

AGREEMENT FOR PROFESSIONAL SERVICES

with STRAND ASSOCIATES, INC.

Item No. 05-00565

Complete Street and Road Diet on Second Street Corridor

THIS AGREEMENT made and entered into by and between the City of Frankfort, hereinafter referred to as the "City", and Strand Associates, Inc., hereinafter referred to as the "Consultant."

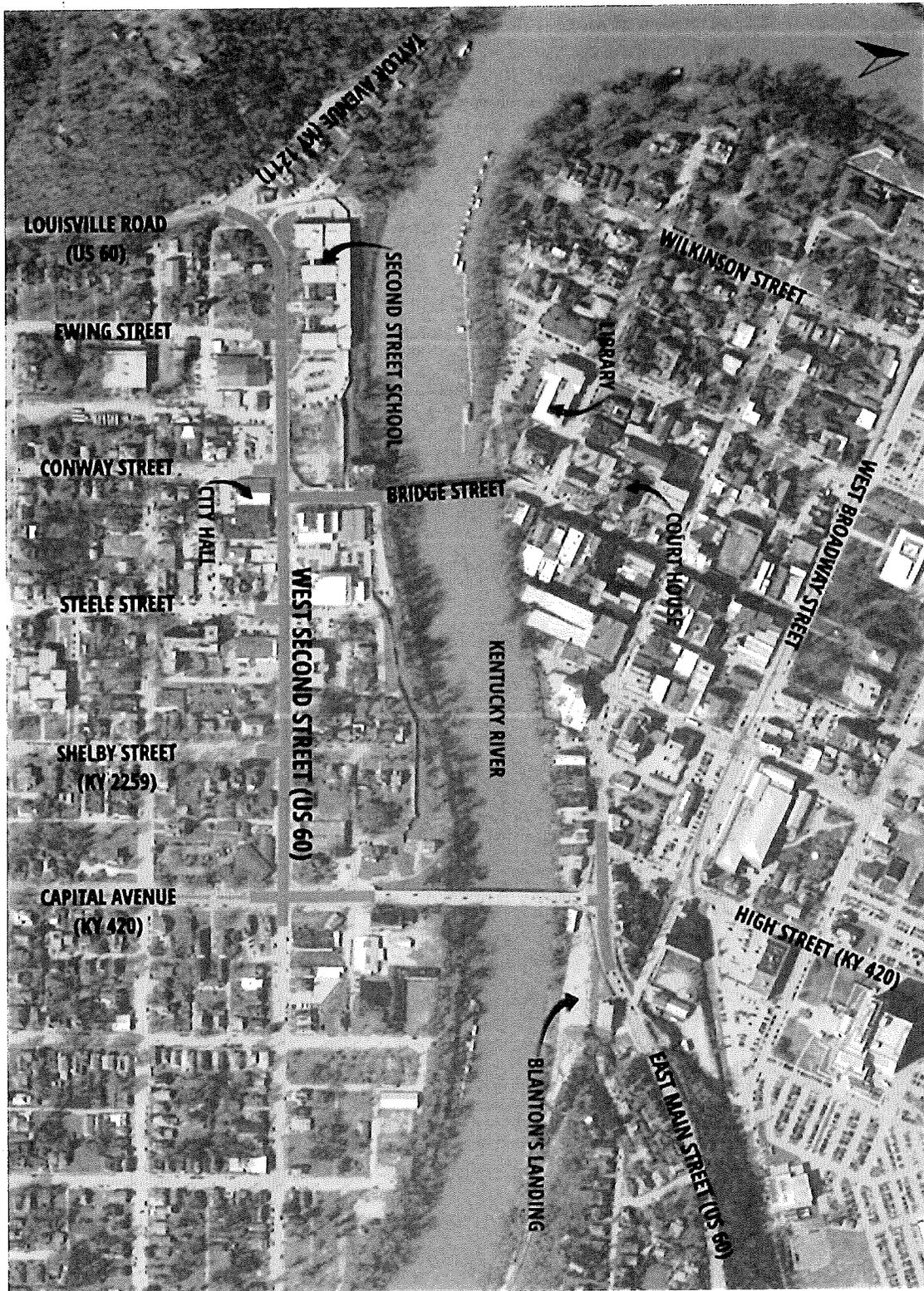
WITNESSETH, THAT WHEREAS, the City desires the described engineering and related services to be performed in connection with the designated Project;

AND, WHEREAS, the Consultant represents that he is in compliance with the Kentucky Statutes relating to the registration of professional engineers, and has signified his willingness to furnish engineering and related services for the City.

NOW, THEREFORE, in consideration of the services to be performed by the Consultant and the compensation to be paid by the City for such services, the parties hereto agree to be bound by the following terms, conditions and provisions on the hereinafter designated Project set forth. Any documents, manuals, materials or references, including modifications to the date of this Agreement, hereinafter mentioned are hereby made a part hereof as if copied at length herein. The designated Project and the compensation due the Consultant are as follows:

COUNTY:	Franklin
FUNDING CODE:	62001
ITEM NO.	05-00565
ROAD NAME:	Second Street (US 60)
FEE:	\$ 418,502

Project Map



I. DESCRIPTION OF PROJECT

The designated Project involves a complete reconstruction of Second Street (US-60) from Taylor Avenue (KY-1211) to Capital Avenue and then work along Capital Avenue (US-60) from Second Street to East Main Street including the Capital Avenue/East Main Street intersection.

The types of work anticipated on the designated Project include:

- Widening sidewalks on both sides by removal of the unused center turning lane along Second Street making room for street trees, streetlights, and street furnishings
- Reducing crossing distances at intersections with curb bulb-outs and visually enhancing crosswalks
- Clearly marking bike lanes on both sides throughout the corridor
- Performing full-depth pavement reconstruction on Second Street
- Installing new traffic and pedestrian signals
- Removing stairways and meeting Americans with Disabilities Act (ADA) accessibility requirements
- Providing streetscape enhancements and amenities
- Replacing 100-year old cast iron water mains
- Replacing aging combined sewer lines
- Separating the combined sanitary sewer and storm water infrastructure and connecting the proposed infrastructure to existing outfalls
- Relocating overhead utilities along the south side of Second Street
- Repaving on-street parking on the north side of Second Street with porous materials

II. SCOPE OF SERVICES

The Consultant will be required to provide engineering services to perform preliminary engineering and environmental services. Preliminary engineering includes surveying, line and grade drawings, traffic engineering analysis, preliminary drainage design, preliminary storm and sanitary design, and preparing opinions of probable cost. Environmental services include conducting environmental baseline studies and preparing an environmental assessment (Categorical Exclusion (CE)) document.

III. SPECIAL PROVISIONS

The "General Provisions" contained in the current copy of the Kentucky Transportation Cabinet's (KYTC), Division of Professional Services Guidance Manual shall apply unless amended by the following "Special Provisions":

1. Minutes of the Pre-Design Meeting, held on January 8, 2019, shall apply and are made a part of this Agreement.
2. Minutes of Negotiations, accepted on January 25, 2019, shall apply and are made a part of this Agreement.

IV. TIME

Services under this Agreement shall be executed to completion and the necessary documents delivered to the City prior to scheduled milestone finish dates based on time limits listed below:

Preliminary Roadway Design

Preliminary Plan Review Submittal	April 16, 2019
Hold Preliminary Line and Grade Inspection	June 27, 2019
Submit Design Executive Summary	July 22, 2019

Environmental Services

Submittal of Environmental Base Studies	May 9, 2019
Approval of Environmental Base Studies	June 10, 2019
Submittal of Draft CE Checklist to KYTC	June 17, 2019
Approval of CE by KYTC	August 1, 2019

If delays result by reason of acts of the City or approving agencies, which are beyond the control of the Consultant, an extension of time for such delay will be considered. If delays occur, the Consultant shall within 30 days from the date of delay apply in writing to the City for an extension of time for such reasonable period as may be mutually agreed upon between the parties, and if approved, the Project schedule shall be revised to reflect the extension. Such extension of time to the completion date shall in no way be construed to operate as a waiver on the part of the City of any of its rights in the Agreement.

Article XIII, "Disputes", Exhibit PS-9012, of the current KYTC Division of Professional Services Guidance Manual, shall apply in the event the parties cannot mutually agree upon an extension of time. In the event that the overall delay resulting from the above described causes is sufficient to prevent complete performance of the Agreement within one (1) year of the time specified therein, the Agreement fee or fees shall be subject to reconsideration and possible adjustment. Article XIII, "Disputes", Exhibit PS-9012, of the current KYTC, Division of Professional Services Guidance Manual, shall apply in the event the parties cannot mutually agree upon an adjustment of the fee.

V. PARTIAL PAYMENTS

The City shall pay the Consultant monthly partial payments of the fee for services performed. The allowable reimbursement shall be prorated to the progress of services specified according to the Consultant Monthly Report accepted by the City, less previous payments. Invoices will be reviewed by the City, and when approved, payment will be made for the appropriate amount within 30 days of receipt of invoice.

The Federal Acquisition Regulations, Title 48, Code of Federal Regulations shall be used in determining the allowability of individual items of cost. For the purpose of computing payments under Article X, "Payment", Exhibit PS-9012, of the current KYTC Division of Professional Services Guidance Manual, the following percentages for the various milestones are to be considered as the maximum allowable percent of completion of the entire Project at the time of completion of that particular phase, unless otherwise specified by Contract Modification:

Preliminary Plan Review Submittal	April 16, 2009	60%
Hold Preliminary Line and Grade Inspection	June 27, 2019	95%
Submit Design Executive Summary	July 22, 2019	100%

VI. FINAL PAYMENT

The total maximum fee shall not exceed \$418,502 except as provided in Article X, "Payment", Exhibit PS-9012, of the current KYTC Division of Professional Services Guidance Manual. After completion of all services contained in this Agreement and acceptance by the City of all maps, reports, notes or other related documents, the Consultant shall submit an invoice for final

payment of this Agreement. The final payment shall not exceed the amount authorized by the Agreement unless approved in writing by the City by a Contract Modification.

The Consultant shall maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred for the City's review and audit. These records shall be made available at all reasonable times during the contract period and shall be retained by the Consultant for three years from the date of final payment under this Agreement. The City will audit all Project costs prior to approving final payment. The Federal Procurement Regulations, 48 CFR 1-31, together with KYTC policy and any applicable City policy shall be used in determining the allowability of individual items of costs.

VII. OWNERSHIP OF DOCUMENTS

All data collected by the Consultant and all completed documents, exhibits, notes and reports collected or prepared in connection with these engineering services shall become the property of the City; and the City shall not be restricted in any way in its use of such material. City's use of such material for purposes other than related directly to this Agreement shall be at the City's sole risk and without liability to Consultant. Acceptability of all engineering and related services performed by the Consultant shall be determined by the City.

VIII. CONFIDENTIALITY

The Consultant shall:

- A. Take necessary measures to ensure confidentiality of all Project documents and plans. No sensitive information or copies of the written reports, documents or plans shall be furnished to others, except City-approved subconsultants, nor shall any of the Consultant's findings be disclosed orally or in writing to any party other than the authorized representative of the City without the City's written or documented oral consent.
- B. Take no steps to address any regulatory agency or governmental entity concerning the services performed hereunder without documentation from the City. Any contact from regulatory agencies or governmental entity concerning the Consultant's activities shall be reported immediately to the City.

IX. PROFESSIONAL JUDGEMENT

The Consultant shall:

- A. Be responsible for the exercise of professional judgement and due care in all aspects of his operations in carrying out the terms of this Agreement.
- B. Take appropriate measures to ensure the health and safety of its employees and the public, directly related to its services, where applicable.
- C. Not subcontract any of the services to be provided under this Agreement without prior approval of the City.

X. SEVERABILITY

It is understood and agreed by the parties that if any part, term, or provision of this Agreement is held by the courts to be illegal or in conflict with any law of the state where made, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

XI. FUNDING-OUT CLAUSE

Notwithstanding any contrary provision of the Agreement, each payment obligation of the City created by the Agreement is conditioned upon the availability of funds that are appropriated or allocated for the payment of the services. If such funds are not allocated, this Agreement will be automatically suspended by the City at the end of the period for which funds are available. The City will notify the Consultant upon allocation of funds that the Agreement is officially restarted. No penalty shall accrue to the City in the event this provision is exercised, and the City shall not be obligated or liable for any future payments due or for any damages as a result of suspension under this section.

APPENDIX A

During the performance of this Agreement, the Consultant, for itself, its assignees and successors in interest agree as follows.

- (1) Compliance With Regulation: The Consultant shall comply with the regulations of KYTC relative to non-discrimination in Federally-Assisted Programs of KYTC (Title 49, Code of Federal Regulations, Part 21, hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.
- (2) Non-discrimination: The Consultant, with regard to the services performed by it after award and prior to completion of the Agreement services shall not discriminate on the

grounds of race, color, sex, sexual orientation, gender identity, or national origin in the selection and retention of subconsultants, including procurement of materials and leases of equipment. The Consultant will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the Agreement covers a program set forth in Appendix B of the Regulations.

- (3) Solicitations for Subconsultants, including Procurement of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by the Consultant for services to be performed under a subcontract, including procurement of material or equipment, each potential subconsultant or supplier shall be notified by the Consultant of the regulations relative to non-discrimination on the grounds of race, color, sex, sexual orientation, gender identity, or national origin.
- (4) Information and Reports: The Consultant shall provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City, KYTC or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) Sanctions for Noncompliance: In the event of the Consultant's noncompliance with the non-discrimination provisions of this Agreement, the City shall impose such contract sanctions as it, KYTC or the Federal Highway Administration may determine to be appropriate including, but not limited to:
 - (a) Withholding of payments to the Consultant under the Agreement until the Consultant complies, and/or
 - (b) Cancellation, termination or suspension of the Agreement, in whole or in part.
- (6) Incorporation of Provisions: The Consultant shall include the provisions of paragraph (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, order or instructions issued pursuant thereto. The Consultant shall take such action with respect to any subcontract or procurement as the City, KYTC or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. In the event Consultant becomes involved in, or is threatened with, litigation with a subconsultant or supplier as a result of such direction; the Consultant may request the City to enter into such litigation to protect the interests of the City, and in addition, the Consultant may

request KYTC and/or the United States to enter into such litigation to protect the interests of KYTC and/or the United States.

APPENDIX B

During the performance of this Agreement, the Consultant agrees as follows:

- (1) The Consultant will not discriminate against any employee or application for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability. 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, 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 compensation, and section 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.
- (2) The Consultant will, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, sex, sexual orientation, gender identity, age, or disability.
- (3) The Consultant will send to each labor union or representatives of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the Consultant's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The Consultant 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.
- (4) The Consultant 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 Consultant agrees to provide, upon request, needed reasonable accommodations.
- (5) The Consultant 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 U.S. Secretary of Labor.

- (6) The Consultant 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 U.S. Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the U.S. Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- (7) In the event of the Consultant'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 Consultant may be declared ineligible for further government contracts or federally-assisted 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.
- (8) The Consultant will include the provisions of section 202 of Executive Order 11246 in every subcontract or purchase order unless exempted by rules, regulations or orders of the U.S. 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 subconsultant or vendor. The Consultant 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 consultant becomes involved in, or is threatened with, litigation with a subconsultant or vendor as a result of such direction by the agency, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX C

During the performance of this Agreement, the Consultant shall comply with federal requirements 49 CFR Part 26 as set out in the following "Disadvantaged Business (DBE) Requirements":

Assurance: The Consultant, Subrecipient, or Subconsultant shall not discriminate on the basis of color, national origin, or sex in the performance of this Agreement. The Consultant shall carry

out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the Consultant to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the City deems appropriate. Each contract signed with a Consultant (and each subcontract the Prime Consultant signs with a Subconsultant) must include this provision.

DBE Prompt Payment Requirement: The Consultant must abide by 49 CFR Part 26 with regard to prompt payment mechanisms and retainage payments. Specifically, all contractors must be paid within ten (10) working days after the Consultant has been paid by the City for services delivered. No recipient or Consultant may withhold retainage on any Subconsultant under this Agreement.

APPENDIX D

By signature on this Agreement the "Consultant," being duly sworn, hereby certifies that, except as noted below, the "Consultant" or any person associated therewith in the capacity of owner, partner, director, officer, project director, manager, auditor, or any person involving the administration of federal funds:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency.
- (b) Have not, within a three year period preceding this proposal, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (b) of this certification.
- (d) Have not within a three-year period preceding this application/proposal had one or more public transaction (federal, state, or local) terminated for cause of default.

Exceptions:

Exceptions will not necessarily result in denial of selection, but will be considered in determining

Consultant responsibility. For any exception noted, indicate below to whom it applies, initiating agency, and dates of action. Providing false information may result in criminal prosecution or administrative sanctions.

APPENDIX E

CERTIFICATION OF FEDERAL-AID AGREEMENT

The Consultant certifies, by signing and submitting this Agreement, to the best of his/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 any Federal agency, a member of Congress, or an employee of a member of Congress in connection with the awarding of any Federal agreement, the making of any Federal grant, the making of any Federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal agreement, 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 Federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal agreement, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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.

The Consultant also agrees by submitting his/her agreement that he/she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such sub-recipients shall certify and disclose accordingly.

APPENDIX F

During the performance of this Agreement, the Consultant agrees to comply with applicable

provisions of:

1. KRS 136 Corporation and Utility Taxes
2. KRS 139 Sale and Use Taxes
3. KRS 141 Income Taxes
4. KRS 337 Wage and Hours
5. KRS 338 Occupational Safety and Health of Employees
6. KRS 341 Unemployment Compensation
7. KRS 342 Workers Compensation

All final determinations of a violation by the Consultant within the previous five (5) years pursuant to the applicable statutes above are revealed as follows:

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the year and day below written by their officers:

CONSULTANT

Approved: Strand Associates, Inc.

Matthew Schiel
Signature

2/7/19
Date

Matthew S. Richards
Printed Name

Corporate Secretary
Title

CITY OF FRANKFORT

Approved, as to Form & Legality

Laura Ross
Laura Ross, City Solicitor

2/12/19
Date

Approved:

William I. May, Jr.
William I. May, Jr., Mayor

2/11/19
Date

CERTIFICATION OF CONSULTANT

I hereby certify that I am the _____ and duly authorized representative of the firm of Strand Associates, Inc., whose address is 1525 Bull Lea Road – Suite 100, Lexington, KY 40511, and that neither I nor the above firm I here represent has:

- a. employed or retained for a commission, percentage, brokerage, contingent fee, or other compensation, any firm or person (other than a bona fide employee working solely for me or the Consultant) to solicit or secure this Agreement,
- b. agreed, as an express or implied condition for obtaining this Agreement, to employ or retain the services of any firm or person in connection with carrying out the Agreement, or
- c. paid, or agreed to pay, any firm, organization or person (other than a bona fide employee working solely for me or the Consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the Agreement,
- d. the Consultant certifies that neither he nor any member of his immediate family having an interest of 10 percent or more in any business entity involved in the performance of this Agreement contributed more than the amount specified in KRS 121.056(2) to the campaign of the gubernatorial candidate elected in the election last preceding the date of this Agreement, except as here expressly stated, if any:

I acknowledge that this certificate is to be furnished to the City in connection with this Agreement involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

Matthew Schickel
(Signature)

2/2/19
(Date)

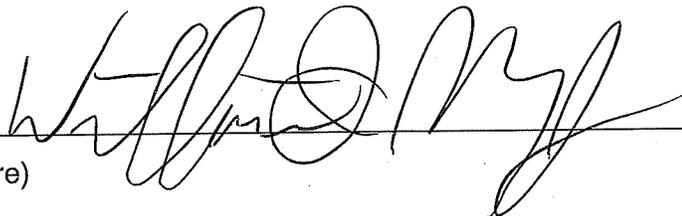
CERTIFICATION OF CITY

I hereby certify that I am the Mayor of the City and that the Consultant or his representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this Agreement, to:

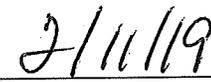
- a. employ or retain, or agree to employ or retain, any firm or person, or
- b. pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind,

except as here expressly stated, if any:

I acknowledge that this certificate is to be furnished to the Federal Highway Administration, U.S. Department of Transportation, in connection with this Agreement involving participation of Federal-aid Highway funds, and is subject to applicable State and Federal laws, both criminal and civil.



(Signature)



(Date)