

PROFESSIONAL SERVICES AGREEMENT

THIS IS AN AGREEMENT made as of March 16, 2016, between the LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT (**OWNER**) and Palmer Engineering, 400 Shopper Drive, Winchester, Kentucky, 40392 (**CONSULTANT**). **OWNER** intends to proceed with the RFQ for the Sidewalk Design for Southland Drive as described in the attached Exhibit A, "Request for Qualifications/Scope of Professional Services and Related Matters, RFP #49-2015." The services are to include customary professional design and engineering services for approximately 1.1 miles of sidewalks along both sides of Southland Drive and sidewalk connections to adjacent sidewalks where applicable. The services are hereinafter referred to as the **PROJECT**.

OWNER and **CONSULTANT** in consideration of their mutual covenants herein agree in respect of the engineering services by **CONSULTANT** and the payment for those services by **OWNER** as set forth below.

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

SECTION 1 - BASIC SERVICES OF CONSULTANT

1.1. General

CONSULTANT shall perform professional services as hereinafter stated that include customary engineering services incidental thereto.

1.2. Project Phase

After written authorization to proceed, **CONSULTANT** shall:

- 1.2.1.** Notify the **OWNER** in writing of its authorized representative who shall act as Project Manager and liaison representative between the **CONSULTANT** and the **OWNER**.
- 1.2.2.** The **CONSULTANT** must perform all duties necessary to fully complete the deliverables described in attached Exhibit A "Request for Qualifications/Scope of Professional Services and Related Matters, RFP #49-2015" (including Appendices and Addendums), and attached Exhibit C the "Proposal of Professional Services and Related Matters" (the **CONSULTANT'S** response to RFP #49-2015), and amendments to the **CONSULTANT'S** proposal included in attached Exhibit D "Further Description of Basic Professional Services and Related Matters."

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

- 1.2.3 The **CONSULTANT** shall provide written documentation of all meetings and be responsible for incorporating all comments and changes resulting therefrom in final work product.
- 1.2.4. The **CONSULTANT** shall submit two (2) copies (hardcover) and one electronic copy (PDF format) of all draft work products for this **PROJECT**. The copies of the draft reports are submitted for review and comment by the **OWNER**, and should be presented in person to the **OWNER**.
- 1.2.5. After the **OWNER'S** detailed review, the **CONSULTANT** will revise the draft work products for this **PROJECT**. Two (2) copies (hardcover) and one electronic copy (DWG and PDF format) of the all final work products for this **PROJECT** shall be provided to the **OWNER**.
- 1.2.6 Immediately notify **OWNER** of any delay in the delivery of a work product or deliverable, regardless of cause. Give written notice to **OWNER** within five (5) business days whenever **CONSULTANT** observes or otherwise becomes aware of any development that affects the scope or timing of **CONSULTANT'S** services.

SECTION 2 - EXTRA WORK BY CONSULTANT

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

SECTION 3 - OWNER'S RESPONSIBILITIES

OWNER shall:

- 3.1. Provide criteria and information as to **OWNER'S** requirements for the **PROJECT**, including objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations.
- 3.2. Assist **CONSULTANT** by placing at his disposal available information pertinent to the Project.

- 3.3. Examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by **CONSULTANT**, and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of **CONSULTANT**.
- 3.4. Designate in writing a person to act as **OWNER'S** representative with respect to the services to be rendered under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret, and define **OWNER'S** policies and decisions with respect to materials, equipment, elements, and systems pertinent to **CONSULTANT'S** services.
- 3.5. Give written notice to **CONSULTANT** whenever **OWNER** observes or otherwise becomes aware of any development that affects the scope or timing of **CONSULTANT'S** services, or any defect in the work of Contractor(s).
- 3.6. Furnish or direct **CONSULTANT** to provide, necessary Extra Work as stipulated in Section Two (2) of this Agreement or other services as required.

SECTION 4 - PERIOD OF SERVICES

- 4.1. Time is of the essence in the performance of this Agreement. See attached Exhibit D "Further Description of Basic Professional Services and Related Matters" for project schedules.
- 4.2. The provisions of this Section Four (4) and the various rates of compensation for **CONSULTANT'S** services provided for elsewhere in this Agreement have been agreed to in anticipation of the orderly and continuous progress of the **PROJECT** through completion.
- 4.3. If a delay results from the acts of **OWNER** or another entity that is required to permit or approve the work or services, an extension of time for such delay will be considered by **OWNER**.
 - 4.3.1. If the above type of delay occurs and **CONSULTANT** wants an extension of time, it must, within ten (10) days from the date of the delay, apply in writing to **OWNER** for an extension of time for a reasonable period, which must be agreed upon by **OWNER**.
 - 4.3.2. If the extension of time is approved by **OWNER**, the **PROJECT** schedule/Final Task Order shall be revised to reflect the extension. Such extension of time to the completion date shall in no way be construed to operate as a waiver on the part of **OWNER** of any of its other rights in the Agreement.
 - 4.3.3. If the above type of delay would prevent complete performance of the **PROJECT**/Final Task Order within ninety (90) days of the time specified therein, **OWNER** shall have the option of cancelling the **PROJECT**/Final Task Order or otherwise adjusting the scope of the services or work and any related fees.
 - 4.3.4. If the parties cannot mutually agree to an extension of time or an adjustment, Section 6.5 under "DISPUTES" of this Agreement shall apply.

- 4.4. If delays result solely by reason of acts of the **CONSULTANT**, the **CONSULTANT** must immediately notify the **OWNER** in the event of such delay, and provide the **OWNER** a written action plan within five (5) business days on how it will reasonably attempt to resolve the delay. If the parties cannot mutually agree to an extension of time or an adjustment, Section 6.5 under "DISPUTES" of this Agreement shall apply. If the above type of delay would prevent complete performance of the **PROJECT**/Final Task Order within ninety (90) days of the time specified therein, **OWNER** shall have the option of cancelling the **PROJECT**/Final Task Order or otherwise adjusting the scope of the services or work and any related fees.

SECTION 5 - PAYMENTS TO CONSULTANT

5.1. Methods of Payment for Services of CONSULTANT.

5.1.1. For Basic Services

OWNER shall issue individual task orders for each work assignment performed under this Agreement by **CONSULTANT** or its sub-consultant/s. Each task order shall contain scope of work, fee, and schedule for performance of the work. Individual task orders shall be of the form included in **EXHIBIT D**. The lump sum total of all task orders is not to exceed \$204,600.

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

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

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

5.1.2. For Extra Work

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

5.2. Times of Payment

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

5.3. Other Provisions Concerning Payments

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

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

SECTION 6 - GENERAL CONSIDERATIONS

6.1. Termination

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

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

6.2. Ownership and Reuse of Documents

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

6.3. Legal Responsibilities and Legal Relations

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

6.4. Successors and Assigns

- 6.4.1.** **CONSULTANT** binds itself and his partners, successors, executors, administrators, assigns and legal representatives to this Agreement in respect to all covenants, agreements, and obligations of this Agreement. **CONSULTANT** shall not assign any interest, obligation or benefit in this Agreement nor transfer any interest in the same, whether by assignment or novation, without prior written consent of **OWNER**.
- 6.4.2.** The **CONSULTANT** shall obtain written approval prior to subletting or assigning any services contained in this Agreement, and consent to sublet or assign any part of this Agreement shall not be construed to relieve the **CONSULTANT** of any responsibility for compliance with the provisions of this Agreement.
- 6.4.3.** Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than **OWNER** and **CONSULTANT**.

6.5. Disputes

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

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

6.6. Accuracy of CONSULTANT'S Work

The **CONSULTANT** shall be required to perform this Agreement in accordance with the degree of ordinary and reasonable skill and care usually exercised by professional engineers prevailing at the time, place and under similar conditions as the services hereunder are rendered.

The **CONSULTANT** shall be responsible for the accuracy of all work, even though raw data, reports, Drawings and Specifications have been accepted by the **OWNER**, and it shall make any necessary revisions or corrections resulting from its errors and/or omissions for no additional compensation. By submission of reports, soils and subsurface information, quantities estimates, calculations and Drawings and Specifications to the **OWNER**, the **CONSULTANT** has made an incontrovertible representation that the information is accurate within the appropriate standard of skill and care. Failure on the part of **CONSULTANT** to provide the expected level of accuracy may be grounds for the **OWNER** to terminate this Agreement.

6.7. Security Clause

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

6.8. Access to Records

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

6.9. Risk Management Provisions, Insurance and Indemnification

6.9.1. DEFINITIONS

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

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

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

6.9.2. INDEMNIFICATION AND HOLD HARMLESS PROVISION

CONSULTANT shall defend, indemnify, and hold harmless **OWNER** from and against all liability, claims, losses, actions, costs, expenses, obligations, fines, and assessments of whatever kind, including defense costs and reasonable attorney’s fees, that are in any way incidental to or connected with, or that arise or are alleged to have arisen, directly or indirectly, from or by **CONSULTANT**’s (or its subcontractors or subconsultants of any tier) performance or breach of the Agreement provided that such claim, damage, loss or expense is attributable to personal injury, bodily injury, sickness, or death, or to injury to or destruction of property, including the loss of use resulting therefrom; or to or from negligent acts, errors or omissions or willful misconduct; provided however, that **CONSULTANT** shall not be required to indemnify for damages caused solely by the negligent act or omission or willful misconduct of **OWNER**. Notwithstanding, the foregoing, with respect to any professional services performed by **CONSULTANT** hereunder (and to the fullest extent permitted by law), **CONSULTANT** shall indemnify, save, hold harmless and defend **OWNER** from and against any and all liability, damages and losses, including but not limited to, demands, claims, obligations, causes of action, judgments, penalties, fines, liens, costs, expenses, interest, defense costs and reasonable attorney’s fees, for any damage due to death or injury to any person or injury to any property (including the loss of use resulting therefrom) to the extent arising out of, pertaining to or relating to the negligence, recklessness or willful misconduct of **CONSULTANT** in the performance of this agreement. In the event **OWNER** is alleged to be liable based upon any of the above, **CONSULTANT** shall defend such allegations and shall bear all costs, fees and expenses of such defense, including but not limited to, all reasonable attorneys’ fees and expenses, court

costs, and expert witness fees and expenses, using attorneys approved in writing by **OWNER**, which approval shall not be unreasonably withheld. This Indemnification and Hold Harmless Provision shall in no way be limited by any financial responsibility or insurance requirements, and shall survive the termination of this Agreement.

6.9.3 FINANCIAL RESPONSIBILITY

CONSULTANT understands and agrees that it shall, prior to final acceptance of its bid and the commencement of any work, demonstrate the ability to assure compliance with the above Indemnity provisions and these other risk management provisions.

6.9.4 INSURANCE REQUIREMENTS

Required Insurance Coverage

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

<u>Coverage</u>	<u>Limits</u>
General Liability	\$1 million per occurrence, \$2 million aggregate (Insurance Services Office Form CG 00 01) or \$2 million combined single limit
Commercial Automobile Liability	Combined single, \$1 million per occurrence (Insurance Services Office Form CA 0001)
Professional Liability	\$1 million per occurrence, \$3 million aggregate
Worker's Compensation	Statutory
Employer's Liability	\$500,000.00

The policies above shall contain the following conditions:

- a. All Certificates of Insurance forms used by the insurance carrier shall be properly filed and approved by the Department of Insurance for the Commonwealth of Kentucky. OWNER shall be named as an additional insured in the General Liability Policy and Commercial Automobile Liability Policy using the Kentucky DOI approved forms.
- b. The General Liability Policy shall be primary to any insurance or self-insurance retained by OWNER.
- c. The General Liability Policy shall include a Products and Completed Operations endorsement or Premises and Operations Liability endorsement unless it is deemed not to apply by OWNER.
- d. The General Liability Policy shall have a Professional Liability endorsement (including Errors and Omissions) for any services performed pursuant to the contract, and/or a separate Professional Liability Policy shall be obtained unless it is deemed not to apply by OWNER.
- e. The Professional Liability policy shall be maintained for a minimum of three years beyond the completion date of the project, to the extent commercially available. If not commercially available, **CONSULTANT** shall notify OWNER and obtain similar insurance that is commercially available and acceptable to OWNER.
- f. OWNER shall be provided at least 30 days advance written notice via certified mail, return receipt requested, in the event any of the required policies are canceled or non-renewed.
- g. Said coverage shall be written by insurers acceptable to OWNER and shall be in a form acceptable to OWNER. Insurance placed with insurers with a rating classification of no less than Excellent (A or A-) and a financial size category of no less than VIII, as defined by the most current Best's Key Rating Guide shall be deemed automatically acceptable.

6.9.5. RENEWALS

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

evidence of coverage must be submitted in accordance with these Insurance Requirements.

6.9.6. VERIFICATION OF COVERAGE

CONSULTANT agrees to furnish **OWNER** with all applicable Certificates of Insurance signed by a person authorized by the insurer to bind coverage on its behalf prior to final award, and if requested, shall provide **OWNER** copies of all insurance policies, including all endorsements.

6.9.5. RIGHT TO REVIEW, AUDIT AND INSPECT

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

6.9.7. SAFETY AND LOSS CONTROL

CONSULTANT understands and agrees that **OWNER** is in no way responsible for the safety and property of **CONSULTANT** or its personnel. **CONSULTANT** shall comply with all applicable federal, state, and local safety standards related to the performance of its work or services under this Agreement and take reasonably necessary action to protect the life, health and safety and property of its personnel, the public, and **OWNER** in the locations and areas in which **CONSULTANT** is performing services under the Agreement.

6.9.8. DEFAULT

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

SECTION 7 - EQUAL EMPLOYMENT OPPORTUNITY

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

- 7.1.** The **CONSULTANT** will not discriminate against any employee or application for employment because of race, color, religion, national origin, sex, age, or handicap. The **CONSULTANT** will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion,

national origin, sex, age, or handicap. Such action shall include, but not be limited to the following: employment upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeships. The **CONSULTANT** agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this non-discrimination clause.

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

SECTION 8 - SPECIAL PROVISIONS, EXHIBITS, AND SCHEDULES

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

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

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

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

OWNER:

CONSULTANT:

**LEXINGTON-FAYETTE URBAN
COUNTY GOVERNMENT**

Palmer Engineering, Inc.

BY: _____
JIM GRAY, MAYOR

BY:  _____
Stephen Sewell, Palmer Engineering

ATTEST:

URBAN COUNTY COUNCIL CLERK
COMMONWEALTH OF KENTUCKY)
)
COUNTY OF FAYETTE)

The foregoing Agreement was subscribed, sworn to and acknowledged before me by _____, as the duly authorized representative for and on behalf of _____, on this the ____ day of _____, 2016.

My commission expires: _____.

NOTARY PUBLIC

EXHIBIT A

**REQUEST FOR PROPOSALS/
SCOPE OF PROFESSIONAL SERVICES
AND RELATED MATTERS
RFP #49-2015**

EXHIBIT B

CERTIFICATE OF INSURANCE



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

11/11/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER The Underwriters Group, Inc. 1700 Eastpoint Parkway P.O. Box 23790 Louisville, KY 40223	CONTACT NAME: PHONE (A/C, No, Ext): 502-244-1343	FAX (A/C, No): 502-244-1411
	E-MAIL ADDRESS:	
INSURED Palmer Engineering Company P. O. Box 747 Winchester, KY 40392	INSURER(S) AFFORDING COVERAGE	
	INSURER A: Valley Forge Insurance Company	20508
	INSURER B: Continental Casualty Company	20443
	INSURER C: AM Casualty Co of Reading PA	20427
	INSURER D: Transportation Insurance Company	20494
	INSURER E: XL Specialty Insurance Company	37885
	INSURER F:	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	X	X	6012733050	05/01/2015	05/01/2016	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	X	X	6012733078	05/01/2015	05/01/2016	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTIONS \$10,000	X	X	6012733064	05/01/2015	05/01/2016	EACH OCCURRENCE \$10,000,000 AGGREGATE \$10,000,000 \$
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	6012733047	05/01/2015	05/01/2016	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
E	Professional Liability		X	DPR9725772	12/05/2015	12/05/2016	Each Claim 4,000,000 Aggregate 4,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Lexington-Fayette Urban County Government is included as Additional Insured with respect to General Liability and Automobile Liability for the referenced project. Coverage is primary. Note: Requirements for Environmental Liability and Pollution Liability: Environmental Liability is basically a contractor designed coverage, rather than for consulting architects and engineers. The professional liability policy does not exclude pollution incidents that arise out of the scope of professional services. (Per Mr. Tom Sweeney, Claims Manager, Dept of Law, LFUCG, this is acceptable.)

CERTIFICATE HOLDER**CANCELLATION**

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

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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EXHIBIT C

**PROPOSAL OF PROFESSIONAL SERVICES
AND RELATED MATTERS**

EXHIBIT D

FURTHER DESCRIPTION OF BASIC PROFESSIONAL SERVICE AND RELATED MATTERS

Description of Services

The consultant will provide all design and engineering services necessary for the construction of for approximately 1.1 miles of sidewalks along both sides of Southland Drive from its intersection with Nicholasville Rd to its intersection with Rosemont Garden, including connections to adjacent sidewalks where applicable. The scope of work includes:

- Public Engagement
- Analysis of Sidewalk Configuration
- Analysis of Stormwater Management Options
- Field Survey
- Detailed Cost Estimates
- Rights-of-Way and Easements (where applicable)
- Plans, Specs, and Bid Documents

These services are described in Exhibit A, Exhibit C, supplemented by this exhibit.

Projects Phases and Fees

Summary of project phases and fees.

Phase No	Phase Name	Lump Sum Cost
1	Survey	\$38,530
2	Public Engagement	\$0
3	Conceptual Plans	\$54,720
4	Right-of-Way Plans	\$0
5	Final Plans	\$111,350
	Total	\$204,600

EXHIBIT D

FURTHER DESCRIPTION OF BASIC PROFESSIONAL SERVICE AND RELATED MATTERS

Detailed project phases, tasks, and fees.

Phase No	Phase Name	Task	Units	Unit Type	Price	Total
1	Survey	Field Reconnaissance	1	Lump Sum	\$5,010	\$5,010
1	Survey	Establish Control	1	Lump Sum	\$8,930	\$8,930
1	Survey	Field Surveys	1	Lump Sum	\$18,170	\$18,170
1	Survey	Utility Coordination	1	Lump Sum	\$2,870	\$2,870
1	Survey	Process Data	1	Lump Sum	\$3,550	\$3,550
2	Public Engagement	Conceptual Plan Review	0	Hourly	\$150	\$0
2	Public Engagement	Final Plan Review	0	Hourly	\$150	\$0
2	Public Engagement	Project Team Meetings	0	Hourly	\$150	\$0
2	Public Engagement	Public Meetings	0	Hourly	\$150	\$0
2	Public Engagement	Stakeholder Meetings	0	Hourly	\$150	\$0
2	Public Engagement	Property Owner Meetings	0	Hourly	\$150	\$0
3	Conceptual Plan Development	Establish Property	1	Lump Sum	\$4,080	\$4,080
3	Conceptual Plan Development	Develop Typical Sections	1	Lump Sum	\$1,050	\$1,050
3	Conceptual Plan Development	Develop Alignments And Models	1	Lump Sum	\$29,420	\$29,420
3	Conceptual Plan Development	Preliminary Drainage	1	Lump Sum	\$11,140	\$11,140
3	Conceptual Plan Development	Develop Cost Estimates	1	Lump Sum	\$2,750	\$2,750
3	Conceptual Plan Development	Proposed Right Of Way Areas	1	Lump Sum	\$3,930	\$3,930
3	Conceptual Plan Development	Utility Impact Calculations	1	Lump Sum	\$2,350	\$2,350
4	Right of Way Plans	Easement Negotiation	0	Hourly	\$120	\$0
4	Right of Way Plans	Develop Easement Descriptions	0	Each	\$400	\$0
4	Right of Way Plans	Develop ROW plats	0	Each	\$500	\$0
5	Final Plans	Refine Alignments	1	Lump Sum	\$5,300	\$5,300
5	Final Plans	Develop Typical Section	1	Lump Sum	\$1,050	\$1,050
5	Final Plans	Develop Roadway Mode	1	Lump Sum	\$27,800	\$27,800

EXHIBIT D

FURTHER DESCRIPTION OF BASIC PROFESSIONAL SERVICE AND RELATED MATTERS

5	Final Plans	Develop Plan Sheets	1	Lump Sum	\$10,300	\$10,300
5	Final Plans	Develop Profile Sheets	1	Lump Sum	\$4,700	\$4,700
5	Final Plans	Develop Cross Sections	1	Lump Sum	\$7,600	\$7,600
5	Final Plans	Entrance Design/Access	1	Lump Sum	\$3,900	\$3,900
5	Final Plans	Pipe Section	1	Lump Sum	\$7,500	\$7,500
5	Final Plans	Drainage Analysis	1	Lump Sum	\$18,100	\$18,100
5	Final Plans	Roadway Ditches	1	Lump Sum	\$1,900	\$1,900
5	Final Plans	Erosion Control	1	Lump Sum	\$5,100	\$5,100
5	Final Plans	Coordinate Control Sheet	1	Lump Sum	\$2,300	\$2,300
5	Final Plans	Summary Sheets	1	Lump Sum	\$5,100	\$5,100
5	Final Plans	Cost Estimates	1	Lump Sum	\$2,900	\$2,900
5	Final Plans	Plan Revisions	1	Lump Sum	\$5,100	\$5,100
5	Final Plans	Prepare Final Submittal	1	Lump Sum	\$2,700	\$2,700

Unit Prices

Unit prices for anticipated and extra work as required. Prior approval of LFUCG required.

Phase Name	Work	Price	Unit
Right of Ways Plans	Develop ROW plats	\$500	Each
Right of Ways Plans	Develop Easement Descriptions	\$400	Each

Hourly Rates

Hourly Rates for anticipated and extra work by phase and task. LFUCG billed actual cost on 1/4 hour basis.

Phase Name	Task	Hourly Rate
Public Engagement	Conceptual Plan Review	\$150
Public Engagement	Final Plan Review	\$150

EXHIBIT D

FURTHER DESCRIPTION OF BASIC PROFESSIONAL SERVICE AND RELATED MATTERS

Public Engagement	Project Team Meetings	\$150
Public Engagement	Public Meetings	\$150
Public Engagement	Stakeholder Meetings	\$150
Public Engagement	Property Owner Meetings	\$150
Right of Way Plans	Easement Negotiation	\$125

Hourly rates for extra work as required by position. Prior approval of LFUCG required. LFUCG billed actual cost on 1/4 hour basis.

Category	Palmer	Banks	Element
Project Manager	\$175	n/a	n/a
Engineer	\$150	\$155	n/a
CADD	\$100	\$90	n/a
Survey	\$110	\$140	n/a
Principal Landscape Architect	n/a	n/a	\$125
Project Landscape Architect	n/a	n/a	\$100

Project Schedule

Schedule is based on a notice to proceed provided to the consultant(s) by LFUCG for each phase.

Phase No	Phase Name	Days
1	Survey	20
2	Public Engagement	-
3	Conceptual Plans	70
4	Right-of-Way Plans	-
5	Final Plans	150
	Total	240