

## PROFESSIONAL SERVICES AGREEMENT

**THIS IS AN AGREEMENT** made as of \_\_\_\_\_, 20\_\_\_\_, between the LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT (**OWNER**) and Strand Associates, Inc.<sup>®</sup>, 1525 Bull Lea Road, Suite 100, Lexington, Kentucky, 40511 (**CONSULTANT**). **OWNER** intends to proceed with the Cart Shed Project. The services are hereinafter referred to as the **PROJECT**.

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

**CONSULTANT** shall provide services for **OWNER** in all phases of the **PROJECT** to which this Agreement applies, serve as **OWNER'S** 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 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.  
To the extent of any conflict among the provisions of Exhibit A and/or this Agreement, the provisions of this Agreement shall control, followed by the provisions of **EXHIBIT A**.
- 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) of all initial draft final work products for this **PROJECT**. The copies of the initial draft final reports are submitted for review and comment by the **OWNER**, and should be presented in person to the **OWNER**.
- 1.2.5. After the **OWNER'S** detailed review, the **CONSULTANT** will revise the initial draft final for all work products for this **PROJECT**. Two (2) copies (hardcover) and one electronic copy (pdf format) of the all final work products for this **PROJECT**, including all appendices, 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.
- 4.2. The provisions of 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 C**.

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

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

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

#### **5.1.2. For Extra Work**

Extra Work shall be paid for by the **OWNER** on the basis of a fixed fee, the amount of which shall be determined by negotiation or set by the proposal. 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 applicable 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. **CONSULTANT** shall not assign any interest,



obligation or benefit in this Agreement nor transfer any interest in the same, whether by assignment or novation, without prior written consent of **OWNER**.

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

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

## **6.5. Disputes**

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

## **6.6. Accuracy of CONSULTANT'S Work**

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

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

## **6.7. Security Clause**

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

## **6.8. Access to Records**

The **CONSULTANT** and his sub-consultants shall maintain all books, documents, papers, and accounting records, and make such materials available at their respective offices at all reasonable times during the Agreement period and for 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 subconsultants of any tier.
- b. **OWNER** means the Lexington-Fayette Urban County Government and its elected and appointed officials, employees, agents, boards, assigns, and successors in interest.

### 6.9.2. INDEMNIFICATION AND HOLD HARMLESS PROVISION

It is understood and agreed by the parties that Consultant hereby assumes the entire responsibility and liability for any and all damages to persons or property caused by or resulting from or arising out of any act or omission on the part of Consultant or its employees, agents, servants, owners, principals, licensees, assigns or subconsultant of any tier (hereinafter “Consultant”) under or in connection with this agreement and/or the provision of goods or services and the performance or failure to perform any work required thereby. **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 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; and 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. LFUCG is a political subdivision of the Commonwealth of Kentucky. Consultant acknowledges and agrees that LFUCG is unable to provide indemnity or otherwise save, hold harmless, or defend the Consultant in any manner.

### 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 subconsultants 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**:

<b>Coverage</b>	<b>Limits</b>
General Liability (Insurance Services Office Form CG 00 01)	\$1 million per occurrence, \$2 million aggregate or \$2 million combined single limit
Commercial Automobile Liability (Insurance Services Office Form CA 001)	combined single, \$1 million per occurrence
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 George S. Milligan, Construction Supervisor, Department of Environmental Quality & Public Works (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, D**, and any related schedules or documents may only be amended, supplemented, modified or canceled by a duly executed written instrument.
- 8.3. **NO THIRD PARTY RIGHTS.** This agreement does not create a contractual relationship with or right of action in favor of a third party against either **OWNER** or **CONSULTANT**.
- 8.4. **UNENFORCEABLE TERMS/SURVIVABILITY.** If any term or provision of this Agreement shall be found to be illegal or unenforceable, this Agreement shall remain in full force and such term or provision shall be deemed stricken. The provisions of Section 6 of this Agreement shall survive its termination.
- 8.5. **NON-WAIVER.** The failure of either party to enforce any right reserved to it in this Agreement shall not be a waiver of any such right to which the party is entitled.

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

**OWNER:**

**LEXINGTON-FAYETTE URBAN  
COUNTY GOVERNMENT**

**CONSULTANT:**

**STRAND ASSOCIATES, INC.<sup>®</sup>**

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JIM GRAY  
MAYOR

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MATTHEW S. RICHARDS  
CORPORATE SECRETARY

**ATTEST:**

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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 \_\_\_\_\_, 20\_\_\_\_.

My commission expires \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

NOTARY PUBLIC

## **EXHIBIT A**

### **SCOPE OF PROFESSIONAL SERVICES**

## **Scope of Services**

CONSULTANT will provide the following Services to OWNER.

### Design Development Services

1. Attend a project kickoff meeting with Owner.
2. Conduct a topographical survey of the four-acre proposed shed location.
3. Perform geotechnical field investigations.
  - a. Provide six borings at the proposed shed location.
  - b. Provide standard laboratory testing on the borings for geotechnical recommendations.
  - c. Provide a report including description of exploration procedures and the conditions encountered as well as geotechnical recommendations for the foundations and construction of the shed.
4. Prepare design development technical specifications and engineering drawings for the following:
  - a. A new prefabricated metal building 120-foot by 200-foot cart shed on an asphalt floor with a 16-foot roof height.
  - b. Electrical for building lighting.
  - c. Site grading and drainage to accommodate building placement, a portable loading dock, and a mobile office trailer.
5. Prepare a design development opinion of probable construction cost.
6. Attend a design review meeting with the OWNER to review drawings, specifications, and opinion of probable construction cost.

### Construction Document Services

1. Prepare final technical specifications and engineering drawings after OWNER has reviewed the design development submittal and confirmed the project budget and design concepts.
2. Prepare a final opinion of probable construction cost and submit to OWNER.
3. Submit construction documents to OWNER for review and input. OWNER shall provide the front end documents that require the contractor to name CONSULTANT as an additional insured on contractor's General Liability and Automobile Liability insurance policies and to indemnify CONSULTANT to the same extent that the contractor insures and indemnifies OWNER
4. Incorporate review comments from OWNER and submit final documents to OWNER for distribution for bidding.

### Bidding-Related Services

1. Assist OWNER in submitting documents to Lynn Imaging for distribution.



2. Attend a prebid meeting led by OWNER.
3. Prepare addenda and answer questions during bidding.
4. Attend bid opening and prepare a bid tabulation.

#### Construction-Related Services

Provide contract administration services including attendance at preconstruction conference, review of contractor's shop drawing submittals, review of contractor's periodic pay requests, attendance at monthly construction progress meetings, periodic site visits, and participation in project close out.

#### **Compensation**

OWNER shall compensate CONSULTANT for Services as follows:

<u>Scope of Service</u>	<u>Lump Sum</u>
Design Development Services	\$17,100
Construction Document Services and Bidding-Related Services	\$14,500
Construction-Related Services	<u>\$18,200</u>
Total Lump Sum	\$49,800

Only sales taxes or other taxes on Services that are in effect at the time this Agreement is executed are included in the Compensation. If the tax laws are subsequently changed by legislation during the life of this Agreement, this Agreement will be adjusted to reflect the net change.

The lump sums for the Services are based on wage scale/hourly billing rates, adjusted annually on July 1, that anticipates the Services will be completed as indicated. Should the completion time be extended, it may be cause for an adjustment in the lump sums that reflect any wage scale adjustments made.

The lump sums will not be exceeded without prior notice to and agreement by OWNER but may be adjusted for time delays, time extensions, amendments, or changes in the **Scope of Services**. Any adjustments will be negotiated based on CONSULTANT's increase or decrease in costs caused by delays, extensions, amendments, or changes.

**EXHIBIT B**

**CERTIFICATE OF INSURANCE**



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

1/12/2018

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

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

PRODUCER  
Ansay & Associates, LLC. MSN  
702 N High Point Road  
Suite 201  
Madison WI 53717

CONTACT NAME: Susan Simoneau

PHONE (A/C, No, Ext): 800-643-6133

FAX (A/C, No): 608-831-4777

E-MAIL ADDRESS: sue.simoneau@ansay.com

INSURER(S) AFFORDING COVERAGE

NAIC #

INSURER A : CNA Insurance Companies

35289

INSURER B :

INSURER C :

INSURER D :

INSURER E :

INSURER F :

INSURED STRAASS-01  
Strand Associates, Inc  
910 W. Wingra Drive  
Madison WI 53715

**COVERAGES**

CERTIFICATE NUMBER: 1120264237

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			5099170076	1/1/2018	1/1/2019	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 900,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 PRODUCTS - COMP/OP AGG \$
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						
	<input checked="" type="checkbox"/> XCU Cov. Inc.						
	GEN'L AGGREGATE LIMIT APPLIES PER:						
	<input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						
A	AUTOMOBILE LIABILITY			5099170062	1/1/2018	1/1/2019	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<input checked="" type="checkbox"/> ANY AUTO						
	<input type="checkbox"/> ALL OWNED AUTOS						
	<input checked="" type="checkbox"/> HIRED AUTOS						
	<input type="checkbox"/> SCHEDULED AUTOS						
	<input checked="" type="checkbox"/> NON-OWNED AUTOS						
A	<input checked="" type="checkbox"/> UMBRELLA LIAB			5099170059	1/1/2018	1/1/2019	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000 AGGREGATE \$
	<input type="checkbox"/> EXCESS LIAB						
	<input type="checkbox"/> CLAIMS-MADE						
	<input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000						
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			WC595126844	1/1/2018	1/1/2019	WC STATUTORY LIMITS 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
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)						
	If yes, describe under DESCRIPTION OF OPERATIONS below						
A	Professional Liability			AEH113974097	7/11/2017	7/11/2018	Each Claim 2,000,000 Aggregate 2,000,000 Full Prior Acts
	Full Prior Acts						

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)  
PROJECT: Cart Shed Design Task ID: 18-01

Lexington Fayette Urban County Government is named as an additional insured on a primary & non-contributory basis as per written agreement.

Thirty (30) days advance written notice via certified mail, return receipt requested, will be given to the Certificate Holder in the event any of the required policies are cancelled or non-renewed.

**CERTIFICATE HOLDER****CANCELLATION**

Lexington Fayette Urban County Government  
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**

**TASK ORDER NO. 18-01**

**LFUCG TASK ORDER 18-01**  
**UNDER LFUCG AGREEMENT WITH STRAND ASSOCIATES, INC.® FOR**  
**CART SHED PROJECT**

	<b>CONSULTANT</b>	<b>OWNER</b>
<b>Name</b>	Strand Associates, Inc.®	Lexington Fayette Urban County Government
<b>Street Address</b>	1525 Bull Lea Road, Suite 100	200 East Main Street
<b>City, State, Zip</b>	Lexington, KY 40511	Lexington, KY 40507
<b>Contact Person</b>	Liz Dienst, P.E.	George Milligan
<b>Telephone</b>	859-225-8500	859-258-3402
<b>Fax</b>	859-225-8501	
<b>E-Mail</b>	Liz.dienst@strand.com	gmilligan@lexingtonky.gov
<b>Task Order Date</b>	_____, 20__	
<b>Task Name</b>	Cart Shed Design, Bidding-Related, and Construction-Related Services	
<b>Task ID</b>	18-01	

**SCOPE OF WORK/DELIVERABLES**

See attached Exhibit A—Scope of Services

**SCHEDULE OF WORK**

December 31, 2018

**FEE**

\$49,800

**ACCEPTED BY:**

**AUTHORIZED BY:**

\_\_\_\_\_  
Matthew S. Richards  
Corporate Secretary

\_\_\_\_\_  
Owner's Authorized Signature

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Date Signed

*Two originals of this Task Order shall be executed by the OWNER and returned to CONSULTANT. A fully executed copy will be returned to the OWNER.*