractors, subrecipients and their principals and agents are not suspended, debarred or otherwise ineligible to participate in Federal assistance programs also apply to subrecipients. It is important to note that in addition to being precluded from all first tier contracts and all contracts requiring EPA approval in accordance with 2 CFR 180.220 under 2 CFR 1532.220 suspended or debarred parties may not receive EPA funded contracts in excess of \$25,000 at any tier. Also, at 2 CFR 1532.995 EPA has identified activities that suspended or debarred parties may not perform as a "Principal" in EPA financial assistance agreements and subawards.

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**New Restriction on Lobbying, 40 CFR Part 34**

Subrecipients must submit certification and disclosure forms required by 40 CFR 34.110 and the "Lobbying and Litigation" T&C for subawards in excess of \$100,000.

**Uniform Grant Guidance Requirements (UGG)**

Subrecipients must comply with 2 CFR Part 200 requirements when they award procurement contracts, make subawards, and incur other costs borne by EPA financial assistance.

**3. Environmental Authorities**

These requirements typically apply when an EPA funded project involves construction, remediation of contamination in water, soil, or buildings, and similar activities which alter the physical environment. Other environmental laws may apply to a project independent of EPA funding. Financial assistance for research, training, technical assistance and related outreach, environmental education, program operations, or installation of pollution control equipment on vehicles or vessels, are generally not affected by these requirements. Note that this list of environmental authorities is for informational purposes only and is not intended to provide guidance on compliance in the context of a particular EPA assistance agreement.

**Clean Air Act and Clean Water Act**

Section 306 of the Clean Air Act (CAA) and section 508 of the Clean Water Act (CWA), as implemented by Executive Order 11738 (1973), prohibit performance of Federal assistance agreements at facilities disqualified due to certain violations of the CAA or CWA. Disqualified facilities are listed in the System for Award Management. Subrecipients are required to check SAM, to determine if facilities that will be used to perform contracts or subawards are listed in SAM.

**National Environmental Policy Act**

Where applicable, the National Environmental Policy Act (NEPA) requires federal agencies to conduct an environmental review of their proposed actions, with a view toward ensuring informed decision-making and public input. EPA's NEPA regulations are at 40 CFR Part 6, and note that certain EPA actions are exempt from NEPA. Pass-through entities and subrecipients may be required to assist EPA with NEPA compliance, where appropriate.

**National Historic Preservation Act**

Section 106 of the NHPA requires federal agencies to take into account the effects of their undertakings on historic properties and to provide the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment on such undertakings. Under the ACHP's regulations, consultations generally occur in the first instance with state and/or tribal historic preservation officials, with direct ACHP involvement

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in certain cases. EPA funded projects with the potential to affect historic properties – i.e., properties listed in or eligible for listing in the National Register of Historic Places – may implicate this statute. This may include, for instance, EPA-funded projects that involve alteration of structures (e.g., asbestos abatement) that are historic properties or construction/remediation on culturally sensitive lands. Pass-through entities should work with their Project Officer to ensure that subrecipients are available to work with EPA on any required consultation process with the State or Tribal Historic Preservation Office prior to commencing the project to ensure compliance with section 106 of the NHPA.

**Protection of Wetlands, Executive Order 11990 (1973), as amended**

EPA funded projects involving new construction in wetlands may implicate this Executive Order. The terms and conditions of the EPA assistance agreement may require pass-through entities to ensure that subrecipients assist EPA in determining whether a proposed project will be located in (or affect) a wetland, and if so, evaluating practicable alternative locations for the project or other mitigation.

**Coastal Zone Management Act**

This statute requires EPA to ensure that Agency funded activities in coastal areas are consistent with state coastal zone management plans that have been approved by the Department of Commerce. Pass-through entities and subrecipients should consult directly with the state Coastal Zone Management agency during the planning stages to ensure that the EPA funded project will be consistent with the state’s coastal zone management plan.

**Coastal Barriers Resources Act**

This statute restricts federal financial assistance that would encourage development in the Coastal Barriers Resources System, a collection of undeveloped and ecologically sensitive barrier formations along the Atlantic and Gulf Coasts of the United States, and the shore areas of the Great Lakes, and adjacent wetlands, marshes, estuaries, inlets, and near-shore waters. During the planning phase of a proposed project located in the Coastal Barriers Resources System, pass-through entities and subrecipients should consult with the state Coastal Zone Management agency to determine whether a proposed project will have an effect on the system, and if so, the alternative sites or mitigating measures that must be incorporated in the project's design.

**Wild and Scenic Rivers Act**

This statute prohibits federal assistance for water resource projects that would have direct and adverse effects on, invade, or unreasonably diminish, the special values of a congressionally designated wild and scenic river. Pass-through entities and subrecipients should consult with appropriate state or federal (National Park Service or Bureau of Land Management) agency to determine whether the project or any alternatives under consideration may affect a designated river.

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**Endangered Species Act (ESA)**

This statute requires Federal agencies to ensure that their activities are not likely to jeopardize endangered species, adversely modify designated critical habitats, or incidentally take (injure or kill) endangered animals without authorization, in consultation with the appropriate federal wildlife agency (the U.S. Fish and Wildlife Service or National Marine Fisheries Service) as described in 50 CFR Part 402. The ESA consultation process is triggered when an action "may affect" ESA-protected species or critical habitat. Pass-through entities and subrecipients should coordinate with EPA to ensure consultation occurs where appropriate."

**Safe Drinking Water Act**

Precludes the use of EPA financial assistance for projects that would contaminate sole source aquifers. Pass-through entities and subrecipients must contact state officials to determine whether a sole source aquifer is in the vicinity of the proposed project. If a sole source aquifer is in the project planning area, then the assistance recipient, in consultation with state ground water officials, must conduct investigations to determine if the aquifer could be contaminated by the project. If the project could potentially affect ground water supplies, the assistance recipient, in consultation with ground water officials, must elect an alternative site or devise adequate mitigating measures.



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**Memorandum of Agreement Standard Terms and Conditions  
Revised January 2023**

**1.00 Effective Date**

All Memorandum of Agreements are not effective until the Secretary of the Finance and Administration Cabinet or his authorized designee has approved the agreement and until the agreement has been submitted to the government contract review committee. However, in accordance with KRS 45A.700, memoranda of agreement in aggregate amounts of \$50,000 or less are exempt from review by the committee and need only be filed with the committee within 30 days of their effective date for informational purposes.

KRS 45A.695(7) provides that payments on personal service contracts and memoranda of agreement shall not be authorized for services rendered after government contract review committee disapproval, unless the decision of the committee is overridden by the Secretary of the Finance and Administration Cabinet or agency head, if the agency has been granted delegation authority by the Secretary.

**2.00 EEO Requirements**

The Equal Employment Opportunity Act of 1978 applies to All State government projects with an estimated value exceeding \$500,000. The contractor shall comply with all terms and conditions of the Act.

**3.00 Cancellation Clause**

Both parties shall have the right to terminate and cancel this contract at any time not to exceed thirty (30) days' written notice served on the Contractor by registered or certified mail.

**4.00 Funding Out Provision**

The state agency may terminate this agreement if funds are not appropriated to the contracting agency or are not otherwise available for the purpose of making payments without incurring any obligation for payment after the date of termination, regardless of the terms of the agreement. The state agency shall provide the Contractor thirty (30) calendar day's written notice of termination of the agreement due to lack of available funding.

**5.00 Reduction in Contract Worker Hours**

The Kentucky General Assembly may allow for a reduction in contract worker hours in conjunction with a budget balancing measure for some professional and non-professional

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service contracts. If under such authority the agency is required by Executive Order or otherwise to reduce contract hours, the agreement will be reduced by the amount specified in that document. If the contract funding is reduced, then the scope of work related to the contract may also be reduced commensurate with the reduction in funding. This reduction of the scope shall be agreeable to both parties and shall not be considered a breach of contract.

#### **6.00 Access to Records**

The state agency certifies that it is in compliance with the provisions of KRS 45A.695, "Access to contractor's books, documents, papers, records, or other evidence directly pertinent to the contract." The Contractor, as defined in KRS 45A.030, agrees that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this agreement for the purpose of financial audit or program review. The Contractor also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the agreement and shall be exempt from disclosure as provided in KRS 61.878(1)(c).

#### **7.00 Violation of tax and employment laws**

KRS 45A.485 requires the Contractor and all subcontractors performing work under the contract to reveal to the Commonwealth any final determination of a violation by the Contractor within the previous five (5) year period of the provisions of KRS chapters 136, 139, 141, 337, 338, 341, and 342. These statutes relate to corporate and utility tax, sales and use tax, income tax, wages and hours laws, occupational safety and health laws, unemployment insurance laws, and workers compensation insurance laws, respectively. Disclosure of any violations is required prior to the award of any state contract and throughout the duration the contract.

Failure to disclose violations, shall be grounds for the Commonwealth's disqualification of a contractor or subcontractor from eligibility for future state contracts for a period of two (2) years.

To comply with KRS 45A.485, the Contractor and all subcontractors performing work

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under this contract shall report any such final determination(s) of any violation(s) within the previous five (5) years to the Commonwealth by providing a list of the following information regarding any violation(s): (1) specific KRS violated, (2) date of any final determination of a violation, and (3) state agency which issued the final determination.

A list of any disclosures made prior to award of a contract shall be attached to the contract.

The Contractor affirms that it has not violated any of the provisions of the above statutes within the previous five (5) year period, aside from violations explicitly disclosed and attached to this contract. Contractor further affirms that it will (1) communicate the above KRS 45A.485 disclosure requirements to any subcontractors and (2) disclose any subcontractor violations it becomes aware of to the Commonwealth.

### **8.00 Discrimination**

This section applies only to agreements disbursing federal funds, in whole or part, when the terms for receiving those funds mandate its inclusion. Discrimination (because of race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability) is prohibited. During the performance of this agreement, the Contractor agrees as follows:

The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity or age. The Contractor further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The Contractor agrees to provide, upon request, needed reasonable accommodations. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability. Such action shall include, but not be limited to the following; employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensations; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

In all solicitations or advertisements for employees placed by or on behalf of the Contractor, the Contractor will, state that all qualified applicants will receive consideration

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for employment without regard to race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability.

The Contractor will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965 as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.

The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

In the event of the Contractor's noncompliance with the nondiscrimination clauses of this agreement or with any of the said rules, regulations or orders, this agreement may be cancelled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.

The Contractor will include the provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor, issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency,

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the contractor may request the United States to enter into such litigation to protect the interests of the United States.

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**Approvals**

This contract is subject to the terms and conditions stated herein. By affixing signatures below, the parties verify that they are authorized to enter into this contract and that they accept and consent to be bound by the terms and conditions stated herein. In addition, the parties agree that (i) electronic approvals may serve as electronic signatures, and (ii) this contract may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all counterparts together shall constitute a single contract.

**AGREED TO BY:**

**LEXINGTON FAYETTE URBAN COUNTY  
GOVERNMENT:**

  
 \_\_\_\_\_  
 Linda Gorton, Mayor

9/28/2023  
 \_\_\_\_\_  
 Date

**DEPT. FOR ENVIRONMENTAL PROTECTION:**

  
 \_\_\_\_\_  
 Anthony R. Hatton, Commissioner

10/2/2023  
 \_\_\_\_\_  
 Date

**ENERGY AND ENVIRONMENT CABINET:**

  
 \_\_\_\_\_  
 Rebecca W. Goodman, Secretary

10/2/2023  
 \_\_\_\_\_  
 Date

**APPROVED AS TO FORM AND LEGALITY:**

  
 \_\_\_\_\_  
 Joseph A. Newberg, General Counsel  
 Office of Legal Services

10/2/2023  
 \_\_\_\_\_  
 Date