#### CONSULTANT SERVICES AGREEMENT

July 8 THIS IS AN AGREEMENT made as of 2014 between the LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT (OWNER) and EOP intends proceed with ARCHITECTS (CONSULTANT). **OWNER** architectural/engineering design services as described in the attached Request for Proposal document. The services are to include the documentation, evaluation and historic analysis of the Old Fayette County Courthouse as contemplated in the OWNER's Request for Proposal No. 30-2014. 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 professional architectural/engineering services by **CONSULTANT** and the payment for those services by **OWNER** as set forth below.

**CONSULTANT** was selected by **OWNER** based upon its response to the Request for Proposal No. 30-2014.

**CONSULTANT** shall provide professional consulting services for **OWNER** in all phases of the Project to which this Agreement applies, serve as **OWNER'S** professional architectural and 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**

**CONSULTANT** shall perform professional services as hereinafter stated which include customary architectural and engineering incidental thereto.

The following documents are incorporated by reference herein as if fully stated and are attached hereto as exhibits: RFP No. 30-2014 (Exhibit "A") and Consultant's Response dated June 17, 2014 (Exhibit "B").

To the extent there is conflict among their provisions, the provisions of this Agreement shall take precedence, followed by the provisions of Request for Proposal No. 30-2014 (Exhibit "A").

After written authorization to proceed with Phase 1 – Feasibility and Analysis, **CONSULTANT** shall:

- 1. Notify the **OWNER** in writing of its authorized representative who shall act as Project architect and liaison representative between the **CONSULTANT** and the **OWNER**.
- 2. On the basis of "Selection Criteria" in the "Request for Proposal", attached in Exhibit "A", conduct field surveys and gather other necessary data or information, conduct stakeholder meetings with personnel pre-approved by LFUCG, prepare Phase 1 Feasibility and Analysis documents consisting of

design criteria, preliminary energy/thermal modeling, preliminary drawings, outline specifications, and cost estimates as well as all required deliverables listed in the Request for Proposal.

This Agreement (consisting of pages 1 to 11 inclusive), together with the Exhibits and schedules identified above constitutes the entire Agreement between **OWNER** and **CONSULTANT** and supersedes all prior written or oral understandings. This Agreement and said Exhibits and schedules may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

The General Condition provisions of RFP No. 30-2014 are incorporated herein by reference as if fully stated.

#### **SECTION 2 - ADDITIONAL SERVICES 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 Exhibit A of this Agreement. Such work shall be considered as "Additional Services", subject to a change order, supplemental to this Agreement, setting forth the character and scope thereof and the compensation therefore. Work under such change order shall not proceed until the OWNER gives written authorization. Should the OWNER find it desirable to have previously satisfactorily completed and accepted plans or parts thereof revised, the CONSULTANT shall make such revisions as directed, in writing, by the OWNER. This work shall be considered as "Additional Services" and shall be paid as such.
- **2.2.** All "Additional Services" 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 design 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 Additional Services 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. See Exhibit "A" (attached) for the project schedule.
- **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.

If delays result by reason of acts of the **OWNER** or approving agencies or other causes, 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 the delay apply in writing to the **OWNER** 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 **OWNER** of any of its rights in the Agreement. Section 6.5, under DISPUTES, of this Agreement, 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 six (6) months of the time specified therein, the Agreement fee or fees shall be subject to reconsideration and possible adjustment. Section 6.5 of this Agreement shall apply in the event the parties cannot mutually agree upon an adjustment of fee.

#### **SECTION 5 - PAYMENTS TO CONSULTANT**

#### 5.1 Methods of Payment for Services of CONSULTANT

#### 5.1.1 For Basic Services.

All Lump Sum Pricing shall include all direct labor and supervision necessary to complete the item in a manner that meets or exceeds the customer's satisfaction. It shall also include the labor payroll costs, overhead (such as unemployment taxes, general liability insurance, rent, utilities, phones, supplies, administrative salaries, F.I.C.A. sick and vacations, etc. disposal fees tool allowance, equipment, materials, profit and all other costs used on the job. The negotiated cost of services is represented below.

Provide a Lump Sum Cost not to exceed for providing LFUCG with services as noted in these specifications.

Phase 1 Cost	\$ 97,500

Phase 1 Reimbursable Expense \$ 12,500

Total Not to Exceed Cost \$ 110,000

The LFUCG reserves the right to negotiate the following fees with the selected Consultant for Phase 2 or solicit new proposals for Phase 2. Phase 2 proposals shall be valid for 12 months from contract award.

Phase 2 Cost 8% of construction cost

#### **Unit Pricing**

- a. LFUCG reserves the right to increase or decrease frequencies of unit cost i.e., each task and / or services under this agreement. If Additional Services are requested, the base contract may be increased and/or decreased on the basis of these proposed unit rates. No price adjustments will be made, unless mutually agreed to in advance or as a result of temporary conditions (defined as 30 days or less from the date of the last invoice).
- b. All Unit Pricing Hourly Rates shall include all direct labor, any supervision required, labor payroll costs, overhead (such as unemployment taxes, general liability insurance, rent, utilities, phones, supplies, administrative salaries, F.I.C.A. sick and vacations, etc.) disposal fees tool allowance, equipment, materials, profit and all other costs used on the job.

Title/Skill Level	Hourly Rate
Principal	\$175/HR
Project Manager	\$130/HR
Registered Architect	\$130/HR
Graduate Architect	\$100/HR
Clerical	\$65/HR
Senior Interior Designer	\$100/HR
Interior Designer	\$85/HR
Graphic Designer	\$95/HR
Revit/Drafter	\$85/HR
Engineer	\$100/HR
Senior Engineer	\$130/HR

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c. Additional Services may require procurement beyond the base contract. Procurement shall comply with the specifications set forth herein. The Consultant markup over the invoiced price shall be 1.15%.

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#### 5.2. Times of Payment.

**5.2.1. CONSULTANT** shall submit a schedule of values subject to approval by the **OWNER** prior to starting work. The approved schedule of values will be the basis for monthly statements for Basic Services and Additional Services rendered. The Statements will be based upon **CONSULTANT'S** estimate of the proportion of the total services actually completed at the time of billing and are subject to approval by the **OWNER**. **OWNER** shall pay **CONSULTANT'S** monthly statements within thirty (30) days of receipt.

#### 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 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, and the amount to be paid shall be determined by the **OWNER**.
- **5.3.3.** In the event the **CONSULTANT** shall terminate the Agreement because of gross delays caused by the **OWNER**, the **CONSULTANT** shall be paid as set forth in Section 5.3.1. above.

#### SECTION 6 – ADDITIONAL GENERAL CONSIDERATIONS

#### 6.1. Termination

- **6.1.1.** The obligation to provide further services under this Agreement may be terminated by either party upon ten (10) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party, provided the non-terminating party fails to cure such default within the ten (10) day period.
- **6.1.2.** The **OWNER** reserves the right to terminate the Agreement for any reason at any time upon seven (7) days written notice to the **CONSULTANT**.

#### 6.2. Ownership and Reuse of Documents.

All documents, including Models, 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 which 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 Statues.

#### 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 or 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, to be provided under this Agreement. 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 concerning the amount of payment due the **CONSULTANT** or any dispute concerning any question of fact of any act to be performed under this Agreement, which is not disposed of by agreement between the Urban County Division of Central Purchasing and the **CONSULTANT**, shall be submitted to the Commissioner, Department of General Services, Lexington-Fayette Urban County Government for review. The decision of the Commissioner as to the determination of such dispute 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 architects and 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 Drawings and Specifications have been accepted by the OWNER, and shall make any necessary revisions or corrections resulting from errors and/or omissions on the part of the CONSULTANT, without additional compensation. By submission of reports, soils and subsurface information, quantities estimates, calculations and Drawings and Specifications to the OWNER, the CONSULTANT has made a statement that, to the best of its belief and knowledge, the information is accurate. Failure on the part of CONSULTANT to provide the expected level of accuracy may be grounds for the OWNER to disqualify CONSULTANT from consideration for future CONSULTANT service agreements.

#### 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** and the CONSULTANT'S sub-consultants without prior approval of the **OWNER**.

#### 6.8. Access to Records.

The CONSULTANTS 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 contract period and for three (3) years from the date of final payment under the contract 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** service agreements.

#### 6.9. Resident Services During Construction.

The **OWNER** reserves the right to furnish a Resident Project Inspector.

#### 6.10. Required Risk Management Provisions.

The Risk Management Provisions of RFP No. 30-2014 are incorporated herein by reference as if fully stated. Copies of the required Certificates of Insurance shall be provided to **OWNER** as required therein.

#### **SECTION 7 - EQUAL EMPLOYMENT OPPORTUNITY**

During the performance of this service 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 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**

- **8.1.** This Agreement is subject to the following provisions.
  - **8.1.2.** Pursuant to subparagraph 3.4 of this Agreement, **OWNER** has assigned the appropriate LFUCG employee (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 their 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 their designee. The **CONSULTANT** shall look only to the **OWNER'S** Agent or

their 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.

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

OWNER:

The Constitant:

Consti



### CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

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		CONTACT NAME: PHONE (A/C, No, Ext):502-244-1343 (A/C, No): 502-24 E-MAIL ADDRESS:	44-1411
1700 Eastpoint Parkway P.O. Box 23790		INSURER(S) AFFORDING COVERAGE	NAIC#
Louisville, KY 40223		INSURER A: Travelers Indemnity Co Of America	25666
INSURED		INSURER B: Travelers Property Casualty Co of Amer	25674
EOP Architects, PSC		INSURER C: Travelers Indemnity Company	25658
201 West Short Street #700		INSURER D: Travelers Casualty Insurance Co of Amer	19046
Lexington, KY 40508		INSURER E: Atlantic Specialty Insurance Company	27154
		INSURER F:	!
COVERAGES	CERTIFICATE NUMBER:	REVISION NUMBER:	

**CERTIFICATE NUMBER: COVERAGES** 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.

SR	TYPE OF INSURANCE	ADDL S		POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	<u> </u>
,	GENERAL LIABILITY  y COMMERCIAL GENERAL LIABILITY			6801479L639TIA14	05/01/1014	h8/01/1015	DAMAGE TO RENTED	\$1,000,000 \$1,000,000
Ì	CLAIMS-MADE X OCCUR						MED EXP (Any one person)	\$ <sub>10,000</sub>
ŀ							PERSONAL & ADV INJURY	\$1,000,000
ı			!				GENERAL AGGREGATE	\$2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: POLICY PRO- X LOC						PRODUCTS - COMP/OP AGG	\$2,000,000 \$
-	AUTOMOBILE LIABILITY			BA2698L92614GRP	05/01/2014	05/01/2015	COMBINED SINGLE LIMIT (Ea accident)	\$1,000,000
	ANY AUTO			2			BODILY INJURY (Per person)	S
	ALL OWNED SCHEDULED						BODILY INJURY (Per accident)	S
	AUTOS AUTOS X NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident)	S
	AUTOS							S
	X UMBRELLA LIAB X OCCUR			CUP6209Y14A1447	05/01/2014	05/01/2015	EACH OCCURRENCE	\$1,000,000
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	s1,000,000
	DED X RETENTIONS 10,000							\$
	WORKERS COMPENSATION			XVMPSUB4059T50014	05/01/0014	05/01/2015	X WC STATU- OTH- TORY LIMITS ER	
	AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE	N/A					E.L. EACH ACCIDENT	\$500,000
	OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	N/A					E.L. DISEASE - EA EMPLOYEE	\$500,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						C.E. B.C. T. C.E.	
	Professional Liability			DPL299413	52/10/2013	12/10/2014	Each Claim Aggregate	1,000,000

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

Project: Old Fayette County Courthouse Evaluation and Historic Analysis
Lexington-Fayette Urban County Government is included as Additional Insured for General Mability
and Automobile Liability in regard to the referenced project.

CERTIFICATE HOLDER	CANCELLATION
Lexington-Fayette Urban County Government	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
200 East Main Street	
	AUTHORIZED REPRESENTATIVE
Lexington, KY 40507	Bune W Ferguson

CAMOELL ATION



# Lexington-Fayette Urban County Government

## Request for Proposal

The Lexington-Fayette Urban County Government hereby requests proposals for RFP #30-2014 Old Fayette County Courthouse Architectural, Historic & Structural Services to be provided in accordance with terms, conditions and specifications established herein.

Sealed proposals will be received in the Division of Central Purchasing, Room 338, Government Center, 200 East Main Street, Lexington, KY, 40507, until **2:00 PM**, prevailing local time, on **June 17**<sup>th</sup>, **2014**.

Proposals received after the date and time set for opening proposals will not be considered for award of a contract and will be returned unopened to the Proposer. It is the sole responsibility of the Proposer to assure that his/her proposal is received by the Division of Central Purchasing before the date and time set for opening proposals.

Proposals must be sealed in an envelope and the envelope prominently marked:

# RFP #30-2014 Old Fayette County Courthouse Architectural, Historic & Structural Services

If mailed, the envelope must be addressed to:

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

Additional copies of this Request For Proposals are available from the Division of Central Purchasing, Room 338 Government Center, 200 East Main Street, Lexington, KY 40507, (859)-258-3320, at no charge.

Proposals, once submitted, may not be withdrawn for a period of sixty (60) calendar days.

#### **Kentucky Equal Employment Opportunity Act**

The Kentucky Equal Employment Opportunity Act of 1978 (KRS 45.560-45.640) requires that any "county, city, town, school district, water district, hospital district, or other political subdivision of the state shall include in directly or indirectly publicly funded contracts for supplies, materials, services, or equipment hereinafter entered into the following provisions:

"During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, or national origin;
- (2) The contractor will state in all solicitations or advertisements for employees placed by or on behalf of the contractors that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, or national origin;
- (3) The contractor will post notices in conspicuous places, available to employees and applicants for employment, setting forth the provision of the nondiscrimination clauses required by this section; and
- (4) The contractor will send a notice to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding advising the labor union or workers' representative of the contractor's commitments under the nondiscrimination clauses."

#### The Act further provides:

"KRS 45.610. Hiring minorities -- Information required

- (1) For the length of the contract, each contractor shall hire minorities from other sources within the drawing area, should the union with which he has collective bargaining agreements be unwilling to supply sufficient minorities to satisfy the agreed upon goals and timetables.
- (2) Each contractor shall, for the length of the contract, furnish such information as required by KRS 45.560 to KRS 45.640 and by such rules, regulations and orders issued pursuant thereto and will permit access to all books and records pertaining to his employment practices and work sites by the contracting agency and the department for purposes of investigation to ascertain compliance with KRS 45.560 to 45.640 and such rules, regulations and orders issued pursuant thereto.

#### **LFUCG Non-Appropriation Clause**

Contractor acknowledges that the LFUCG is a governmental entity, and the contract validity is based upon the availability of public funding under the authority of its statutory mandate.

In the event that public funds are unavailable and not appropriated for the performance of the LFUCG's obligations under this contract, then this contract shall automatically expire without penalty to the LFUCG thirty (30) days after written notice to Contractor of the unavailability and non-appropriation of public funds. It is expressly agreed that the LFUCG shall not activate this non-appropriation provision for its convenience or to circumvent the requirements of this contract, but only as an emergency fiscal measure during a substantial fiscal crisis, which affects generally its governmental operations.

In the event of a change in the LFUCG's statutory authority, mandate and mandated functions, by state and federal legislative or regulatory action, which adversely affects the LFUCG's authority to continue its obligations under this contract, then this contract shall automatically terminate without penalty to the LFUCG upon written notice to Contractor of such limitation or change in the LFUCG's legal authority.

#### **Contention Process**

Vendors who respond to this invitation have the right to file a notice of contention associated with the RFP process or to file a notice of appeal of the recommendation made by the Director of Central Purchasing resulting from this invitation.

Notice of contention with the RFP process must be filed within 3 business days of the bid/proposal opening by (1) sending a written notice, including sufficient documentation to support contention, to the Director of the Division of Central Purchasing or (2) submitting a written request for a meeting with the Director of Central Purchasing to explain his/her contention with the RFP process. After consulting with the Commissioner of Finance the Chief Administrative Officer and reviewing the documentation and/or hearing the vendor, the Director of Central Purchasing shall promptly respond in writing findings as to the compliance with RFP processes. If, based on this review, a RFP process irregularity is deemed to have occurred the Director of Central Purchasing will consult with the Commissioner of Finance, the Chief Administrative Officer and the Department of Law as to the appropriate remedy.

Notice of appeal of a RFP recommendation must be filed within 3 business days of the RFP recommendation by (1) sending a written notice, including sufficient documentation to support appeal, to the Director, Division of Central Purchasing or (2) submitting a written request for a meeting with the Director of Central Purchasing to explain his appeal. After reviewing the documentation and/or hearing the vendor and consulting with the Commissioner of Finance and the Chief Administrative Officer, the Director of Central Purchasing shall in writing, affirm or withdraw the recommendation.

#### Affirmative Action Plan

All vendors must submit as a part of the proposal package the following items to the Urban County Government:

- 1. Affirmative Action Plan for his/her firm;
- 2. Current Work Force Analysis Form;

Failure to submit these items as required may result in disqualification of the submitter from award of the contract. All submissions should be directed to:

Director, Division of Central Purchasing Lexington-Fayette Urban County Government 200 East Main Street, 3rd Floor Lexington, Kentucky 40507

All questions regarding this proposal must be directed to the Division of Central Purchasing, (859)-258-3320.

offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists. Further, Affiant sayeth naught. STATE OF COUNTY OF \_\_\_\_\_ The foregoing instrument was subscribed, sworn to and acknowledged before me by \_\_\_\_\_ on this the \_\_\_\_ day of \_\_\_\_\_, 2014. My Commission expires: NOTARY PUBLIC, STATE AT LARGE

7. Proposer acknowledges that "knowingly" for purposes of this Affidavit means, with respect to conduct or to circumstances described by a statute or ordinance defining an

WORKFORCE ANALYSIS FORM	<del></del>
Name of Organization:	
Date: / /	

Categories	Total	Wh	nite	Lat	ino	Bla	ıck	Otl	ner	То	tal
		M	F	М	F	М	F	М	F	М	F
Administrators											
Professionals											
Superintendents											
Supervisors											
Foremen											
Technicians											
Protective Service				-							
Para-Professionals											
Office/Clerical											
Skilled Craft											
Service/Maintenance											
Total:											

Prepared by:		
-	Name & Title	

Firm Submitting Prop	osal:		
Complete Address: _	Street	City	Zip
Contact Name:		Title:	
Telephone Number:		_Fax Number:	<del></del>
Email address:			

- 2) A Woman-Owned Business Enterprise (WBE) is defined as a business which is certified as being at least 51% owned and operated by one or more Non-Minority Females.
- 3) A Disadvantaged Business (DBE) is defined as a business which is certified as being at least 51% owned and operated by a person(s) that are economically and socially disadvantaged.
- 4) Good Faith Efforts are efforts that, given all relevant circumstances, a bidder or proposer actively and aggressively seeking to meet the goals, can reasonably be expected to make. In evaluating good faith efforts made toward achieving the goals, whether the bidder or proposer has performed the efforts outlined in the Obligations of Bidder for Good Faith Efforts outlined in this document will be considered, along with any other relevant factors.

#### D. OBLIGATION OF BIDDER FOR GOOD FAITH EFFORTS

- 1) The bidder shall make a Good Faith Effort to achieve the Participation Goal for MWDBE subcontractors/suppliers. The failure to meet the goal shall not necessarily be cause for disqualification of the bidder; however, bidders not meeting the goal are required to furnish with their bids written documentation of their Good Faith Efforts to do so.
- 2) Award of Contract shall be conditioned upon satisfaction of the requirements set forth herein.
- 3) The Form of Proposal includes a section entitled "MWDBE Participation Form". The applicable information must be completed and submitted as outlined below.
- 4) Failure to submit this information as requested may be cause for rejection of bid.

#### E. DOCUMENTATION REQUIRED FOR GOOD FAITH EFFORTS

- 1) Bidders reaching the Goal are required to submit only the MWDBE Participation Form." The form must be fully completed including names and telephone number of participating MWDBE firm(s); type of work to be performed; estimated value of the contract and value expressed as a percentage of the total Lump Sum Bid Price. The form must be signed and dated, and is to be submitted with the bid.
- 2) Bidders not reaching the Goal must submit the "MWDBE Participation Form", the "Quote Summary Form" and a written statement documenting their Good Faith Effort to do so. If bid includes no MWDBE participation, bidder shall enter "None" on the subcontractor / supplier form). In addition, the bidder must submit written proof of their Good Faith Efforts to meet the Participation Goal:

- k. Negotiated in good faith with interested MWDBE firms not rejecting them as unqualified without sound reasons based on a thorough investigation of their capabilities. Any rejection should be so noted in writing with a description as to why an agreement could not be reached.
- m. Included documentation of quotations received from interested MWDBE firms which were not used due to uncompetitive pricing or were rejected as unacceptable and/or copies of responses from firms indicating that they would not be submitting a bid.
- n. Bidder has to submit sound reasons why the quotations were considered unacceptable. The fact that the bidder has the ability and/or desire to perform the contract work with its own forces will not be considered a sound reason for rejecting a MWDBE quote. Nothing in this provision shall be construed to require the bidder to accept unreasonable quotes in order to satisfy MWDBE goals.
- o. Made an effort to offer assistance to or refer interested MWDBE firms to obtain the necessary equipment, supplies, materials, insurance and/or bonding to satisfy the work requirements of the bid proposal
- p. Made efforts to expand the search for MWBE firms beyond the usual geographic boundaries.
- q. Other--any other evidence that the bidder submits which may show that the bidder has made reasonable good faith efforts to include MWDBE participation.

Failure to submit any of the documentation requested in this section may be cause for rejection of bid. Bidders may include any other documentation deemed relevant to this requirement. Documentation of Good Faith Efforts are to be submitted with the Bid, if the participation Goal is not met.

We have compiled the list below to help you locate certified MBE, WBE and DBE certified businesses. Below is a listing of contacts for LFUCG Certified MWDBEs in Economic Engine (https://lfucg.economicengine.com)

Business	Contact	Email Address	Phone
LFUCG	Marilyn Clark	mclark@lexingtonky.gov	859-258-3323
Commerce Lexington - Minority	Tyrone Tyra	ttyra@commercelexington.com	859-226-1625
Business Development			
Tri-State Minority Supplier Diversity	Sonya Brown	sbrown@tsmsdc.com	502-625-0137
Council			
Small Business Development Council	Dee Dee Harbut	dharbut@uky.edu	
_	UK SBDC		
	Shiree Mack	smack@uky.edu	
Community Ventures Corporation	James Coles	jcoles@cycky.org	859-231-0054
KY Department of Transportation	Melvin Bynes	Melvin.bynes@ky.gov	502-564-3601
	Shella Eagle	Shella.Eagle@ky.gov	502-564-3601
Ohio River Valley Women's	Rea Waldon	rwaldon@gcul.org	513-487-6534
Business Council (WBENC)			
Kentucky MWBE Certification Program	Yvette Smith, Kentucky	Yvette.Smith@ky.gov	502-564-8099
	Finance Cabinet		
National Women Business Owner's	Janet Harris-Lange	janet@nwboc.org	800-675-5066
Council (NWBOC)			
Small Business Administration	Robert Coffey	robertcoffey@sba.gov	502-582-5971
LaVoz de Kentucky	Andres Cruz	lavozdeky@yahoo.com	859-621-2106
The Key News Journal	Patrice Muhammad	paatricem@keynewsjournal.com	859-373-9428



Date

# LFUCG MWDBE SUBSTITUTION FORM Bid/RFP/Quote Reference #\_\_\_\_\_

The substituted MWDBE subcontractors listed below have agreed to participate on this Bid/RFP/Quote. These substitutions were made prior to or after the job was in progress. These substitutions were made for reasons stated below and are now being submitted to Central Purchasing for approval. By the authorized signature of a representative of our company, we understand that this information will be entered into our file for this project.

SUBSTITUTED MWDBE Company Name, Address, Phone, Email	MWDBE Formally Contracted/ Name, Address, Phone, Email	Work to Be Performed	Reason for the Substitution	Total Dollar Value of the Work	% Value of Total Contract
1.					
2.					
3.					
4.					
	owledges that any misro State laws concerning			n of the contract	and/or be subject
Company		Comp	any Representat	ive	

Title



#### LFUCG SUBCONTRACTOR MONTHLY PAYMENT REPORT

The LFUCG has a 10% goal plan adopted by city council to increase the participation of minority and women owned businesses in the procurement process. In order to measure that goal LFUCG will track spending with MWDBE vendors on a monthly basis. By the signature below of an authorized company representative, you certify that the information is correct, and that each of the representations set forth below is true. Any misrepresentation may result in termination of the contract and/or prosecution under applicable Federal and State laws concerning false statements and false claims. Please submit this form monthly to the Division of Central Purchasing/ 200 East Main Street / Room 338 / Lexington, KY 40507.

Project Name/ Contract #				Work Period/ From: To:							
Company Name:				Address:							
Federal Tax ID:				Contact Person:							
Subcontractor Vendor ID (name, address, phone, email	Description of Work	Total Subcontract Amount	% of Total Contract Awarded to Prime for this Project	Total Amount Paid for this Period	Purchase Order number for subcontractor work (please attach PO)	Scheduled Project Start Date	Scheduled Project End Date				
							1				
each of the re	presentations	set forth below	is true. Any	misrepresentati	certify that the info ions may result in the false statements and	e termination					
Company		_ :	Company Representative								

Date	
Company	Company Representative
	ned acknowledges that all information is accurate. Any misrepresentations may result of the contract and/or be subject to applicable Federal and State laws concerning ts and claims.
	Failure to submit any of the documentation requested in this section may be cause for rejection of bid. Bidders may include any other documentation deemed relevant to this requirement. Documentation of Good Faith Efforts are to be submitted with the Bid, if the participation Goal is not met.
	Other - any other evidence that the bidder submits which may show that the bidder has made reasonable good faith efforts to include MWDBE participation.
	Made efforts to expand the search for MWBE firms beyond the usual geographic boundaries.
	Made an effort to offer assistance to or refer interested MWDBE firms to obtain the necessary equipment, supplies, materials, insurance and/or bonding to satisfy the work requirements of the bid proposal
	Bidder has to submit sound reasons why the quotations were considered unacceptable. The fact that the bidder has the ability and/or desire to perform the contract work with its own forces will not be considered a sound reason for rejecting a MWDBE quote. Nothing in this provision shall be construed to require the bidder to accept unreasonable quotes in order to satisfy MWDBE goals.
	Included documentation of quotations received from interested MWDBE firms which were not used due to uncompetitive pricing or were rejected as unacceptable and/or copies of responses from firms indicating that they would not be submitting a bid.
	Negotiated in good faith with interested MWDBE firms not rejecting them as unqualified without sound reasons based on a thorough investigation of their capabilities. Any rejection should be so noted in writing with a description as to why an agreement could not be reached.
	appropriate, breaking out contract work items into economically feasible units to facilitate MWDBE participation, even when the prime contractor may otherwise perform these work items with its own workforce

- 9. Additional Information: While not necessary, the Respondent may include any product brochures, software documentation, sample reports, or other documentation that may assist LFUCG in better understanding and evaluating the Respondent's response. Additional documentation shall not serve as a substitute for other documentation which is required by this RFP to be submitted with the proposal,
- 10. Ambiguity, Conflict or other Errors in RFP: If a Respondent discovers any ambiguity, conflict, discrepancy, omission or other error in the RFP, it shall immediately notify LFUCG of such error in writing and request modification or clarification of the document if allowable by the LFUCG.
- 11. Agreement to Bid Terms: In submitting this proposal, the Respondent agrees that it has carefully examined the specifications and all provisions relating to the work to be done attached hereto and made part of this proposal. By acceptance of a Contract under this RFP, proposer states that it understands the meaning, intent and requirements of the RFP and agrees to the same. The successful Respondent shall warrant that it is familiar with and understands all provisions herein and shall warrant that it can comply with them. No additional compensation to Respondent shall be authorized for services or expenses reasonably covered under these provisions that the proposer omits from its Proposal.
- 12. Cancellation: If the services to be performed hereunder by the Respondent are not performed in an acceptable manner to the LFUCG, the LFUCG may cancel this contract for cause by providing written notice to the proposer, giving at least thirty (30) days notice of the proposed cancellation and the reasons for same. During that time period, the proposer may seek to bring the performance of services hereunder to a level that is acceptable to the LFUCG, and the LFUCG may rescind the cancellation if such action is in its best interest.

#### A. Termination for Cause

- (1) LFUCG may terminate a contract because of the contractor's failure to perform its contractual duties
- (2) If a contractor is determined to be in default, LFUCG shall notify the contractor of the determination in writing, and may include a specified date by which the contractor shall cure the identified deficiencies. LFUCG may proceed with termination if the contractor fails to cure the deficiencies within the specified time.
- (3) A default in performance by a contractor for which a contract may be terminated shall include, but shall not necessarily be limited to:
  - (a) Failure to perform the contract according to its terms,

Contract. The Respondent will provide LFUCG with a copy of a corporate resolution authorizing this action and a letter from an attorney confirming that the proposer is authorized to do business in the State of Kentucky if requested. All proposals must be signed by a duly authorized officer, agent or employee of the Respondent.

- 16. Governing Law: This Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky. In the event of any proceedings regarding this Contract, the Parties agree that the venue shall be the Fayette County Circuit Court or the U.S. District Court for the Eastern District of Kentucky, Lexington Division. All parties expressly consent to personal jurisdiction and venue in such Court for the limited and sole purpose of proceedings relating to this Contract or any rights or obligations arising thereunder. Service of process may be accomplished by following the procedures prescribed by law.
- 17. Ability to Meet Obligations: Respondent affirmatively states that there are no actions, suits or proceedings of any kind pending against Respondent or, to the knowledge of the Respondent, threatened against the Respondent before or by any court, governmental body or agency or other tribunal or authority which would, if adversely determined, have a materially adverse effect on the authority or ability of Respondent to perform its obligations under this Contract, or which question the legality, validity or enforceability hereof or thereof.
- 18. Contractor understands and agrees that its employees, agents, or subcontractors are not employees of LFUCG for any purpose whatsoever. Contractor is an independent contractor at all times during the performance of the services specified.

19.	If any term or provision of this Contract shall be found to be illegal o
	unenforceable, the remainder of the contract shall remain in full force and sucl
	term or provision shall be deemed stricken.

Signature	Date

#### FINANCIAL RESPONSIBILITY

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

#### **INSURANCE REQUIREMENTS**

YOUR ATTENTION IS DIRECTED TO THE INSURANCE REQUIREMENTS BELOW, AAND YOU MAY NEED TO CONFER WITH YOUR INSURANCE AGENTS, BROKERS, OR CARRIERS TO DETERMINE IN ADVANCE OF SUBMISSION OF A RESPONSE THE AVAILABILITY OF THE INSURANCE COVERAGES AND ENDORSEMENTS REQUIRED HEREIN. IF YOU FAIL TO COMPLY WITH THE INSURANCE REQUIREMENTS BELOW, YOU MAY BE DISQUALIFIED FROM AWARD OF THE CONTRACT.

#### Required Insurance Coverage

Consultant shall procure and maintain for the duration of this contract 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 LFUCG in order to protect LFUCG 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. The cost of such insurance shall be included in any bid:

<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 combined single, \$1 million per Commercial Automobile Liability occurrence (Insurance Services Office Form CA 0001) **Professional Liability** \$1 million per occurrence, \$2 million aggregate Worker's Compensation Statutory \$500,000.00 Employer's Liability

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. LFUCG 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 LFUCG.

- b. Any records of any self-insured trust fund plan or policy and related accounting statements.
- c. Actuarial funding reports or retained losses.
- d. Risk Management Manual or a description of the self-insurance and risk management program.
- e. A claim loss run summary for the previous five (5) years.
- f. Self-Insured Associations will be considered.

#### Verification of Coverage

Consultant agrees to furnish LFUCG 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 LFUCG copies of all insurance policies, including all endorsements.

#### Right to Review, Audit and Inspect

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

#### **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 LFUCG 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.

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#### Paint & Finishes

- Conduct a paint & finishes analysis of all exposed historic features, including, but not limited to, 30 samples; assessment to be made for number of samples needed for the dome and various floors
- Compare findings to AMEC Analysis of Brownfield Cleanup Alternatives study, and develop a coordinated plan for abatement, encapsulation, etc.

#### 3. Establish Preservation Philosophy and Goals

- State the philosophy, methods of reuse, and the treatment proposed for the historic building based on findings
- Identify parameters of preservation, restoration, conservation, adaptive reuse, and rehabilitation
- Prioritize and recommend elements that shall be maintained, protected, and restored
- Analyze size and volume of spaces
- Include recommendations on occupancy types, placement and routing of new mechanical, plumbing, electrical, communication, information, fire alarm, and security systems

#### 4. Estimate Improvements & Costs

- Deliver a detailed report to LFUCG with recommended short and long term stabilization and repair needs; ensure recommendations have been coordinated with the AMEC Analysis of Brownfield Cleanup Alternatives study and cleanup plan and follow established preservation goals
- Estimate scope of the identified repairs and modifications, including prioritization of historic components, conceptual alternatives, and estimated costs
- Assist LFUCG in evaluating costs and benefits of the recommended methods for improvement and stabilization

#### Phase 2: Abatement, Demolition & Emergency Repairs

#### 1. Project Design

- Determine level of demolition, stabilization, and repairs needed while coordinating findings from Phase I and the AMEC Analysis of Brownfield Cleanup Alternatives study and cleanup plan and follow established preservation goals
- Create demolition drawings; "Design-out" prioritized problems identified during the Phase
   1 with emphasis on stabilization of the structure

#### 2. Project Administration

- Assist LFUCG in reviewing submitted construction proposals for the scope of work determined for abatement, demolition, and repairs
- Manage Abatement, Demolition, and Emergency Repairs
- Ensure proper treatment of character defining features during abatement and demolition
- Assess uncovered building features and update catalogue of character defining features as needed

#### 3. Create Record Drawings

• Following the demolition and stabilization work, document the built conditions as a base for the next phase of design and construction

#### Forms & Appendices

Form No. 1: Primary Consultant Profile

Form No. 2: Key Outside Consultants

Form No. 3: Experience & References

Form No. 4: Resumes of Key Personnel

Form No. 5: Project Approach & Methodology

Form No. 6: Proposed Degree of Local Employment

Form No. 7: Financial Proposal

**Appendix A: Project Site** 

#### Form No. 2: Key Outside Consultants

Each respondent must complete this form for all proposed sub-consultants.

STRUCTURAL CONSULTANT Name & Address

Specialty / Role with this Project:

Worked with Lead Firm Before: Year Firm Established: Yes No

Years of Experience providing design services:

Complete Form 4 for all key personnel assigned to this project for this subcontractor.

SUB-CONSULTANT #1
Name & Address

Specialty / Role with this Project:

Worked with Lead Firm Before: Year Firm Established: Yes No

Years of Experience providing design services:

Complete Form 4 for all key personnel assigned to this project for this subcontractor.

SUB-CONSULTANT #2
Name & Address

Specialty / Role with this Project:

Worked with Lead Firm Before: Year Firm Established: Yes No

Years of Experience providing design services:

•Complete Form 4 for all key personnel assigned to this project for this subcontractor.

# Form No. 4: Resumes of Key Personnel

Brief resume of key persons, specialists, and individual consultants that shall be assigned to the project:

a. Name and Title:
b. Project Assignment:
c. Name of Consultant Firm with which associated:
d. Years Experience: With this firm other firms
e. Education: Degree(s)/Year/Specialization:
f. Active Registration: Year First Registered/Discipline
g. Other Experience & Qualifications relevant to the proposed project:

# Form No. 6: Proposed Degree of Local Employment

Please provide a statement reflecting the anticipated level of local work force/companies participation with this contract.

Appendix A: Proposed Project Site



