

## **AGREEMENT**

**THIS PROFESSIONAL SERVICE AGREEMENT**, made and entered into by and between the **LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT**, by and through its **LOUISVILLE METRO POLICE DEPARTMENT**, herein referred to as “**METRO GOVERNMENT**”, and **THE UNIVERSITY OF LOUISVILLE RESEARCH FOUNDATION, INC.**, a Kentucky non-profit corporation and agent of the University of Louisville (“UofL”) for the receiving grants, research agreements and other sponsored agreements from external funding sources and which owns and controls intellectual property on behalf of UofL, with offices located at The Nucleus Building, 300 East Market Street, Suite 300, Louisville, Kentucky 40202, herein referred to as “**ULRF**”,

### **W I T N E S S E T H :**

**WHEREAS**, the Metro Government wishes to procure a Vehicle Stops Analysis and a Citizen Attitude Survey; and

**Whereas**, Consultant has the experience, expertise and qualifications necessary to provide these services; and

**Whereas**, pursuant to KRS 45A.380, the Metro Government has determined that competition is not feasible and that this Agreement is for professional services:

**NOW, THEREFORE**, it is agreed by and between the parties hereto as follows:

#### **I. SCOPE OF PROFESSIONAL SERVICES**

**A.** ULRF shall, at the request of the Metro Government, provide services under the terms of this professional Agreement. The ULRF’s work product may be reviewed from time to time by the Metro Government for purposes of determining that the services provided are within the scope of this Agreement.

B. ULRF, while performing the services rendered pursuant to this Agreement, may incidental thereto utilize agents or employees of UofL. However, such use must be documented in the monthly invoice submitted for those services rendered.

C. If from time to time ULRF needs to utilize the records or personnel of the Metro Government relative to performing the services required of this Agreement, then ULRF shall notify the Louisville Metro Office of Management and Budget of this need and arrangements may be made for that contingency. However, at no time shall the Metro Government make available its resources without the full consent and understandings of both parties.

D. The services of ULRF shall include but not be limited to: 1) completion of a Vehicle Stops Analysis to include data collection development, data entry (paper forms), data conversion (electronic forms), data analysis and twenty printed copies of the report on data analysis and one electronic copy and 2) completion of a Citizen Attitude Survey to include survey methodology development, survey distribution and implementation, data entry, data conversion, data analysis and twenty printed copies of the report and one electronic copy.

## II. FEES AND COMPENSATION

A. Consultant shall be reimbursed for professional services rendered according to the terms of this Agreement based on detailed invoices setting forth Consultant's expenses. Total compensation payable to Consultant for services rendered pursuant to this Agreement shall not exceed **EIGHTY FOUR THOUSAND DOLLARS (\$84,000.00)**.

**B.** Payment for services will be made, upon receipt of ULRF's detailed lump sum invoice by the Metro Government, to be provided once the work to be performed hereunder is completed. Payment shall only be made pursuant to a detailed invoice, which invoice shall indicate a descriptive accounting of the services performed under this Agreement and the particular nature of such service. Copies of invoices or receipts for third party charges and out of pocket expenses must be included with the ULRF's invoice when payment is requested. Should the agreement be terminated or canceled prior to completion of the work to be performed hereunder, Metro Government agrees to pay ULRF for all work performed up to and including the date of termination..

**C.** ULRF shall only be reimbursed out-of-pocket expenses if they are reasonable in amount and necessary to accomplish the scope of services of this contract. The Metro Government will not reimburse first class air fare, personal phone calls, short term parking expenses, or other premium type expenses. The Metro Government reserves the right to reduce or disallow expenses considered excessive or unnecessary under this contract.

**D.** ULRF, to the extent that it provides the same or related services to other parties agrees that it will not charge Metro Government for services or expenses for which it is also billing other parties which are of benefit to the other parties. Should services rendered to Metro Government under this agreement be such that those services also benefit another party during the term of this agreement, ULRF agrees to pro-rate its billings and expenses to Metro Government appropriately and to provide documentation to all parties to verify the pro-ration of such billings. In no event will the Metro Government pay bills which are considered to be double billing (i.e. billing two different parties for the same work or expense).

### **III. DURATION**

**A.** This Agreement shall begin July 1, 2018 and shall continue through and including June 30, 2019.

**B.** This Agreement may be terminated by submitting thirty (30) days' written notice to the non-terminating party of such intent to terminate. This Agreement may also be terminated by any party, without notice to the non-terminating party, because of fraud, misappropriation, embezzlement or malfeasance or a party's failure to perform the duties required under this Agreement. A waiver by either party of a breach of this Agreement shall not operate or be construed as a waiver of any subsequent breach.

**C.** In the event of termination, payment for services complete up to and including date of termination shall be based upon work completed as invoiced by ULRF. In the event that, during the term of this Agreement, the Metro Council fails to appropriate funds for the payment of the Metro Government's obligations under this Agreement, the Metro Government's rights and obligations herein shall terminate on the last day for which an appropriation has been made. The Metro Government shall deliver notice to ULRF of any such non-appropriation not later than 30 days after the Metro Government has knowledge that the appropriation has not been made.

### **IV. EMPLOYER/EMPLOYEE RELATIONSHIP**

It is expressly understood that no employer/employee relationship is created by this Agreement nor does it cause ULRF to be an officer or official of the Metro Government. By executing this Agreement, the parties hereto certify that its performance will not constitute or establish a violation of any statutory or common law principle pertaining to conflict of interest, nor will it cause unlawful benefit or gain to be derived by either party.

**V. RECORDS-AUDIT**

ULRF shall maintain during the course of the work, and retain not less than five years from the date of final payment on this Agreement, complete and accurate records of all of ULRF's costs which are chargeable to the Metro Government under this Agreement; and the Metro Government shall have the right, at any reasonable time, to inspect and audit those records by authorized representatives of its own or of any public accounting firm selected by it. The records to be thus maintained and retained by ULRF shall include (without limitation): (a) payroll records accounting for total time distribution of ULRF's employees working full or part time on the work (to permit tracing to payrolls and related tax returns), as well as documentation of electronic payroll deposits, or signed receipts for payroll payments in cash; (b) invoices for purchases receiving and issuing documents, and all the other unit inventory records for ULRF's stores stock or capital items; and (c) paid invoices and canceled checks (if applicable) or procurement card supporting documentation for materials purchased and for subcontractors' and any other third parties' charges.

**VI. HOLD HARMLESS AND INDEMNIFICATION CLAUSE**

ULRF, as an agent of the University of Louisville (U of L), although vested with sovereign immunity, is subject to the Board of Claims Act, KRS 44.070-44.160. Claims against ULRF relating to personal injury or property damage may be filed and decided under the provisions of the Act. To the extent permitted by that Act and other applicable law, ULRF as agent for the University of Louisville, shall defend, indemnify and hold harmless the Metro Government from and against any and all claims against the Metro Government which may result from any error or omission arising out of ULRF's performance under this Agreement.

**VII. REPORTING OF INCOME**

The compensation payable under this Agreement may be subject to federal, state and local taxation. Regulations of the Internal Revenue Service require the Metro Government to report all amounts in excess of \$600.00 paid to non-corporate contractors. ULRF agrees to furnish the Metro Government with its taxpayer identification number (TIN) prior to the effective date of this Agreement. ULRF further agrees to provide such other information to the Metro Government as may be required by the IRS or the State Department of Revenue. Metro Government acknowledges ULRF's assertion that it is a non-profit tax-exempt corporation.

**VIII. GOVERNING LAW**

This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky. In the event of any proceedings regarding this Agreement, the Parties agree that the venue shall be Franklin Circuit Court, Frankfort, Kentucky . All parties expressly consent to personal jurisdiction and venue in such Court for the limited and sole purpose of proceedings relating to this Agreement or any rights or obligations arising thereunder. Service of process may be accomplished by following the procedures prescribed by law.

**IX. AUTHORITY**

The ULRF, by execution of this Agreement, does hereby certify and represent that it is qualified to do business in the Commonwealth of Kentucky, has full right, power and authority to enter into this Agreement. Further, ULRF certifies that it has the authority to contract for these services with Metro Government for UofL.

**X. CONFLICTS OF INTEREST**

Pursuant to KRS 45A.455:

(1) It shall be a breach of ethical standards for any employee with procurement authority to participate directly in any proceeding or application; request for ruling or other determination; claim or controversy; or other particular matter pertaining to any contract, or subcontract, and any solicitation or proposal therefor, in which to his knowledge:

(a) He, or any member of his immediate family has a financial interest therein; or

(b) A business or organization in which he or any member of his immediate family has a financial interest as an officer, director, trustee, partner, or employee, is a party; or

(c) Any other person, business, or organization with whom he or any member of his immediate family is negotiating or has an arrangement concerning prospective employment is a party. Direct or indirect participation shall include but not be limited to involvement through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or purchase standard, rendering of advice, investigation, auditing, or in any other advisory capacity.

(2) It shall be a breach of ethical standards for any person to offer, give, or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment, in connection with any decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or purchase standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling or other

determination, claim or controversy, or other particular matter, pertaining to any contract or subcontract and any solicitation or proposal therefor.

(3) It is a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

(4) The prohibition against conflicts of interest and gratuities and kickbacks shall be conspicuously set forth in every local public agency written contract and solicitation therefor.

(5) It shall be a breach of ethical standards for any public employee or former employee knowingly to use confidential information for his actual or anticipated personal gain, or the actual or anticipated personal gain of any other person.

#### **XI. ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement and understanding of the parties with respect to the subject matter set forth herein and this Agreement supersedes any and all prior and contemporaneous oral or written agreements or understandings between the parties relative thereto. No representation, promise, inducement, or statement of intention has been made by the parties that is not embodied in this Agreement. This Agreement cannot be amended, modified, or supplemented in any respect except by a subsequent written agreement duly executed by all of the parties hereto.



**XII. OCCUPATIONAL HEALTH AND SAFETY**

ULRF agrees to comply with all statutes, rules, and regulations governing safe and healthful working conditions, including the Occupational Health and Safety Act of 1970, 29 U.S.C. 650 *et. seq.*, as amended, and KRS Chapter 338.

**XIII. SUCCESSORS**

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

**XIV. SEVERABILITY**

If any court of competent jurisdiction holds any provision of this Agreement unenforceable, such provision shall be modified to the extent required to make it enforceable, consistent with the spirit and intent of this Agreement. If such a provision cannot be so modified, the provision shall be deemed separable from the remaining provisions of this Agreement and shall not affect any other provision hereunder.

**XV. COUNTERPARTS**

This Agreement may be executed in counterparts, in which case each executed counterpart shall be deemed an original and all executed counterparts shall constitute one and the same instrument.

**XVI. CALCULATION OF TIME**

Unless otherwise indicated, when the performance or doing of any act, duty, matter, or payment is required hereunder and a period of time or duration for the fulfillment of doing thereof is prescribed and is fixed herein, the time shall be computed so as to exclude the first and include the last day of the prescribed or fixed period of time. For example, if on January 1, ULRF is directed to take action within ten (10) calendar days, the action must be completed no later than midnight, January 11.

**XVII. CAPTIONS**

The captions and headings of this Agreement are for convenience and reference purposes only and shall not affect in any way the meaning and interpretation of any provisions of this Agreement.

**XVIII. VIOLATIONS OF AND COMPLIANCE WITH KENTUCKY LAWS**


The ULRF shall reveal any final determination of a violation by the ULRF or any subcontractor performing work under this Agreement ("Subcontractor") within the previous five (5) year period pursuant to KRS Chapters 136, 139, 141, 337, 338, 341 and 342 that apply to the ULRF or Subcontractor. The ULRF shall be in continuous compliance with the provisions of KRS Chapters 136, 139, 141, 337, 338, 341 and 342 that apply to the ULRF or Subcontractor for the duration of the contract.

WITNESS the agreement of the parties hereto by their signatures affixed hereon.

APPROVED AS TO FORM AND LEGALITY CONTINGENT UPON APPROVAL OF OF THE APPROPRIATION FOR THIS CONTRACT BY THE METRO COUNCIL

LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT

  
MICHAEL J. O'CONNELL  
JEFFERSON COUNTY ATTORNEY

  
STEVE CONRAD  
CHIEF OF POLICE

WFS  
6/30/18

Date: 5/1/18

Date: 5/31/18

UNIVERSITY OF LOUISVILLE RESEARCH FOUNDATION, INC.

RB  
5/29/18

By: Barbara Sells

Title: Barbara Sells, Associate Director

Date: 5/29/18

Taxpayer Identification No. (TIN): \_\_\_\_\_

Louisville/Jefferson County Revenue Commission Account No.: \_\_\_\_\_

Approved as to form and legality:  
\_\_\_\_\_



**Office of Management and Budget  
Division of Purchasing  
Non-Competitive Contract Request Form**

Department	LMPD	Department Contact	Amy McTyeire
Contact Email	Amy.McTyeire@louisvilleky.gov	Contact Phone	574 7421

Contract Type: check one	<b>New</b>	<b>Amendment</b>		
		Additional Funds	Time Extension	Scope
Professional Service	✓			
Sole Source (goods/services)				
	<b>Start</b>	<b>End</b>		
Requested Contract Dates (MM/DD/YYYY)	07/01/2018	06/30/2019		

**VENDOR INFORMATION**

Vendor Legal Name	University of Louisville Research Foundation			
DBA				
Point of Contact	Deborah Keeling	Email	dkeeling@louisville.edu	
Street	301 South 3rd Street, Stevenson Hall, Room 521			
Suite/Floor/Apt		Phone	502 852 0370 or 2237	
City	Louisville	State	KY	Zip Code 40292
Federal Tax ID#		SSN# (if sole proprietor)		
Louisville Revenue Commission Account #	REQ# 17655			
Human Relations Commission Certified Vendors	Certified Minority Owned Business	Certified Woman Owned business	Disabled Owned business	
Select if applicable				

**FINANCIAL INFORMATION**

Not to Exceed Contract Amount	<b>\$84,000</b>	(including reimbursement expenses, if applicable)			
Fund Source: General Fund					
Federal Grant	Federal Granting Agency				
Other	Describe:				
Account Code String #	1101	305	2511	251112	521301
Payment Rate	per hour		per day		per service
	per month	X	Other		
Payment Frequency	Monthly		Upon Completion / Delivery		
	Quarterly		Other		



**Office of Management and Budget  
Division of Purchasing  
Non-Competitive Contract Request Form**

**CONTRACT SCOPE and PURPOSE** (Attach additional documentation if necessary)

**Amendments:** Describe the circumstances under which a time extension or scope change is needed.

**New:** Be specific about the work to be performed / product to be purchased including but not limited to: scope of work; description of service; work product created; why the service / product is necessary; and benefit to Louisville Metro Government.


The Department of Criminal Justice at the University of Louisville assisted with Vehicle Stops Analyses from 2005 and began providing analyses and advisement on the data collection process in April 2013. The Department of Criminal Justice has conducted citizen attitude surveys, intermittently, for LMPD and previously the Louisville Division of Police, since the mid-1990s. U of L has conducted annual citizen attitude surveys since 2013. The Department of Criminal Justice has extensive experience with policing through its program the Southern Police Institute. The faculty member who conducts the analysis for both reports has worked with the International Association of Chiefs of Police to inform police departments of the value of surveys of citizens and other "consumers" of police services.


**JUSTIFICATION FOR NON-COMPETITIVE GOOD/SERVICE** (Attach additional documentation if necessary)

Provide justification including but not limited to: a description of the unique features that prohibit competition; research conducted to verify the vendor as the only known source (sole source); why the service (PSC) is not feasible to be provided by LMG staff or expertise does not exist; known compatibility, proprietary and/or timing issues.

The most recent series of analyses for the vehicle stops and citizen attitudes provide the Chief and Mayor with not only annual information on police stops and citizen attitudes, but with the capability to make annual comparisons. In order to make the longitudinal comparisons, it is important that a consistent data collection instrument and data collection methodology be retained. Without this consistency, longitudinal comparisons are not possible.

**AUTHORIZATIONS:** Per KRS 45A.380, I have determined that competition is not feasible for the above described good / service and there is a single source within a reasonable geographical area of the good / service to be procured; or the resulting contract is for the services of a licensed professional, technician, artist, or other non-licensed professional service.

Department Director  Date 03/22/2018  
Signature  
 Printed Name Chief Steve Conrad

Purchasing Director  Date 4/27/18  
Signature  
 Printed Name Joel Neavell