

PROFESSIONAL SERVICES AGREEMENT

THIS IS AN AGREEMENT made as of _____, 2012, between the LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT (**OWNER**) and M2D Design Group, PLLC, 400 Old Vine Street, Suite 206, Lexington, Kentucky 40507 (**CONSULTANT**). **OWNER** intends to proceed with the Landscape Architecture Services for Non-Paved Site Restoration (Landscaping & Yards) as described in the attached Exhibit A, "Request for Proposals/Scope of Professional Services and Related Matters, RFP#4-2012." The services are to include customary landscape architecture services as related to completion and submission of deliverables as described in Exhibit A, detailing the findings of all field inspections, inventory and required analysis completed by the **CONSULTANT**. 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 services by **CONSULTANT** and the payment for those services by **OWNER** as set forth below.

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

SECTION 1 - BASIC SERVICES OF CONSULTANT

1.1. General

- 1.1.1. **CONSULTANT** shall perform the specific professional services as further described and defined in the **PROJECT**, which is comprised of all of the Final Task Order(s) (as further defined herein) issued by the **OWNER**.
- 1.1.2. The following attached Exhibits are incorporated into this Agreement as if fully stated herein:
 - Exhibit A—"Request for Proposals/Scope of Professional Services and Related Matters RFP#4-2012" (including all Addendums);
 - Exhibit B—"Insurance Certificate";
 - Exhibit C—"Proposal of Professional Services and Related Matters" (**CONSULTANT'S** response to RFP#4-2012)
 - Exhibit D—"Further Description of Basic Professional Services and Related Matters" (sample Task Order).

If there is conflict among the provisions of these documents and/or this Agreement, the provisions of this Agreement shall control, followed by the provisions Exhibit A, Exhibit C, and the provisions of the Final Task Orders.

- 1.1.3. Each task order will be negotiated between the **OWNER** and **CONSULTANT** and is final when documented in writing and signed by authorized representatives of both **OWNER** and **CONSULTANT**, at which point it will be considered a Final Task Order. The authorized representative of **OWNER** is specified in subparagraph 8.1.1. below. **CONSULTANT** shall designate its authorized representative for each Task Order and shall notify **OWNER** in writing prior to the negotiation of each Task Order.

1.2. Project Phase

Each Final Task Order shall be considered a separate phase of the **PROJECT**. Upon issuance of each Final Task Order, **CONSULTANT** shall:

- 1.2.1. Notify **OWNER** in writing of its authorized representative who shall act as **PROJECT** liaison representative between **CONSULTANT** and **OWNER**.
- 1.2.2. Perform all duties necessary to fully complete each Final Task Order in accordance with this Agreement and the attached Exhibits.
- 1.2.3. Provide written documentation to **OWNER** of any meetings, which shall include the incorporation of any comments and any changes to the final work produce.
- 1.2.4. Provide the following Work Product Documents to **OWNER**:
 - 1.2.4.1. Five (5) written copies (hardcover) of all initial draft work products for this **PROJECT**.
 - 1.2.4.2. After **OWNER**'s detailed review and comment on the above, the **CONSULTANT** will revise the initial draft final for all work products for this **PROJECT**, and provide **OWNER** with five (5) written copies (hardcover) of the proposed Final Draft Work Product document and one (1) electronic copy which shall include all appendices, and which is in a form that can readily be converted by **OWNER** to quick-link accessible through **OWNER**'s Website.
 - 1.2.4.3. **OWNER** shall have ten (10) business days within which to accept (either with or without additional conditions) or deny each proposed Final Draft Work Product document. It is conditionally accepted or denied, **OWNER** shall provide **CONSULTANT** a detailed written explanation for the determination.
 - 1.2.4.4. **CONSULTANT** shall have ten (10) business days to correct any deficiencies noted by **OWNER** and submit the amended Final Work Product Document, which must be accepted by **OWNER**.
 - 1.2.4.5. Upon final acceptance by **OWNER**, **CONSULTANT** shall provide **OWNER** with five (5) final copies (hardcover) and one (1) electronic copy of each Final Work Produce Document.
- 1.2.5. Immediately notify **OWNER** of any delay in the delivery of a work product or deliverable, regardless of cause. Give written notice to **OWNER** within five (5) business days whenever **CONSULTANT** observes or otherwise becomes aware of

any development that affects the scope or timing of **CONSULTANT'S** services, or any defect in the work of Contractor(s).

SECTION 2 - EXTRA WORK BY CONSULTANT

- 2.1. The **OWNER** may desire to have the **CONSULTANT** perform work or render services in connection with this **PROJECT** other than provided by the expressed intent of this Agreement. Such work shall be considered as "Extra Work," subject to a 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 "Extra Work" and shall be paid as such.
- 2.2. All "Extra Work" is subject to prior written authorization of **OWNER** and necessary appropriations made by the Urban County Council.

SECTION 3 - OWNER'S RESPONSIBILITIES

OWNER shall:

- 3.1. Provide criteria and information as to **OWNER'S** requirements for the **PROJECT**, including 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 Extra Work as stipulated in Section Two (2) of this Agreement or other services as required.

SECTION 4 - PERIOD OF SERVICES

- 4.1. Time is of the essence. See attached Exhibit A "Request for Proposals/Scope of Professional Services and Related Matters" 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.
- 4.3. If a delay results from the acts of **OWNER** or another entity that is required to permit or approve the work or services, an extension of time for such delay will be considered by **OWNER**.
 - 4.3.1. If the above type of delay occurs and **CONSULTANT** wants an extension of time, it must, within ten (10) days from the date of the delay, apply in writing to **OWNER** for an extension of time for a reasonable period, which must be agreed upon by **OWNER**.
 - 4.3.2. If the extension of time is approved by **OWNER**, the **PROJECT** schedule/Final Task Order shall be revised to reflect the extension. Such extension of time to the completion date shall in no way be construed to operate as a waiver on the part of **OWNER** of any of its other rights in the Agreement.
 - 4.3.3. If the above type of delay would prevent complete performance of the **PROJECT/Final Task Order** within ninety (90) days of the time specified therein, **OWNER** shall have the option of cancelling the **PROJECT/Final Task Order** or otherwise adjusting the scope of the services or work and any related fees.
 - 4.3.4. If the parties cannot mutually agree to an extension of time or an adjustment, Section 6.5 under "DISPUTES" of this Agreement shall apply.
- 4.4. If delays result solely by reason of acts of the **CONSULTANT**, the **CONSULTANT** must immediately notify the **OWNER** in the event of such delay, and provide the **OWNER** a written action plan within five (5) business days on how it will reasonably attempt to resolve the delay. If the parties cannot mutually agree to an extension of time or an adjustment, Section 6.5 under "DISPUTES" of this Agreement shall apply. If the above type of delay would prevent complete performance of the **PROJECT/Final Task Order** within ninety (90) days of the time specified therein, **OWNER** shall have the option of cancelling the **PROJECT/Final Task Order** or otherwise adjusting the scope of the services or work and any related fees.

SECTION 5 - PAYMENTS TO CONSULTANT

5.1. Methods of Payment for Services of CONSULTANT

5.1.1. For Basic Services

OWNER shall pay CONSULTANT a lump sum fee for each Final Task Order, the amount of which shall not exceed the dollar value established for each sub-task identified in the task order based upon rates provided to the OWNER in Exhibit C.

5.1.2. For Extra Work

"Extra Work" shall be paid for by the **OWNER** on the basis of the Task Order fixed fee, the amount of which shall be determined by negotiation. The **OWNER** shall have the right to negotiate alternate methods of payment for "Extra Work" if the **OWNER** determines that the fixed fee basis is not feasible. In the event the **OWNER** and the **CONSULTANT** are unable to agree upon the amount of payment for "Extra Work", then the amount of such payment shall be determined as set forth in Section 6.5, "DISPUTES" of this Agreement.

5.2. Times of Payment

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

5.3. Other Provisions Concerning Payments

5.3.1. In the event the Agreement is terminated by the **OWNER** without fault on the part of the **CONSULTANT**, the **CONSULTANT** shall be paid for the work performed or services rendered for which it has not already been paid as determined by mutual agreement between the **OWNER** and the **CONSULTANT**.

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

SECTION 6 - GENERAL CONSIDERATIONS

6.1. Termination

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

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

6.2. Ownership and Reuse of Documents

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

6.3. Legal Responsibilities and Legal Relations

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

6.4. Successors and Assigns

- 6.4.1.** **CONSULTANT** binds itself and his partners, successors, executors, administrators, assigns and legal representatives to this Agreement in respect to all covenants, agreements, and obligations of this Agreement. **CONSULTANT** shall not assign any interest, obligation or benefit in this Agreement. **CONSULTANT** shall not assign any interest, obligation or benefit in this Agreement nor transfer any interest in the same, whether by assignment or novation, without prior written consent of **OWNER**.
- 6.4.2.** The **CONSULTANT** shall not subcontract more than fifty percent (50%) of the work, based upon dollar value of the work. The **CONSULTANT** shall obtain written approval prior to subletting or assigning any services contained in this Agreement, and consent to sublet or assign any part of this Agreement shall not be

construed to relieve the **CONSULTANT** of any responsibility for compliance with the provisions of this Agreement.

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

6.5. **Disputes**

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

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

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

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

6.7. **Security Clause**

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

6.8. **Access to Records**

The **CONSULTANT** and his sub-consultants shall maintain all books, documents, papers, and accounting records, and make such materials available at their respective offices at all reasonable times during the Agreement period and for three (3) years from the date of final payment under the

Agreement for inspection by the **OWNER**, and copies thereof shall be furnished if requested. Failure to maintain such records for three (3) years after the date of final payment may be grounds for the **OWNER** to disqualify the **CONSULTANT** from consideration for future consultant Professional Services Agreements.

6.9. Risk Management Provisions, Insurance and Indemnification

6.9.1. DEFINITIONS

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

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

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

6.9.2. INDEMNIFICATION AND HOLD HARMLESS PROVISION

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

defend such allegations and shall bear all costs, fees and expenses of such defense, including but not limited to, all reasonable attorneys' fees and expenses, court costs, and expert witness fees and expenses, using attorneys approved in writing by OWNER, which approval shall not be unreasonably withheld. This Indemnification and Hold Harmless Provision shall in no way be limited by any financial responsibility or insurance requirements, and shall survive the termination of this Agreement.

6.9.3. FINANCIAL RESPONSIBILITY

The CONSULTANT understands and agrees that the CONSULTANT shall, prior to final acceptance of the CONSULTANT'S proposal and the commencement of any work; demonstrate the ability to assure compliance with the Indemnity Agreement and other provisions of this Agreement.

6.9.4. INSURANCE REQUIREMENTS

6.9.4.1. Required Insurance Coverage

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

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

The policies above shall contain the following conditions:

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

6.9.4.2. Renewals

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

6.9.4.3. Right to Review, Audit and Inspect

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

6.9.5. SAFETY AND LOSS CONTROL

CONSULTANT shall comply with all applicable federal, state, and local safety standards related to the performance of its works or services under this Agreement and take necessary action to protect the life, health and safety and property of all of its personnel on the job site, the public, and OWNER.

6.9.6. DEFINITION OF DEFAULT

CONSULTANT understands and agrees that the failure to comply with any of these provisions shall constitute default under this Agreement. CONSULTANT also agrees that OWNER may elect as 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 this Agreement.

SECTION 7 - EQUAL EMPLOYMENT OPPORTUNITY

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

- 7.1. The CONSULTANT will not discriminate against any employee or application for employment because of race, color, religion, national origin, sex, age, or handicap. The CONSULTANT will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, national origin, sex, age, or handicap. Such action shall include, but not be limited to the following: employment upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeships. The CONSULTANT agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this non-discrimination clause.
- 7.2.1. The CONSULTANT will, in all solicitations or advertisements for employees placed by or on behalf of the CONSULTANT, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, sex, age (between forty and seventy), or handicap.

SECTION 8 - SPECIAL PROVISIONS, EXHIBITS, AND SCHEDULES

8.1. This Agreement is subject to the following provisions.

8.1.1. Pursuant to subparagraph 3.4 of this Agreement, **OWNER** has assigned Charles H. Martin, P.E., Director of the Division of Water Quality (the "**OWNER'S Agent**"), as the authorized agent of **OWNER**, to monitor, direct and review the performance of work of the **CONSULTANT**. Documents, data, reports, and all matters associated with carrying out this Agreement shall be addressed to the **OWNER'S Agent** or his designee. Questions by the **CONSULTANT** regarding interpretations of the terms, provisions and requirements under this Agreement shall be addressed to the **OWNER'S Agent** or his designee. The **CONSULTANT** shall look only to the **OWNER'S Agent** or his designee for direction in its performance under this Agreement; no other direction shall be binding upon **OWNER**. **OWNER** shall respond to written requests by **CONSULTANT** within thirty (30) days.

8.2. This Agreement, together with the Incorporated Documents (Section 1.2) constitutes the entire Agreement between **OWNER** and **CONSULTANT** and supersedes all prior written or oral understandings. This Agreement and **EXHIBITS A, B, C and D** and any related schedules or documents may only be amended, supplemented, modified or canceled by a duly executed written instrument.

8.3. **NO THIRD PARTY RIGHTS.** This agreement does not create a contractual relationship with or right of action in favor of a third party against either **OWNER** or **CONSULTANT**.

8.4. **UNENFORCEABLE TERMS/SURVIVABILITY.** If any term or provision of this Agreement shall be found to be illegal or unenforceable, this Agreement shall remain in full force and such term or provision shall be deemed stricken. The provisions of Section 6 of this Agreement shall survive its termination.

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

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

OWNER:

LEXINGTON-FAYETTE URBAN
COUNTY GOVERNMENT

CONSULTANT:

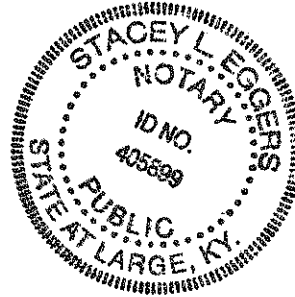
M2D Design Group, PLLC

BY: _____
JIM GRAY, MAYOR

BY: 
DAVID WHITE, RLA

ATTEST:

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



The foregoing Agreement was subscribed, sworn to and acknowledged before me by _____, as the duly authorized representative for and on behalf of M2D Design, on this the 10 day of MAY, 2012.
My commission expires: 10/13



NOTARY PUBLIC

EXHIBIT A

**REQUEST FOR PROPOSALS/
SCOPE OF PROFESSIONAL SERVICES
AND RELATED MATTERS**

RFP#4-2012



Lexington-Fayette Urban County Government

Request For Proposal

The Lexington-Fayette Urban County Government hereby requests proposals for **RFP #4-2012 – RFQ for Landscape Architecture Services for Non-Paved Site Restoration (Landscaping & Yards)** 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 **March 9, 2012**.

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 #4-2012 – RFQ for Landscape Architecture Services for Non-Paved Site Restoration (Landscaping & Yards)

If mailed, the envelope must be addressed to:

Purchasing 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.

The Proposer must submit one (1) master (hardcopy), (1) electronic version in PDF format on a flashdrive or CD and seven (7) duplicates (hardcopies) of their proposal for evaluation purposes.

The Lexington-Fayette Urban County Government reserves the right to reject any or all proposals, and to waive technicalities and informalities when such waiver is determined by the Lexington-Fayette Urban County Government to be in its best interest.

Signature of this proposal by the Proposer constitutes acceptance by the Proposer of terms, conditions and requirements set forth herein.

Minor exceptions may not eliminate the proposal. Any exceptions to the specifications established herein shall be listed in detail on a separate sheet and attached hereto. The Lexington-Fayette Urban County Government shall determine whether any exception is minor.

The Lexington-Fayette Urban County Government encourages the participation of minority- and women-owned businesses in Lexington-Fayette Urban County Government contracts. This proposal is subject to Affirmative Action requirements attached hereto.

Please do not contact any City staff member or any other person involved in the selection process other than the designated contact person(s) regarding the project contemplated under this RFP while this RFP is open and a selection has not been finalized. Any attempt to do so may result in disqualification of the firm's submittal for consideration.

Laws and Regulations

All applicable state laws, municipal ordinances and regulations of all authorities having jurisdiction over the project shall apply to the contract, and shall be deemed to be incorporated herein by reference.

Equal Employment Opportunity

The Entity (regardless of whether construction contractor, non-construction contractor or supplier) agrees to provide equal opportunity in employment for all qualified persons, to prohibit discrimination in employment because of race, color, creed, national origin, sex or age, and to promote equal employment through a positive, continuing program from itself and each of its subcontracting agents. This program of equal employment opportunity shall apply to every aspect of its employment policies and practices.

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.

KRS 45.620. Action against contractor -- Hiring of minority contractor or subcontractor

(1) If any contractor is found by the department to have engaged in an unlawful practice under this chapter during the course of performing under a contract or subcontract covered under KRS 45.560 to 45.640, the department shall so certify to the contracting agency and such certification shall be binding upon the contracting agency unless it is reversed in the course of judicial review.

(2) If the contractor is found to have committed an unlawful practice under KRS 45.560 to 45.640, the contracting agency may cancel or terminate the contract, conditioned upon a program for future compliance approved by the contracting agency and the department. The contracting agency may declare such a contractor ineligible to bid on further contracts with that agency until such time as the contractor complies in full with the requirements of KRS 45.560 to 45.640.

(3) The equal employment provisions of KRS 45.560 to 45.640 may be met in part by a contractor by subcontracting to a minority contractor or subcontractor. For the provisions of KRS 45.560 to 45.640, a minority contractor or subcontractor shall mean a business that is owned and controlled by one or more persons disadvantaged by racial or ethnic circumstances.

KRS 45.630 Termination of existing employee not required, when

Any provision of KRS 45.560 to 45.640 notwithstanding, no contractor shall be required to terminate an existing employee upon proof that employee was employed prior to the date of the contract.

KRS 45.640 Minimum skills

Nothing in KRS 45.560 to 45.640 shall require a contractor to hire anyone who fails to demonstrate the minimum skills required to perform a particular job."

It is recommended that all of the provisions above quoted be included as special conditions in each contract. In the case of a contract exceeding \$250,000, the contractor is required to furnish evidence that his workforce in Kentucky is representative of the available work-force in the area from which he draws employees, or to supply an Affirmative Action plan which will achieve such representation during the life of the contract.

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.

EVALUATION CRITERIA – see attached Evaluation Scoring Sheet

1. Project Manager Qualifications – Specialized experience and technical competence of the person or firm with the type of service required.
2. Experience in Similar Work *with emphasis on residential landscaping* – Past record and performance on contracts with the LFUCG or other government agencies and private industry with respect to such factors as control of cost, quality of work and ability to meet scheduling.
3. Capacity/related to project size to perform the work, including any specialized services, within the time limitations.
4. Character, integrity, reputation, judgment, experience and efficiency of the person or firm.
5. Degree of local employment to be provided by the person or firm. Local is defined as being located in the Lexington Metropolitan Statistical Area (MSA). This includes the following counties: Bourbon, Clark, Fayette, Jessamine, Scott, and Woodford.
6. Estimated Cost of services – see attached instructions, pricing table for lump sum submittals, & hourly rates table.

Proposals shall contain the appropriate information necessary to evaluate based on these criteria. A committee composed of government employees as well as representatives of relevant user groups will evaluate the proposals.

Questions shall be addressed to:

Betty Landrum, Buyer Senior
Division of Central Purchasing
bettyb@lexingtonky.gov

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.

AFFIDAVIT

Comes the Affiant, _____, and after being first duly sworn, states under penalty of perjury as follows:

1. His/her name is _____ and he/she is the individual submitting the proposal or is the authorized representative of _____, the entity submitting the proposal (hereinafter referred to as "Proposer").

2. Proposer will pay all taxes and fees, which are owed to the Lexington-Fayette Urban County Government at the time the proposal is submitted, prior to award of the contract and will maintain a "current" status in regard to those taxes and fees during the life of the contract.

3. Proposer will obtain a Lexington-Fayette Urban County Government business license, if applicable, prior to award of the contract.

4. Proposer has authorized the Division of Central Purchasing to verify the above-mentioned information with the Division of Revenue and to disclose to the Urban County Council that taxes and/or fees are delinquent or that a business license has not been obtained.

5. Proposer has not knowingly violated any provision of the campaign finance laws of the Commonwealth of Kentucky within the past five (5) years and the award of a contract to the Proposer will not violate any provision of the campaign finance laws of the Commonwealth.

6. Proposer has not knowingly violated any provision of Chapter 25 of the Lexington-Fayette Urban County Government Code of Ordinances, known as "Ethics Act."

continued on next page

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 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 _____, 2012.

My Commission expires: _____

NOTARY PUBLIC, STATE AT LARGE

EQUAL OPPORTUNITY AGREEMENT

The Law

- Title VII of the Civil Rights Act of 1964 (amended 1972) states that it is unlawful for an employer to discriminate in employment because of race, color, religion, sex, age (40-70 years) or national origin.
- Executive Order No. 11246 on Nondiscrimination under Federal contract prohibits employment discrimination by contractor and sub-contractor doing business with the Federal Government or recipients of Federal funds. This order was later amended by Executive Order No. 11375 to prohibit discrimination on the basis of sex.
- Section 503 of the Rehabilitation Act of 1973 states:
The Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap.
- Section 2012 of the Vietnam Era Veterans Readjustment Act of 1973 requires Affirmative Action on behalf of disabled veterans and veterans of the Vietnam Era by contractors having Federal contracts.
- Section 206(A) of Executive Order 12086, Consolidation of Contract Compliance Functions for Equal Employment Opportunity, states:

The Secretary of Labor may investigate the employment practices of any Government contractor or sub-contractor to determine whether or not the contractual provisions specified in Section 202 of this order have been violated.

The Lexington-Fayette Urban County Government practices Equal Opportunity in recruiting, hiring and promoting. It is the Government's intent to affirmatively provide employment opportunities for those individuals who have previously not been allowed to enter into the mainstream of society. Because of its importance to the local Government, this policy carries the full endorsement of the Mayor, Commissioners, Directors and all supervisory personnel. In following this commitment to Equal Employment Opportunity and because the Government is the benefactor of the Federal funds, it is both against the Urban County Government policy and illegal for the Government to let contracts to companies which knowingly or unknowingly practice discrimination in their employment practices. Violation of the above mentioned ordinances may cause a contract to be canceled and the contractors may be declared ineligible for future consideration.

Please sign this statement in the appropriate space acknowledging that you have read and understand the provisions contained herein. Return this document as part of your application packet.

Bidders

We agree to comply with the Civil Rights Laws listed above that govern employment rights of minorities, women, Vietnam veterans, handicapped and aged persons.

Signature

Name of Business

WORKFORCE ANALYSIS FORM

Name of Organization: _____

Date: ____ / ____ / ____

Categories	Total	White		Latino		Black		Other		Total	
		M	F	M	F	M	F	M	F	M	F
Administrators											
Professionals											
Superintendents											
Supervisors											
Foremen											
Technicians											
Protective Service											
Para-Professionals											
Office/Clerical											
Skilled Craft											
Service/Maintenance											
Total:											

Prepared by: _____

Name & Title

DIRECTOR, DIVISION OF CENTRAL PURCHASING
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT
200 EAST MAIN STREET
LEXINGTON, KENTUCKY 40507

NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE
EQUAL EMPLOYMENT OPPORTUNITIES AND DBE CONTRACT
PARTICIPATION

The Lexington-Fayette Urban County Government has set a goal that not less than ten percent (10%) of the total value of this contract be subcontracted to MBE/WBE's. The goal for the utilization of certified MBE/WBE's as subcontractors are recommended goals. Contractors who fail to meet such goals will be expected to provide written explanations to the Director of the Division of Central Purchasing of efforts they have made to accomplish the recommended goals and the extent to which they are successful in accomplishing the recommended goals will be a consideration in the procurement process.

For assistance in locating MBE/WBE Subcontractors contact Marilyn Clark at 859/258-3320 or by writing the address listed below:

Marilyn Clark, Division of Central Purchasing
Lexington-Fayette Urban County Government
200 East Main Street – Room 338
Lexington, Kentucky 40507

**Lexington-Fayette Urban County Government
MBE/WBE Participation Goals**

PART 1 - GENERAL

- 1.1 The LFUCG request all potential contractors to make a concerted effort to include Minority-Owned (MBE) and Woman-Owned (WBE) Business Enterprises as subcontractors or suppliers in their proposals.
- 1.2 Toward that end, the LFUCG has established 10% of total procurement costs as a Goal for participation of Minority-Owned and Woman-Owned Businesses on this contract.
- 1.3 **It is therefore a request of each Submitter to include in its proposal, the same goal (10%) or for MBE/WBE participation and other requirements as outlined in this section.**

PART 2 - PROCEDURES

- 2.1 The successful proposer will be required to report to the LFUCG, the dollar amounts of all purchase orders submitted to Minority-Owned or Woman-Owned subcontractors and suppliers for work done or materials purchased for this contract. (See Subcontractor Monthly Payment Report)
- 2.2 Replacement of a Minority-Owned or Woman-Owned subcontractor or supplier listed in the original submittal must be requested in writing and must be accompanied by documentation of Good Faith Efforts to replace the subcontractor / supplier with another MBE/WBE Firm; this is subject to approval by the LFUCG. (See LFUCG MBE/WBE Substitution Form)
- 2.3 For assistance in identifying qualified, certified businesses to solicit for potential contracting opportunities, submitters may contact:
 - A. The Lexington-Fayette Urban County Government, Division of Central Purchasing (859-258-3320)
- 2.4 The LFUCG will make every effort to notify interested MBE/WBE subcontractors and suppliers of each RFP, including information on the scope of work, the pre-proposal meeting time and location, the proposal date, and all other pertinent information regarding the project.

PART 3 - DEFINITIONS

- 3.1 A Minority-Owned Business Enterprise (MBE) is defined as a business which is certified as being at least 51% owned and operated by persons of African American, Hispanic, Asian, Pacific Islander, American Indian or Alaskan Native Heritage.

- 3.2 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.

PART 4 - OBLIGATION OF PROPOSER

- 4.1 **The bidder shall make a Good Faith Effort to achieve the Participation Goal for MBE/WBE 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.**
- 4.2 Award of Contract shall be conditioned upon satisfaction of the requirements set forth herein.
- 4.3 The Form of Proposal includes a section entitled "MBE/WBE Participation Form". The applicable information must be completed and submitted as outlined below.
- 4.4 **Failure to submit this information as requested may be cause for rejection of the proposal.**

PART 5 - DOCUMENTATION REQUIRED

- 5.1 Proposers reaching the Goal are required to submit only the "MBE/WBE Participation Form." The form must be fully completed including names and telephone number of participating MBE/WBE firm(s); type of work to be performed; estimated value of the contract, and value expressed as a percentage of the total Lump Sum Proposal Price. The form must be signed and dated, and is to be submitted with the proposal.
- 5.2 Proposers not reaching the Goal must submit the "MBE/WBE Participation Form", the "MBE Quote Summary Form" and a written statement documenting their Good Faith Effort to do so (If proposal includes no MBE/WBE participation, proposer shall enter "None" on the subcontractor / supplier form). In addition, the proposer may submit the following as proof of Good Faith Efforts to meet the Participation Goal:
- A. Advertisement by the proposer of MBE/WBE Contracting opportunities associated with this proposal in at least two (2) of the following:
 - 1. A periodical in general circulation throughout the region
 - 2. A Minority-Focused periodical in general circulation throughout the region
 - 3. A Trade periodical aimed at the MBE/WBE community in general circulation throughout the region
 - 4. Proposer shall include copies of dated advertisement with his submittal
 - B. Evidence of written notice of contracting opportunities to at least five (5) MBE/WBE firms serving the construction industry at least seven (7) days prior to the proposal opening date.
 - C. Copies of quotations submitted by MBE/WBE firms which were not used due to uncompetitive pricing or other factors and/or copies of responses from

firms that were contacted indicating that they would not be submitting a proposal.

- D. Documentation of Proposer's utilization of the agencies identified to help locate potential MBE/WBE firms for inclusion on the contract including responses from agencies.
- E. Failure to submit any of the documentation requested in this section may be cause for rejection of the proposal. Proposers may include any other documentation deemed relevant to this requirement. "Record of MBE/WBE Solicitation" and other required documentation of Good Faith Efforts are to be submitted with the proposal, if participation Goal is not met.



MINORITY BUSINESS ENTERPRISE PROGRAM

Marilyn Clark
Minority Business Enterprise Liaison
Division of Central Purchasing
Lexington-Fayette Urban County Government
200 East Main Street
Lexington, KY 40507
mclark@lexingtonky.gov
859-258-3323

OUR MISSION: The mission of the Minority Business Enterprise Program is to facilitate the full participation of minority and women owned businesses in the procurement process and to promote economic inclusion as a business imperative essential to the long term economic viability of Lexington-Fayette Urban County Government.

To that end the city council adopted and implemented resolution 167-91—Disadvantaged Business Enterprise (DBE) 10% Goal Plan in July of 1991. The resolution states in part (a full copy is available in Central Purchasing):

“A Resolution supporting adoption of the administrative plan for a ten percent (10%) Minimum goal for disadvantaged business enterprise participation in Lexington-Fayette Urban County Government construction and professional services contracts; Providing that as part of their bids on LFUCG construction contracts, general Contractors shall make a good faith effort to award at least ten percent (10%) of All subcontracts to disadvantaged business enterprises; providing that divisions of LFUCG shall make a good faith effort to award at least ten percent of their Professional services and other contracts to disadvantaged business enterprises...”

A Disadvantaged Business Enterprise is defined as a business at least 51% owned, operated and managed by a U.S. Citizen of the following groups:

- African-American
- Hispanic-American
- Asian/Pacific Islander
- Native American/Native Alaskan
- Non-Minority Female

We are very happy that you have decided to bid for a contract, request for proposal, submitted a quote or are interested in learning more about how to do business with Lexington-Fayette Urban County Government. We have compiled the list below to help you locate certified minority vendors.

LFUCG—Economic Engine Listings

Marilyn Clark
mclark@lexingtonky.gov
859-258-3323

Commerce Lexington—

Tyrone Tyra, Minority Business Development
tyra@commercelexington.com
859-226-1625

Tri-State Minority Supplier Diversity Council

Sonya Brown
sbrown@tsmsdc.com
502-625-0137

Small Business Development Council

Dee Dee Harbut /UK SBDC
ddharbut@uky.edu

Shawn Rogers, UK SBDC
Shawn.rogers@uky.edu

Shiree Mack
smack@uky.edu

Community Ventures Corporation

James Coles
jcoles@cvckv.org
859-231-0054

Kentucky Department of Transportation

Shella Jarvis
Shella.Jarvis@ky.gov
502-564-3601

KPAP

Debbie McKnight
Debbie.McKnight@ky.gov
800-838-3266 or 502-564-4252

Bobbie Carlton
Bobbie.Carlton@ky.gov

Ohio River Valley Women's Business Council

Rea Waldon
rwaldon@orcwi.org
513-487-6534

Kentucky Small Business Connect

Tom Back
800-626-2250 or 502-564-2064
<https://secure.kentucky.gov//sbc>

**National Minority Supplier Development Council, Inc.
(NMSDC)**

www.nmsdc.org

LFUCG MBE/WBE PARTICIPATION FORM
RFP #4-2012

The MBE/WBE subcontractors listed have agreed to participate on this Bid/RFP/Quote. If any substitution is made or the total value of the work is changed prior to or after the job is in progress, it is understood that those substitutions must be submitted to Central Purchasing for approval immediately.

MBE/WBE Company, Name, Address, Phone, Email	Work to be Performed	Total Dollar Value of the Work	% Value of Total Contract
1.			
2.			
3.			
4.			

The undersigned company representative submits the above list of MBE/WBE firms to be used in accomplishing the work contained in this Bid/RFP/Quote. Any misrepresentation may result in the termination of the contract and/or be subject to applicable Federal and State laws concerning false statements and false claims.

Company

By

Date

Title

LFUCG MBE/WBE SUBSTITUTION FORM
RFP #4-2012

The substituted MBE/WBE 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 MBE/WBE Company Name, Address, Phone, Email	MBE/WBE 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.					

The undersigned acknowledges that any misrepresentation may result in termination of the contract and/or be subject to applicable Federal and State laws concerning false statements and false claims.

Company

Date

Company Representative

Title



MBE QUOTE SUMMARY FORM

RFP #4-2012 _____

The undersigned acknowledges that the minority subcontractors listed on this form did submit a quote to participate on this project.

Company Name	Contact Person
Address/Phone/Email	RFP Package / RFP Date

MBE/WBE Company Address	Contact Person	Contact Information (work phone, Email, cell)	Date Contacted	Services to be performed	Method of Communication (email, phone meeting, ad, event etc)	Total dollars \$\$ Do Not Leave Blank (Attach Documentation)	MBE * AA HA AS NA Female

(MBE designation / AA=African American / HA= Hispanic American/AS = Asian American/Pacific Islander/ NA= Native American)

The undersigned acknowledges that all information is accurate. Any misrepresentation may result in termination of the contract and/or be subject to applicable Federal and State laws concerning false statements and claims.

Company

Company Representative

Date

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 MBE/WBE 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.

RFP #4-2012 _____

Total Contract Amount Awarded to Prime Contractor for this Project _____

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

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 misrepresentations may result in the termination of the contract and/or prosecution under applicable Federal and State laws concerning false statements and false claims.

Company

Company Representative

Date

Title

LFUCG STATEMENT OF GOOD FAITH EFFORTS
RFP #4-2012

By the signature below of an authorized company representative, we certify that we have utilized the following methods to obtain the maximum practicable participation by minority and women owned business enterprises on the project. Please indicate which methods you used by placing an X in the appropriate place.

- ___ Attended LFUCG Central Purchasing Economic Inclusion Outreach Event
- ___ Sponsored Economic Inclusion event to provide networking opportunities
- ___ Requested a list of MBE/WBE subcontractors or suppliers from LFUCG Economic Engine
- ___ Advertised for MBE/WBE subcontractors or suppliers in local or regional newspapers
- ___ Showed evidence of written notice of contracting and/or supplier opportunities to MBE/WBE firms at least seven days prior to the proposal opening date
- ___ Provided copies of quotations submitted by MBE/WBE firms which were not used and/or responses from firms indicating they would not be submitting a quote
- ___ Provided plans, specifications, and requirements to interested MBE/WBE subcontractors
- ___ Other
Please list any other methods utilized that aren't covered above.

The undersigned acknowledges that all information is accurate. Any misrepresentations may result termination of the contract and/or be subject to applicable Federal and State laws concerning false statements and claims.

Company

Company Representative

Date

Title

Firm Submitting Proposal: _____

Complete Address: _____
Street City Zip

Contact Name: _____ Title: _____

Telephone Number: _____ Fax Number: _____

Email address: _____

GENERAL PROVISIONS

1. Each Respondent shall comply with all Federal, State & Local regulations concerning this type of service or good.

The Respondent 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. The Respondent also agrees to notify the LFUCG in writing immediately upon detection of any unsafe and/or unhealthful working conditions at the job site. The Respondent agrees to indemnify, defend and hold the LFUCG harmless from all penalties, fines or other expenses arising out of the alleged violation of said laws.
2. Failure to submit ALL forms and information required in this RFP may be grounds for disqualification.
3. Addenda: All addenda, if any, shall be considered in making the proposal, and such addenda shall be made a part of this RFP. Before submitting a proposal, it is incumbent upon each proposer to be informed as to whether any addenda have been issued, and the failure to cover in the bid any such addenda may result in disqualification of that proposal.
4. Proposal Reservations: LFUCG reserves the right to reject any or all proposals, to award in whole or part, and to waive minor immaterial defects in proposals. LFUCG may consider any alternative proposal that meets its basic needs.
5. Liability: LFUCG is not responsible for any cost incurred by a Respondent in the preparation of proposals.
6. Changes/Alterations: Respondent may change or withdraw a proposal at any time prior to the opening; however, no oral modifications will be allowed. Only letters, or other formal written requests for modifications or corrections of a previously submitted proposal which is addressed in the same manner as the proposal, and received by LFUCG prior to the scheduled closing time for receipt of proposals, will be accepted. The proposal, when opened, will then be corrected in accordance with such written request(s), provided that the written request is contained in a sealed envelope which is plainly marked "modifications of proposal".
7. Clarification of Submittal: LFUCG reserves the right to obtain clarification of any point in a bid or to obtain additional information from a Respondent.
8. Bribery Clause: By his/her signature on the bid, Respondent certifies that no employee of his/hers, any affiliate or Subcontractor, has bribed or attempted to bribe an officer or employee of the LFUCG.
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, conditions and specifications;
 - (b) Failure to make delivery within the time specified or according to a delivery schedule fixed by the contract;
 - (c) Late payment or nonpayment of bills for labor, materials,

- supplies, or equipment furnished in connection with a contract for construction services as evidenced by mechanics' liens filed pursuant to the provisions of KRS Chapter 376, or letters of indebtedness received from creditors by the purchasing agency;
- (d) Failure to diligently advance the work under a contract for construction services;
 - (e) The filing of a bankruptcy petition by or against the contractor; or
 - (f) Actions that endanger the health, safety or welfare of the LFUCG or its citizens.

B. At Will Termination

Notwithstanding the above provisions, the LFUCG may terminate this contract at will in accordance with the law upon providing thirty (30) days written notice of that intent, Payment for services or goods received prior to termination shall be made by the LFUCG provided these goods or services were provided in a manner acceptable to the LFUCG. Payment for those goods and services shall not be unreasonably withheld.

13. **Assignment of Contract:** The contractor shall not assign or subcontract any portion of the Contract without the express written consent of LFUCG. Any purported assignment or subcontract in violation hereof shall be void. It is expressly acknowledged that LFUCG shall never be required or obligated to consent to any request for assignment or subcontract; and further that such refusal to consent can be for any or no reason, fully within the sole discretion of LFUCG.
14. **No Waiver:** No failure or delay by LFUCG in exercising any right, remedy, power or privilege hereunder, nor any single or partial exercise thereof, nor the exercise of any other right, remedy, power or privilege shall operate as a waiver hereof or thereof. No failure or delay by LFUCG in exercising any right, remedy, power or privilege under or in respect of this Contract shall affect the rights, remedies, powers or privileges of LFUCG hereunder or shall operate as a waiver thereof.
15. **Authority to do Business:** The Respondent must be a duly organized and authorized to do business under the laws of Kentucky. Respondent must be in good standing and have full legal capacity to provide the services specified under this Contract. The Respondent must have all necessary right and lawful authority to enter into this Contract for the full term hereof and that proper corporate or other action has been duly taken authorizing the Respondent to enter into this 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 or unenforceable, the remainder of the contract shall remain in full force and such term or provision shall be deemed stricken.

Signature

Date

**RISK MANAGEMENT PROVISIONS
INSURANCE AND INDEMNIFICATION**

**RFP #4-2012 – RFQ for Landscape Architecture Services for Non-Paved
Site Restoration (Landscaping & Yards)**

INDEMNIFICATION AND HOLD HARMLESS PROVISION

- (1) It is understood and agreed by the parties that Consultant hereby assumes the entire responsibility and liability for any and all damages to persons or property caused by or resulting from or arising out of any act or omission on the part of Consultant or its employees, agents, servants, owners, principals, licensees, assigns or subcontractors of any tier (hereinafter "Consultant") under or in connection with this agreement and/or the provision of goods or services and the performance or failure to perform any work required thereby.
- (2) Consultant shall indemnify, save, hold harmless and defend the Lexington-Fayette Urban County Government and its elected and appointed officials, employees, agents, volunteers, and successors in interest (hereinafter "LFUCG") from and against all liability, damages, and losses, including but not limited to, demands, claims, obligations, causes of action, judgments, penalties, fines, liens, costs, expenses, interest, defense costs and reasonable attorney's fees that are in any way incidental to or connected with, or that arise or are alleged to have arisen, directly or indirectly, from or by Consultant's performance or breach of the agreement and/or the provision of goods or services provided that: (a) it is attributable to personal injury, bodily injury, sickness, or death, or to injury to or destruction of property (including the loss of use resulting therefrom), or to or from the negligent acts, errors or omissions or willful misconduct of the Consultant; and (b) not caused solely by the active negligence or willful misconduct of LFUCG.
- (3) Notwithstanding, the foregoing, with respect to any professional services performed by Consultant hereunder (and to the fullest extent permitted by law), Consultant shall indemnify, save, hold harmless and defend LFUCG from and against any and all liability, damages and losses, including but not limited to, demands, claims, obligations, causes of action, judgments, penalties, fines, liens, costs, expenses, interest, defense costs and reasonable attorney's fees, for any damage due to death or injury to any person or injury to any property (including the loss of use resulting therefrom) to the extent arising out of, pertaining to or relating to the negligence, recklessness or willful misconduct of Consultant in the performance of this agreement.
- (4) In the event LFUCG is alleged to be liable based upon the above, Consultant shall defend such allegations and shall bear all costs, fees and expenses of such defense, including but not limited to, all reasonable attorneys' fees and expenses, court costs, and expert witness fees and expenses, using attorneys approved in writing by LFUCG, which approval shall not be unreasonably withheld.
- (5) These provisions shall in no way be limited by any financial responsibility or insurance requirements, and shall survive the termination of this agreement.

FINANCIAL RESPONSIBILITY

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

INSURANCE REQUIREMENTS

YOUR ATTENTION IS DIRECTED TO THE INSURANCE REQUIREMENTS BELOW, AND 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 OWNER against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by LFUCG. The cost of such insurance shall be included in any bid:

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

The policies above shall contain the following conditions:

- a. All Certificates of Insurance forms used by the insurance carrier shall be properly filed and approved by the Department of Insurance for the Commonwealth of Kentucky. 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.
- c. The General Liability Policy shall have a Professional Liability endorsement (including Errors and Omissions) for any services performed pursuant to the contract, and/or a separate Professional Liability Policy shall be obtained unless it is deemed not to apply by OWNER.
- d. The Professional Liability policy shall be maintained for a minimum of three years beyond the completion date of the project, to the extent commercially available. If not commercially available, CONSULTANT shall notify LFUCG and obtain similar insurance that is commercially available and acceptable to LFUCG.
- e. LFUCG shall be provided at least 30 days advance written notice via certified mail, return receipt requested, in the event any of the required policies are canceled or non-renewed.

- f. Said coverage shall be written by insurers acceptable to LFUCG and shall be in a form acceptable to LFUCG. Insurance placed with insurers with a rating classification of no less than Excellent (A or A-) and a financial size category of no less than VIII, as defined by the most current Best's Key Rating Guide shall be deemed automatically acceptable.

Renewals

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

Deductibles and Self-Insured Programs

IF YOU INTEND TO SUBMIT A SELF-INSURANCE PLAN IT MUST BE FORWARDED TO LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, DIVISION OF RISK MANAGEMENT, 200 EAST MAIN STREET, LEXINGTON, KENTUCKY 40507 NO LATER THAN A MINIMUM OF FIVE (5) WORKING DAYS PRIOR TO THE RESPONSE DATE. Self-insurance programs, deductibles, and self-insured retentions in insurance policies are subject to separate approval by Lexington-Fayette Urban County Government's Division of Risk Management, upon review of evidence of CONSULTANT's financial capacity to respond to claims. Any such programs or retentions must provide LFUCG with at least the same protection from liability and defense of suits as would be afforded by first-dollar insurance coverage. If CONSULTANT satisfies any portion of the insurance requirements through deductibles, self-insurance programs, or self-insured retentions, CONSULTANT agrees to provide Lexington-Fayette Urban County Government, Division of Risk Management, the following data prior to the final acceptance of bid and the commencement of any work:

- a. Latest audited financial statement, including auditor's notes.
- 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.

00334820

**REQUEST FOR STATEMENTS OF QUALIFICATIONS
FOR
LANDSCAPE ARCHITECTURE SERVICES
RELATED TO
NON-PAVED SITE RESTORATION
(Landscaping and Yards)**

The Lexington Fayette Urban County Government (LFUCG) is requesting Statements of Qualifications (SOQs) and hourly rates from Landscape Architects (Consultant), licensed in the Commonwealth of Kentucky, for professional services related to management of Non-Paved Site Restoration of properties disturbed by activities of LFUCG's Division of Water Quality (DWQ) more specifically identified as Sewer Line Maintenance projects, Sanitary Sewer and Storm Sewer Rehabilitation projects, Neighborhood projects, or Consent Decree/Remedial Measures projects. It is the intent of DWQ to retain no more than two (2) qualified Landscape Architects (individuals or firms) providing professional expertise to assist DWQ in the management of Non-Paved Site Restoration resulting from certain activities of DWQ's daily operations and construction related efforts.

Scope of Services

The Consultant shall manage all aspects of Non-Paved Site Restoration including pre-construction inspections, calculating a value of restoration on a parcel by parcel basis, negotiations with property owners related to Non-Paved Site Restoration, landscape contractor negotiations, maintenance of records and reporting.

More specifically, the Consultant, based upon a list of disturbed or to be disturbed properties, as provided by DWQ, shall:

- In concert with DWQ, establish a unit price Schedule of Values for Non-Paved Site Restoration to be used as a basis for restoration activities. The RSMeans publication, The 2012 Building Construction Data, 70th Annual Edition is the publication that Consultants should use as a basis for negotiating restoration costs.
- Conduct pre-construction site visit and make photographic and other records of preconstruction condition.
- Conduct post-construction site visit and prepare an opinion of Non-Paved Site Restoration Costs to be used as a basis for negotiations with property owners or identified landscape contractors.
- Negotiate, in the best and sole interest of LFUCG/DWQ, a lump sum amount with property owners or identified landscape contractors.
- Maintain and submit monthly reports (spread sheet format) of the status of Non-Paved Site Restoration status per parcel and request single, one time pay requests per parcel for payment for Non-Paved Site Restoration to property owners or identified landscape contractors.
- Obtain an executed Waiver and Release form (to be provided by LFUCG) from property owners as it relates to activities of DWQ.
- Request single, one time pay request per parcel for payment to property owners relating to Non-Paved Site Restoration as it relates to activities of DWQ.

- Meetings as required by DWQ.

Contract Type

The contract will be an indefinite services delivery contract. **There will be no guarantee of work for any selected firm or firms.** The selected firm or firms will be issued Task Orders for specific operational or capital project areas for which the identified services will be provided.

Contract Term

The term of the contract will be for one year with up to five, one-year, elective renewals, at the sole discretion of LFUCG. Consultants will be allowed to submit revised hourly rates upon elective contract renewals. Contract periods for specific capital projects may exceed the one year timeframe. In such cases the contract period shall cover the period necessary to fulfill the obligation of an executed Task Order for that specific operational or capital project.

Qualifications

Consultants submitting SOQs shall be:

- Professionally licensed in the Commonwealth of Kentucky as a Landscape Architect
- Maintain an office in the Lexington Metropolitan Statistical Area (MSA). This includes the following counties: Bourbon, Clark, Fayette, Jessamine, Scott and Woodford
- Able to respond to specific sites as directed by DWQ within 48 hours of written notice by DWQ.
- Be knowledgeable with respect to plant species common to this area
- Be experienced and knowledgeable in the costs of landscape restoration work and in negotiations for such work
- Shall maintain required insurance – see attached provisions

Statements of Qualifications

Statements of Qualifications shall be structured as follows:

Cover Letter

Letter of interest. **One page.**

Project Team Identification

Provide the name of the individual, firm or team of firms; contact information for each including primary contact, address, business phone number, email address. Identify Disadvantaged Business Enterprise (DBE) / Minority Business Enterprise (MBE) sub-consultants. **One page**

Project Team

Provide organizational chart showing team members and sub-consultants. Provide resumes of key team members. Identify role of key team members. **Ten pages maximum. Resumes shall be one page maximum.**

Experience

Identify related firm or individual experience (chart form) with ***specific emphasis on residential landscaping experience.*** Identify client, project, description of project, client contact information (name, phone number, and email address). Specifically note insurance related site restoration work - five projects or clients minimum. **Five pages maximum.**

Hourly Rates

Identify hourly rates for all project team members. **One page maximum.**

Evaluation Criteria:

DWQ will evaluate the Statements of Qualifications according to the following criteria:

	Criteria	Points
1.	Project Manager Qualifications - Specialized experience and technical competence of the person or firm with the type of service required	30
2.	Experience in Similar Work <i>with emphasis on residential landscaping</i> – Past record and performance on contracts with the LFUCG or other government agencies and private industry with respect to such factors as control of cost, quality of work and ability to meet scheduling	30
3.	Capacity/related to project size to perform the work, including any specialized services, within the time limitations	5
4.	Character, integrity, reputation, judgment, experience and efficiency of the person or firm	5
5.	Degree of local employment to be provided by the person or firm. Local is defined as being located in the Lexington Metropolitan Statistical Area (MSA). This includes the following counties: Bourbon, Clark, Fayette, Jessamine, Scott and Woodford	10
6.	Estimated Cost of Services – see attached instructions, pricing table for lump sum submittals, & hourly rates table	20

SOQs shall contain the appropriate information necessary for evaluation based upon these criteria. A committee composed of LFUCG employees will evaluate the proposals.

Questions should be addressed to:

Betty Landrum, Buyer Senior
 Division of Central Purchasing
bettyb@lexingtonky.gov

RFP #4-2012 - RFPW for Landscape Architecture Services for Non-Paved Site Restoration (Landscaping & Yards)				
Consultant Name:				
Selection Criteria	Notes	Total Points	Weighted Score (1-5)	Comment
Project Manager Qualifications - Specialized experience and technical competence of the person or firm with the type of service required		30		Weighted Score= (Total Points/5) xScore
Experience in Similar Work with <i>emphasis on residential landscaping</i> - Past record and performance on contracts with the LFUCG or other government agencies and private industry with respect to such factors as control of cost, quality of work and ability to meet scheduling		30		Weighted Score= (Total Points/5) xScore
Capacity/related to project size to perform the work, including any specialized services, within the time limitations		5		Weighted Score= (Total Points/5) xScore
Character, integrity, reputation, judgment, experience and efficiency of the person or firm		5		Weighted Score= (Total Points/5) xScore
Degree of local employment to be provided by the person or firm. Local is defined as being located in the Lexington Metropolitan Statistical Area (MSA). This includes the following counties: Bourbon, Clark, Fayette, Jessamine, Scott and Woodford		10		Weighted Score= (Total Points/5) xScore
Estimated Cost of Services - see attached instructions, pricing table for lump sum submittals, & hourly rates table		20		Weighted Score= (Total Points/5) xScore
Final Technical Score		100		

DBE Participation(Name)
 DBE Portion(Percentage)
 Affidavit
 Affirmative Action Plan
 EEO Agreement
 Workforce Analysis
 Insurance

Comments:

Description	Adjective	Numeric Rating
Fails to meet minimum requirements; major deficiencies which are not correctable	Unacceptable	1
Fails to meet requirements, significant deficiencies that may be correctable	Poor	2
Meets requirements; only minor deficiencies which can be clarified	Acceptable	3
Meets requirements and exceeds some requirements; no deficiencies	Good	4
Exceeds most, if not all requirements; no deficiencies	Excellent	5

**LANDSCAPE ARCHITECTURE SERVICES
BASE COST OF SERVICES EVALAUTION
INSTRUCTIONS**

Due to the variable nature of actual costs for negotiating landscape restorations with individual parcel owners, LFUCG is requesting hourly rates along with lump sum cost estimates for specific tasks. The lump sum cost estimates for the specific tasks will be one of the selection criteria used in evaluating proposals and are further described below:

SPECIFIC COST ESTIMATE I

In order to better evaluate project costs during the selection process, LFUCG has selected three (3) specific example parcels that each proposer must consider when submitting their cost of services proposals. Each proposer must provide, in addition to hourly rates for future Task Order work, a lump sum/ per parcel cost estimate based on their expected effort to:

- Sub-Task 1** - Complete a detailed inspection of the parcel to determine the quantities involved;
- Sub-Task 2** - Prepare a written estimate for replacement value, based on a pre-prepared schedule of values;
- Sub-Task 3** - Submit the written estimate to the parcel owner and the LFUCG project manager.

The selected example parcels are:

- A. 1237 Kenesaw Village Drive
- B. 149 E. Tiverton Way
- C. 1756 Appomattox Rd.

Maps showing the example parcels and the boundary area of restoration for each parcel are included in this *Request for Qualifications*.

Proposers should not submit a restoration cost estimate, just an estimate of the proposer's fee for completing the three sub-tasks listed above, on a parcel by parcel basis. Criteria that should be used when visiting these example parcels are:

1. View each parcel from the public street or sidewalk, do not enter private property.
2. Assume that within the boundary shown on each map, all landscape items will be destroyed.
3. Non-landscape items such as driveways, sidewalks and fences are not (will never be) part of a future landscape restoration estimate.

SPECIFIC COST ESTIMATE II

Proposers should provide the lump sum fee estimate for preparing a unit price Schedule of Values to be used in work associated with all future parcel inspections and estimates. This lump sum fee estimate is completely unrelated to SPECIFIC COST ESTIMATE I described above. Instead, this lump sum fee should be the proposers estimated cost for researching, documenting and finalizing the unit price restoration values for residential landscaping components expected to be encountered during the duration of the project. This would include unit price restoration values for typical trees, shrubs, bushes, perennials and grasses found in Central Kentucky.

BASIS FOR EVALUATING COST COMPONENT OF EACH PROPOSAL

The estimated fee component of each proposal will be valued on the sum of SPECIFIC COST ESTIMATE I and SPECIFIC COST ESTIMATE II, as provided in the proposals. Failure to follow the prescribed approach and utilize the required forms make lead to your proposal begin disqualified as "incomplete".

RFP #4-2012
 LANDSCAPE ARCHITECTURE SERVICES
 APPENDIX II

	DESCRIPTION	LUMP SUM FEE
Specific Cost Estimate I	1237 Kenesaw Village Drive - estimated fee for sub-tasks 1 thru 3	
Specific Cost Estimate I	149 E. Tiverton Way - estimated fee for sub-tasks 1 thru 3	
Specific Cost Estimate I	1756 Appomattox Rd. - estimated fee for sub-tasks 1 thru 3	
Specific Cost Estimate II	Preparation of the unit price Schedule of Values to be used in work associated with all future parcel inspections and estimates	
	GRAND TOTAL	

HOURLY RATE QUOTATION
RFP #4-2012
LANDSCAPE ARCHITECTURE SERVICES
APPENDIX II

	Title	Hourly Rate
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		



Lexington-Fayette Urban County Government
DEPARTMENT OF FINANCE & ADMINISTRATION

Jim Gray
Mayor

Jane C. Driskell
Commissioner

ADDENDUM #1

RFP Number: 4-2012

Date: March 1, 2012

Subject: RFO for Landscape Architecture Services for Non-Paved Site Restoration (Landscaping & Yards)

Please address inquiries to:
Betty Landrum (859) 258-3320

TO ALL PROSPECTIVE BIDDERS:

Please be advised of the following clarifications to the above referenced RFP:

- 1) See attached Engineering Services Agreement that applies to this project.
- 2) A typo is currently shown on the Scoring Sheet in the Title of the Project. RFW should be RFQ.

Questions	Answers
Scope of Services The 3rd bullet references a post-construction site visit for negotiations with the property owner. Please expand or clarify the purpose of the post-construction site visit.	The post construction site visit is necessary to finalize the replacement value. Post construction findings should be compared to preconstruction records in order to correctly and accurately determines replacement value.
Is the pay request identified in Bullet 7 the same pay request identified in bullet 5 or are they 2 different pay requests?	Final editing of the scope missed this duplicate wording - they are the same pay requests.
Specific Cost Estimate I Does Sub-Task 3 include negotiating with the owner/contractor, obtaining the waiver, and submitting the pay request?	No
The Scope of Services reference "maintain and submit monthly reports" and "meetings as required with DWQ". Where are the fees for this time to be included in the proposal?	The hourly rates quoted in the proposals will be used to negotiate fees for maintaining monthly reports, submitting monthly reports and meetings as required.



Brian Marcum, Director
Division of Central Purchasing

All other terms and conditions of the RFP and specifications are unchanged. This letter should be signed, attached to and become a part of your RFP.

COMPANY: _____

ADDRESS: _____

SIGNATURE OF PROPOSER: _____

ENGINEERING SERVICES AGREEMENT

THIS IS AN AGREEMENT made as of _____, 2012, between the LEXINGTON-RAYETTE URBAN COUNTY GOVERNMENT (OWNER) and _____ (name & address) _____ (CONSULTANT). OWNER intends to proceed with the RFQ for Landscape Architecture Services for Non-Paved Site Restoration (Landscaping & Yards) as described in the attached Exhibit A, "Request for Proposals/Scope of Engineering Services and Related Matters, RFP #4-2012." The services are to include customary civil, sanitary, geotechnical, mechanical, structural, and electrical engineering services as related to completion and submission of reports and deliverables as described in Exhibit A, detailing the findings of all field inspections, inventory and required analysis completed by the CONSULTANT. 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 engineering services by CONSULTANT and the payment for those services by OWNER as set forth below.

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

SECTION 1 - BASIC SERVICES OF CONSULTANT

1.1. General

CONSULTANT shall perform professional services as hereinafter stated that include customary civil, geotechnical, structural, mechanical, electrical and sanitary engineering services incidental thereto.

1.2. Project Phase

After written authorization to proceed, CONSULTANT shall:

- 1.2.1. Notify the OWNER in writing of its authorized representative who shall act as Project Engineer and liaison representative between the CONSULTANT and the OWNER.
- 1.2.2. The CONSULTANT must perform all duties necessary to fully complete the deliverables described in attached Exhibit A "Request for Proposals/Scope of Engineering Services and Related Matters, RFP #4-2012" (including Appendices _____ and Addendums _____), and attached Exhibit C the "Proposal of Engineering Services and Related Matters" (the CONSULTANT's response to RFP #4-2012), and amendments to the

CONSULTANT'S proposal included in attached Exhibit D "Further Description of Basic Engineering Services and Related Matters."

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

- 1.2.3 The CONSULTANT shall provide written documentation of all meetings and be responsible for incorporating all comments and changes resulting therefrom in final work product.
- 1.2.4. The CONSULTANT shall post all initial draft work products on the project document management portal. If the project document management portal is not functional on the draft posting date, the CONSULTANT shall submit five (5) copies (hardcover) of all initial draft final work products for this PROJECT. The copies of the initial draft final reports are submitted for review and comment by the OWNER, and should be presented in person to the OWNER.
- 1.2.5. After the OWNER'S detailed review, the CONSULTANT will revise the initial draft final for all work products for this PROJECT, and the CONSULTANT shall post all draft final work products on the project document management portal. If the project document management portal is not functional on the draft posting date, the CONSULTANT shall five (5) copies (hardcover). One electronic copy of the all work products for this PROJECT, including all appendices, shall be provided and prepared in such a manner that it can readily be converted to a quick-link accessible form for the OWNER'S Website. The OWNER shall have ten (10) business days within which to accept or deny each such final draft. If is denied, the OWNER shall provide a detailed explanation in writing for the basis of such denial. Once the OWNER accepts the draft as final, a total of ten (10) final copies (hardcover) are required in addition to an electronic copy.
- 1.2.6 Immediately notify OWNER of any delay in the delivery of a work product or deliverable, regardless of cause. Give written notice to OWNER within five (5) business days whenever CONSULTANT observes or otherwise becomes aware of any development that affects the scope or timing of CONSULTANT'S services, or any defect in the work of Contractor(s).

SECTION 2 - EXTRA WORK BY CONSULTANT

- 2.1. The OWNER may desire to have the CONSULTANT perform work or render services in connection with this PROJECT other than provided by the expressed intent of this Agreement. Such work shall be considered as "Extra Work", subject to a 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 "Extra Work" and shall be paid as such.

- 2.2. All "Extra Work" is subject to prior written authorization of OWNER and necessary appropriations made by the Urban County Council.

SECTION 3 - OWNER'S RESPONSIBILITIES

OWNER shall:

- 3.1. Provide criteria and information as to OWNER'S requirements for the PROJECT, including 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 Extra Work as stipulated in Section Two (2) of this Agreement or other services as required.

SECTION 4 - PERIOD OF SERVICES

- 4.1. Time is of the essence in the performance of this Agreement. See attached Exhibit D "Further Description of Basic Engineering Services and Related Matters" 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.
- 4.3. If a delay results from the acts of OWNER or another entity that is required to permit or approve the work or services, an extension of time for such delay will be considered by OWNER.
 - 4.3.1. If the above type of delay occurs and CONSULTANT wants an extension of time, it must, within ten (10) days from the date of the delay, apply in writing to

OWNER for an extension of time for a reasonable period, which must be agreed upon by OWNER.

- 4.3.2. If the extension of time is approved by OWNER, the PROJECT schedule/Final Task Order shall be revised to reflect the extension. Such extension of time to the completion date shall in no way be construed to operate as a waiver on the part of OWNER of any of its other rights in the Agreement.
- 4.3.3. If the above type of delay would prevent complete performance of the PROJECT/Final Task Order within ninety (90) days of the time specified therein, OWNER shall have the option of cancelling the PROJECT/Final Task Order or otherwise adjusting the scope of the services or work and any related fees.
- 4.3.4. If the parties cannot mutually agree to an extension of time or an adjustment, Section 6.5 under "DISPUTES" of this Agreement shall apply.
- 4.4. If delays result solely by reason of acts of the CONSULTANT, the CONSULTANT must immediately notify the OWNER in the event of such delay, and provide the OWNER a written action plan within five (5) business days on how it will reasonably attempt to resolve the delay. If the parties cannot mutually agree to an extension of time or an adjustment, Section 6.5 under "DISPUTES" of this Agreement shall apply. If the above type of delay would prevent complete performance of the PROJECT/Final Task Order within ninety (90) days of the time specified therein, OWNER shall have the option of cancelling the PROJECT/Final Task Order or otherwise adjusting the scope of the services or work and any related fees.

SECTION 5 - PAYMENTS TO CONSULTANT

5.1. Methods of Payment for Services of CONSULTANT

5.1.1. For Basic Services

OWNER shall pay CONSULTANT a lump sum fee for each Final Task Order, the amount of which shall not exceed the dollar value established for each sub-task identified in the order. Each task order shall contain scope of work, fee—as established in EXHIBIT C, and schedule for performance of the work. Individual task orders shall be of the form included in EXHIBIT D.

5.1.2. For Extra Work

"Extra Work" shall be paid for by the OWNER on the basis of a fixed fee, the amount of which shall be determined by negotiation. The OWNER shall have the right to negotiate alternate methods of payment for "Extra Work" if the OWNER determines that the fixed fee basis is not feasible. In the event the OWNER and the CONSULTANT are unable to agree upon the amount of payment for "Extra

Work", then the amount of such payment shall be determined as set forth in Section 6.5, "DISPUTES" of this Agreement.

5.2. Times of Payment

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

5.3. Other Provisions Concerning Payments

5.3.1. In the event the Agreement is terminated by the OWNER without fault on the part of the CONSULTANT, the CONSULTANT shall be paid for the work performed or services rendered for which it has not already been paid as determined by mutual agreement between the OWNER and the CONSULTANT.

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

SECTION 6 - GENERAL CONSIDERATIONS

6.1. Termination

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

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

6.2. Ownership and Reuse of Documents

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

6.3. Legal Responsibilities and Legal Relations

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

6.4. Successors and Assigns

- 6.4.1. CONSULTANT binds itself and his partners, successors, executors, administrators, assigns and legal representatives to this Agreement in respect to all covenants, agreements, and obligations of this Agreement. CONSULTANT shall not assign any interest, obligation or benefit in this Agreement. CONSULTANT shall not assign any interest, obligation or benefit in this Agreement nor transfer any interest in the same, whether by assignment or novation, without prior written consent of OWNER.
- 6.4.2. The CONSULTANT shall not subcontract more than fifty percent (50%) of the work, based upon dollar value of the work. The CONSULTANT shall obtain written approval prior to subletting or assigning any services contained in this Agreement, and consent to sublet or assign any part of this Agreement shall not be construed to relieve the CONSULTANT of any responsibility for compliance with the provisions of this Agreement.
- 6.4.3. Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than OWNER and CONSULTANT.

6.5. Disputes

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

6.6. Accuracy of CONSULTANT'S Work

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

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

6.7. Security Clause

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

6.8. Access to Records

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

6.9. Risk Management Provisions, Insurance and Indemnification

6.9.1. DEFINITIONS

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

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

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

6.9.2. INDEMNIFICATION AND HOLD HARMLESS PROVISION

CONSULTANT shall defend, indemnify, and hold harmless OWNER from and against all liability, claims, losses, actions, costs, expenses, obligations, fines, and assessments of whatever kind, including defense costs and reasonable attorney's fees, that are in any way incidental to or connected with, or that arise or are alleged to have arisen, directly or indirectly, from or by CONSULTANT'S (or subcontractors or subconsultants of any tier) performance or breach of the Agreement provided that such claim, damage, loss or expense is attributable to personal injury, bodily injury, sickness, or death, or to injury to or destruction of property, including the loss of use resulting therefrom; or to or from negligent acts, errors or omissions or willful misconduct; provided however, that CONSULTANT shall not be required to indemnify for damages caused solely by the negligent act or omission or willful misconduct of OWNER. Notwithstanding, the foregoing, with respect to any professional services performed by CONSULTANT hereunder (and to the fullest extent permitted by law), CONSULTANT shall indemnify, save, hold harmless and defend OWNER from and against any and all liability, damages and losses, including but not limited to, demands, claims, obligations, causes of action, judgments, penalties, fines, liens, costs, expenses, interest, defense costs and reasonable attorney's fees, for any damage due to death or injury to any person or injury to any property (including the loss of use resulting therefrom) to the extent arising out of, pertaining to or relating to the negligence, recklessness or willful misconduct of CONSULTANT in the performance of this agreement. In the event OWNER is alleged to be liable based upon the above, CONSULTANT shall defend such allegations and shall bear all costs, fees and expenses of such defense, including but not limited to, all reasonable attorneys' fees and expenses, court costs, and expert witness fees and expenses, using attorneys approved in writing by OWNER, which approval shall not be unreasonably withheld. This Indemnification and Hold Harmless Provision shall in no way be limited by any financial responsibility or insurance requirements, and shall survive the termination of this Agreement.

6.9.3. FINANCIAL RESPONSIBILITY

The CONSULTANT understands and agrees that the CONSULTANT shall, prior to final acceptance of the CONSULTANT'S proposal and the commencement of any work, demonstrate the ability to assure compliance with the Indemnity Agreement and other provisions of this Agreement.

6.9.4. INSURANCE REQUIREMENTS

6.9.4.1. Required Insurance Coverage

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

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

The policies above shall contain the following conditions:

- a. OWNER shall be named as an additional insured in the General Liability Policy and Commercial Automobile Liability Policy.
- b. The General Liability Policy shall be primary to any insurance or self-insurance retained by OWNER.
- c. The General Liability Policy shall include Business Interruption coverage.

- d. The General Liability Policy shall have a Professional Liability endorsement (including Errors and Omissions), which shall include Business interruption coverage and this policy or endorsement shall include Environmental Casualty coverage for any services performed pursuant to the contract, and/or a separate Professional Liability Policy shall be obtained unless it is deemed not to apply by OWNER. (OWNER does not need to be named as additional insured).
- e. OWNER shall be provided at least 30 days advance written notice via certified mail, return receipt requested, in the event any of the required policies are canceled or non-renewed.
- f. The Professional Liability policy shall be maintained for a minimum of three years beyond the completion date of the project, to the extent commercially available. If not commercially available, CONSULTANT shall notify OWNER and obtain similar insurance that is commercially available and acceptable to OWNER.
- g. Said coverage shall be written by insurers acceptable to OWNER and shall be in a form acceptable to OWNER. Insurance placed with insurers with a rating classification of no less than Excellent (A or A-) and a financial size category of no less than VIII, as defined by the most current Best's Key Rating Guide shall be deemed automatically acceptable.

6.9.4.2. Renewals

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

6.9.4.3. Right to Review, Audit and Inspect

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

6.9.5. SAFETY AND LOSS CONTROL

CONSULTANT shall comply with all applicable federal, state, and local safety standards related to the performance of its works or services under this Agreement and take

necessary action to protect the life, health and safety and property of all of its personnel on the job site, the public, and OWNER.

6.9.6. DEFINITION OF DEFAULT

CONSULTANT understands and agrees that the failure to comply with any of these provisions shall constitute default under this Agreement. CONSULTANT also agrees that OWNER may elect as 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 this Agreement.

SECTION 7 - EQUAL EMPLOYMENT OPPORTUNITY

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

7.1. The CONSULTANT will not discriminate against any employee or application for employment because of race, color, religion, national origin, sex, age, or handicap. The CONSULTANT will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, national origin, sex, age, or handicap. Such action shall include, but not be limited to the following: employment upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeships. The CONSULTANT agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this non-discrimination clause.

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

SECTION 8 - SPECIAL PROVISIONS, EXHIBITS, AND SCHEDULES

8.1. This Agreement is subject to the following provisions.

8.1.1. Pursuant to subparagraph 3.4 of this Agreement, OWNER has assigned Charles H. Martin, P.E., Director of the Division of Water Quality (the "OWNER'S Agent"), as the authorized agent of OWNER, to monitor, direct and review the performance of work of the CONSULTANT. Documents, data, reports, and all matters associated with carrying out this Agreement shall be addressed to the OWNER'S Agent or his designee. Questions by the CONSULTANT regarding interpretations of the terms, provisions and requirements under this Agreement shall be addressed

to the OWNER'S Agent or his designee. The CONSULTANT shall look only to the OWNER'S Agent or his designee for direction in its performance under this Agreement; no other direction shall be binding upon OWNER. OWNER shall respond to written requests by CONSULTANT within thirty (30) days.

- 8.2. This Agreement, together with the Incorporated Documents (Section 1.2) constitutes the entire Agreement between OWNER and CONSULTANT and supersedes all prior written or oral understandings. This Agreement and EXHIBITS A, B, C and D and any related schedules or documents may only be amended, supplemented, modified or canceled by a duly executed written instrument.
- 8.3. **NO THIRD PARTY RIGHTS.** This agreement does not create a contractual relationship with or right of action in favor of a third party against either OWNER or CONSULTANT.
- 8.4. **UNENFORCEABLE TERMS/SURVIVABILITY.** If any term or provision of this Agreement shall be found to be illegal or unenforceable, this Agreement shall remain in full force and such term or provision shall be deemed stricken. The provisions of Section 6 of this Agreement shall survive its termination.
- 8.5. **NON-WAIVER.** The failure of either party to enforce any right reserved to it in this Agreement shall not be a waiver of any such right to which the party is entitled.

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

OWNER:

CONSULTANT:

LEXINGTON-FAYETTE URBAN
COUNTY GOVERNMENT

BY: _____
JIM GRAY, MAYOR

BY: _____

ATTEST:

URBAN COUNTY COUNCIL CLERK
COMMONWEALTH OF KENTUCKY)

COUNTY OF FAYETTE

)
)

The foregoing Agreement was subscribed, sworn to and acknowledged before me by _____, as the duly authorized representative for and on behalf of _____, on this the ____ day of _____, 2012.

My commission expires: _____.

NOTARY PUBLIC

EXHIBIT A

**REQUEST FOR PROPOSALS/
SCOPE OF ENGINEERING SERVICES
AND RELATED MATTERS**

RFP #4-2012

EXHIBIT B

CERTIFICATE OF INSURANCE

EXHIBIT C

PROPOSAL OF ENGINEERING SERVICES

AND RELATED MATTERS

EXHIBIT D

**FURTHER DESCRIPTION OF BASIC
ENGINEERING SERVICES AND
RELATED MATTERS**

LFUCG TASK ORDER NO. _____
UNDER LFUCG AGREEMENT WITH _____ FOR _____

CONSULTANT

OWNER

Name	_____	Lexington Fayette Urban County Government
Street Address	_____	200 East Main Street
City, State, Zip	_____	Lexington, KY 40507
Contact Person	_____	Charles Martin
Telephone	_____	859-425-2400
Fax	_____	859-254-7787
E-Mail	_____	cmartin@lexingtonky.gov
Task Order Date:	_____	
Task Name:	_____	
Task ID:	_____	

SCOPE OF WORK/DELIVERABLES

SCHEDULE OF WORK

FEE

ACCEPTED BY:

AUTHORIZED BY:

Consultant's Authorized Signature

Owner's Authorized Signature

Date Signed

Date Signed

Two originals of this work order shall be executed by the Owner and returned to _____. A fully executed copy will be returned to the Owner.

EXHIBIT B

CERTIFICATE OF INSURANCE



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
1-24-12

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

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

PRODUCER The Underwriters Group, Inc. 1700 Eastpoint Parkway P.O. Box 23790 Louisville KY 40223	CONTACT NAME: PHONE (AIC No, Ext): 502-244-1343 FAX (AIC No): 502-244-1411 E-MAIL: ADDRESS:													
	<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A: XL Specialty Insurance Company</td> <td>37885</td> </tr> <tr> <td>INSURER B: State Farm Fire and Casualty Company 25143</td> <td></td> </tr> <tr> <td>INSURER C: The Hartford</td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </tbody> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: XL Specialty Insurance Company	37885	INSURER B: State Farm Fire and Casualty Company 25143		INSURER C: The Hartford		INSURER D:		INSURER E:		INSURER F:
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INSURER E:														
INSURER F:														
INSURED M2D Design Group, PLLC 400 Old Vine Street Suite 206 Lexington, KY 40507														

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
C	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC		33SBAUD1994SA	11/06/11	11/06/12	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMPROP AGG \$ 2,000,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS <input checked="" type="checkbox"/>		33SBAUD1994SA	11/06/11	11/06/12	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N/A	97-EN-0493-9	06/13/11	06/13/12	WC STATU-TORY LIMITS OTH-ER \$ 500,000.00 E.L. EACH ACCIDENT \$ 500,000.00 E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$ 500,000.00
A	Professional Liability		DPR9691519	06/05/2011	06/05/2012	Per Claim 1,000,000 Aggregate 2,000,000

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

For Informational Purposes ONLY

CERTIFICATE HOLDER For Informational Purposes ONLY	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
--	--

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EXHIBIT C

**PROPOSAL OF PROFESSIONAL SERVICES
AND RELATED MATTERS**

Request for Proposal: RFP # 4-2012

Landscape Architecture Services for Non-Paved Site Restoration

LFUCG - Lexington, KY - March 9, 2012

- Cover Letter
- Section 1. Project Team Identification
- Section 2. Project Team and References
- Section 3. Experience
- Section 4. Hourly Rates and Estimated
Cost for Services
- Section 5. LFUCG Required Materials

m2d design group
ENGINEERING + PLANNING +
LANDSCAPE ARCHITECTURE

400 Old Vine Street
Suite 206
Lexington, Kentucky
40507
P: 859.389.6533
F: 859.389.6534



March 9, 2012

The City of Lexington
Attn: Brian Marcum
Lexington – Fayette Urban County Government
Room 338, Government Center
Lexington, KY 40507

Dear Brian:

We appreciate the opportunity to offer Landscape Architecture services to the City of Lexington for the upcoming Non-Paved Site Restoration project. M2D Design Group has completed successful projects across Kentucky for more than three decades. We are proud of our 24 year commitment to Kentucky Communities and are excited about the opportunity to work on another important LFUCG project. We believe we have the most talented Lexington-based staff specializing in projects just like yours.

Mark Congleton Arnold, ASLA, RLA will serve as the Principal in Charge. He brings over 24 years of experience working on public works projects and private residential projects throughout the region.

Mark Yanik will serve as Project Manager. Mark is a Licensed Landscape Architect who has successfully completed recent LFUCG Site Restoration and Renovation Projects.

David Lenoard will serve as our Arborist. David brings more than 37 years of experience and has been working with LFUCG on Site Restoration Projects around the city. Additionally, David has worked on several landscape related insurance claim projects throughout the region.

Our recent work includes:

- *City of Lexington: Loch Lomand Residential Site Restoration Project*
- *City of Lexington: Newtown Pike Enhancement/Restoration Project*
- *City of Lexington: Versailles Rd Enhancement/Restoration Project*
- *Bridlewood Property: Residential Landscape Improvement Project*
- *Pund Residence: Residential Landscape Master Plan*

Our past project experience in communities all across Kentucky means that we can hit the ground running with a full understanding of the complicated and sensitive nature of landscape restoration work. We understand the process and the results speak for themselves.

We encourage you to contact our clients and ask them directly about our service, M2D sincerely appreciates the opportunity to provide information to you for this important project.

If you should require any additional information, please give me a call at 859-389-6533

Sincerely,



Mark Congleton Arnold, ASLA, RLA
Principal - Landscape Architect

Section 1
Project Team Identification



Part One - Project Team Identification

Prime Consultant:

M2D Design Group, PLLC
400 Old Vine Street, Suite 206
Lexington, Kentucky 40507
(859) 389-6533

Primary Contact:

Mark Arnold, RLA
email: mark@m2ddesign.com

Alternate Contact

Mark Yanik, RLA
email: myanik@m2ddesign.com

Sub-Consultant:

David Leonard Consulting Arborist Inc.
1302 N. Limestone Street
Lexington, Kentucky 40505
(859) 252-2529

Primary Contact:

David Leonard
email: Dave@dlarborist.com







LFUCG

Division of
Water Quality

Principal Landscape
Architect
Mark Arnold, RLA
Project Manager
Mark Yanik, RLA

Project Support, M2D Design
Group
Morgan Dye, RLA

Arbor & Site Reconstruction
Consultant
David Leonard, ISA

Project Support, M2D Design
Group
**Billie Motsch,
Landscape Designer**

Project Team:

M2D Design Group, PLLC will serve as the prime design consultant for the project and will be responsible for project management, cost estimating, plant identification, making pre-construction photographic records, negotiating with property owners, maintaining and submitting monthly reports, obtain an executed waiver and release forms and request pay requests as it relates to activities of DWQ. M2D has also added additional project support staff to the project in order to ensure that we will be able to respond to specific sites as directed by the DWQ within a 48 hour period.

David Leonard Consulting Arborist, Inc, will support M2D by providing project support on an as needed basis. This would include assessment of large mature trees that are stressed, diseased or who's structural integrity could be jeopardized due to construction related activities. Our team takes safety very seriously and David's role will be essential in certain situations.

Additionally, David will provide the team with assistance as it relates to insurance related claims. Throughout his 37 years in business, David has worked on a variety of landscape restoration and site based insurance claims.



Key Team Member Roles & Expertise:

Team Member*	Firm	Team Role/Expertise	Years of Experience	Work Location
* Mark Arnold, RLA	M2D Design Group	Team Coordinator & Client Liaison	30	Lexington, KY
* Mark Yanik, RLA	M2D Design Group	Project Manager	10	Lexington, KY
* David Leonard	David Leonard Arborist	Arborist, Site Restoration & Insurance Claim Consultant	37	Lexington, KY
Morgan Dye	M2D Design Group	Project Support	12	Lexington, KY
Billie Motsch	M2D Design Group	Project Support	7	Lexington, KY

* Those individuals identified as having a significant role

References:

We encourage you to call our clients and colleagues and ask them directly about our service. We are confident they will confirm we are good listeners, creative solution makers and completely dedicated to our clients and their projects from start to finish. M2D Design Group has completed many similar projects that were successful because of our community involvement and diligent work with property owners.

We have included a list of references for you to contact.

Paul Schoningher, Research Analyst
 200 E. Main Street
 Lexington, KY 40507
 859.258.3208

Keith Lovan, PE
 LFUCG Division of Engineering
 101 E. Vine Street
 4th Floor
 Lexington, Kentucky 40507
 (859) 258-3410

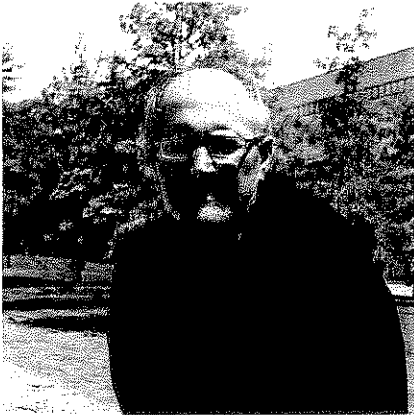
Harold Tate
 Lexington Downtown Development Authority
 101 East Vine Street
 Suite 500
 Lexington, Kentucky
 (859) 425-2296

Michelle Kosieniak
 Superintendent
 Lexington Fayette Urban County Government
 Parks and Recreation
 859.288.2982

James Street
 Director of Planning
 Eastern Kentucky University
 Richmond, Kentucky
 (859)-622-2966

Kentucky Heritage Council
 Patrick Kennedy And Mark Dennen
 Frankfort, Kentucky
 502-564-5820





Background:

Mark is a registered landscape architect with over twenty-three years experience in Urban Design and Landscape Architecture. His background includes a Bachelor of Arts degree from the University of Kentucky in Studio Art and Art Education and a Bachelor of Sciences degree in Landscape Architecture from the University of Kentucky. He served as Adjunct Professor of Landscape Architecture at the University of Kentucky where he taught Sophomore and Junior level design studios for eight years.

His background in Art has always been a part of his practice. A creative and sculptural approach has been the signature aspect of his work. His projects have been recognized at the national level through ASLA Design Awards and National Publication. He has been responsible for nine Award Winning Projects, two of which have been published by Landscape Architecture Magazine, the premier international journal of Landscape Architecture.

Mark has provided long-range master planning, site planning, and detailed design services for a variety of state and national projects including: communities all over Kentucky, military bases across the nation, educational facilities, park and recreational facilities, cemeteries, golf courses, public and private housing developments, and roadway corridors throughout the region.

Education:

University of Kentucky
Bachelor of Arts - Studio Art Education

University of Kentucky
Bachelor of Sciences in Landscape Architecture

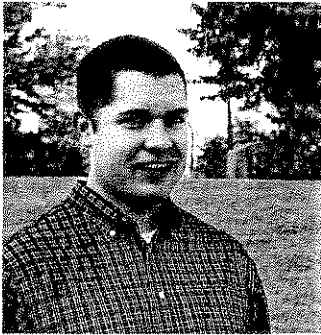
Registration:

Kentucky Landscape Architect #423
CLARB Certification - Council Of Landscape Architects Registration Board

Recent Project Experience:

- Versailles Road Corridor - Lexington Fayette Urban County Government
- Newtown Pike Corridor - Lexington Fayette Urban County Government
- Tates Creek Pool - Lexington , KY
- Gratz Park Master Plan - Lexington, KY
- Elizabethtown Sports Park Master Plan - Elizabethtown, KY
- Isaac Murphy Memorial Art Garden- Lexington, KY
- London Main Street, London Ky
- Midway Main Street Master Plan, Midway, KY
- Horse Cave Downtown Master Plan, Horse Cave, KY
- Greensburg Town Square, Greensburg, Ky
- Beattyville Main Street, Beattyville, KY
- Elizabethtown Public Square Master Plan, Elizabethtown, KY
- Somerset Main Street Master Plan, Somerset KY
- Pikeville Main Street Landscape Enhancements, Pikeville KY
- Beattyville Main Street Master Plan, Beattyvilly, KY
- Cynthiana Main Street Master Plan, Cynthiana, KY
- Owensboro Museum Of Fine Arts Sculpture Garden - Ownesboro, KY





Background:

Mr. Yanik is a graduate of the University of Kentucky landscape architecture program. He has 10 years of experience in planning and landscape architectural design. He has provided long-range master planning, site design & and construction services for many of the firm's projects.

Registration: Landscape Architect # 797 - Kentucky 2010

Education:

University of Kentucky
Bachelor of Sciences in Landscape Architecture- 2003

Professional Experience:

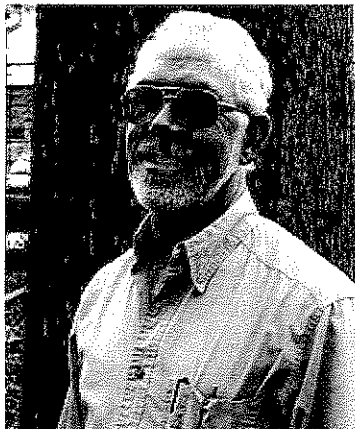
Mr. Yanik has served as Project Manager on several recently developed Main Street, Neighborhood and Urban Design Projects. On our Newtown Pike Enhancement Project, Mark was responsible for generating the corridor landscape design, developing contract documents, coordinating landscape restoration improvements on private property, acquiring state encroachment permits, and providing construction administration services that included TEA 21 LPA project coordination.

He has also been responsible for managing phase 1 & 2 of the Versailles Road Corridor Enhancement Project and coordinating improvements with the public.

Prior to joining M2D, Mark worked for the office of Allen Kracower and Associates in Chicago, Illinois. While in Chicago, Mark worked on a wide range of Urban Projects including Residential Roof Top Gardens, Planned Unit Developments, and Retail Streetscape Projects along Michigan Ave.

Recent Project Experience:

Charleston Urban Renewal Authority (West Virginia) - West Side Park Master Plan
City of Lexington - Newtown Pike Corridor Enhancement Project
City of Lexington - Versailles Road Corridor Enhancement Project (Phases 1 & 2)
City of Lexington - Loch Lohman Residential Storm Water Site Restoration Project
Lexington KY - Lexington Fraternal Order of Fighters Memorial
Lexington KY - Pund Residence Landscape Master Plan
Lexington KY - Sha Residence Landscape Master Plan
Bluegrass Airport - Terminal Drop Off Renovation Project
Bluegrass Airport - Terminal Drive Realignment Project
Bluegrass Airport - New Tac Air Terminal Project
La Grange Kentucky - Eden Parkway Corridor Master Plan
London Kentucky - Streetscape Implementation
University of Kentucky - Huguelet Drive Streetscape Design & Implementation
Western Kentucky University - Stadium Plaza Implementation
Western Kentucky University - 15th St. Realignment Master Plan & Implementation
Western Kentucky University - Shanty Hollow Shooting Sports Master Plan



Education:

Bachelor of Science in Forestry
(1974)
University of Kentucky

Work History:

1975-1992

President
Ascent
Tree Service, Inc.
1993-present

President
Dave Leonard
Consulting Arborist, Inc.
American Society of Consulting
Arborists (#346)

International Society of
Arboriculture Board Certified
Master Arborist (#KY-0147BT)

Background:

David is a licensed Arborist with over 37 years of experience and has provided professional Arbor services to a wide range of clients, public and private alike throughout the Kentucky region. His background includes a Bachelor of Science in Forestry from the University of Kentucky. David also served on the Board of Directors for the International Society of Arboriculture, 1983-2000.

Throughout his career, David has and continues to educate clients and the public at large regarding the values and benefits of trees and the proper techniques in maintaining them.

Recent Project Experience:

Blue Grass Community & Technical College (Newtown Pike Campus)

University of Kentucky Consulting Arborist 1993-2000

City of Lexington - Gratz Park Master Plan Consulting Arborist

Kentucky Housing Authority- 400 Hail Knob Road- P.O. Box 449
Somerset, KY 42502

Motorist Insurance Company - J.R. Cannady- 613 Watage Drive
Louisville, KY

My Old Kentucky Home State Park- Progressive Insurance

Grange Insurance - Terry Hodges

Recent Publications:

Arbor Age. March 2002 Diagnostic Tools: From Simple to the
Sophisticated

Awards:

International Society of Arboriculture - Arborist of the Year 2010

Kentucky Urban and Community Forestry - Excellence Award 1997

International Society of Arboriculture - True Professional of Arboriculture
2009

Professional Organizations:

Lexington Tree Foundation - President 2009- present

Lexington Fayette Urban County Government Tree Board Member 1982-
present

Central Kentucky Ornamental & Turf Association - Board of directors
1986- present

Kentucky Urban Forest Council - Council Member 1991- present





Background:

Mr. Dye is a registered Landscape Architect with over 12 years of experience in project design and management. His professional experience includes site design and development, master planning, preparation of construction documents and construction administration.

Morgan has project management experience that includes plazas, parks, urban streetscapes, private development, campus planning and design and has served as Project Manager for recent projects for the Commonwealth of Kentucky. Kentucky Community and Technical College System (KCTCS), Kentucky State Parks along with private residential and commercial developers.

Over the years, Mr. Dye has developed a strong understanding of a wide variety projects from the planning phase through construction completion.

Education:

University of Kentucky - 1997
Bachelor of Science in Landscape Architecture

Registration:

Landscape Architect
Kentucky # 664

Project Experience:

LFUCG Gainesway Trail Engineering & Design Project - Lexington, KY
LFUCG Isaac Murphy Memorial Art Garden - Lexington, KY
LFUCG Tates Creek Pool - Lexington, KY
Hopkinsville Downtown and Inner-City Parks Project - Hopkinsville, KY
Hopkinsville 9th and Campbell Street Corridor - Hopkinsville, KY
Somerset Fountain Square Beautification - Somerset, Kentucky
Somerset Streetscape Enhancements - Master Plan & Construction Drawings
Kentucky Horse Park Pedway Repairs, Replacement and Upgrade
Hidden Cove Golf Course at Grayson Lake State Park - Grayson, KY
Elizabethtown Public Square Streetscape - Master Plan & Construction Drawings
Greensburg Public Square Streetscape - Master Plan & Construction Drawings
Horse Cave Streetscape Enhancements - Master Plan & Construction Drawings
Murray State University - Science Complex Master Plan
Elizabethtown Community College - Library Addition
Eastern Kentucky University - Health Services Building
Morehead Main Street Streetscape Enhancements - Master Plan
Midway Streetscape Enhancements - Master Plan
Jefferson Community College - Allied Health Sciences Building Plaza
Ashland Community and Technical College - Technology Drive Campus Phase II
Madisonville Community College / Muhlenberg Campus - New Building Facility
Lewis County Middle School - Existing School Additions & Renovations



Background:

Billie is a landscape designer who graduated with a Bachelor of Science in Landscape Architecture from the University of Kentucky. She has over 6 years of experience in planning, landscape architectural design and development of construction documents. Her experience includes commercial, residential, military and industrial planning and design.

In the past couple of years she has taken on several projects to manage and see them through from the planning phase to construction completion. Ms. Motsch has also assisted with LEED documentation/certification for numerous projects in Louisville and Virginia.

Education:

Bachelor's of Science Landscape Architecture - 2005

Project Experience:

Residential –

- Fleur De Lis Rooftop Garden – Jefferson Co. KY*
- Mockingbird Terrace Homes – Jefferson Co. KY*
- Arlington Park Apartments – Hardin Co. KY*

Military –

- Ft. Pickett Regional Training Facility and Barracks – Blackstone VA*
- Ft. Eustis Company Operations Facility, Ft. Eustis, VA*
- Ft. Polk – LA*
- Ft. Knox Highschool – KY*
- FBI Regional Headquarters – Jefferson Co., KY*

Educational Facilities –

- Billtown Elementary – Jefferson Co. KY*
- Billtown Military – Jefferson Co. KY*
- Lewis Co. Baseball Fields – Lewis Co. KY*

Commercial –

- Thornton's – Jefferson Co. KY*
- Love's Country Store – Shelby Co. KY*
- Blankenbaker Station I-IV – Jefferson Co. KY*

Industrial –

- Magna Seating – Bullitt Co. KY*
- Best Buy – Bullitt Co. KY*
- Eaton Data Center – Jefferson Co. KY*

Parks –

- Shillito Park Tennis Courts – Fayette Co. KY*
- Miner's Memorial – Leslie Co. KY*

* Work completed while employed by Mindel, Scott and Associates



Mark Arnold
Mark Yanik
Dave Leonard

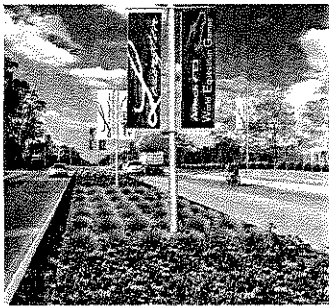


Loch Lomond Drive Drainage Improvements – Landscape Analysis Study Lexington, Kentucky:

Relevant Experience: Tree and Landscape Restoration/ Renovation

- Attended project orientation meeting with the client.
- Visited and performed site assessment while conducting a meeting with the property owner.
- Evaluated & assessed large mature trees with the LFUCG Urban Forester.
- Developed design recommendations in plan & report format.
- Conducted review meeting with LFUCG Division of Engineering staff.
- Negotiated and gained consensus with property owner regarding proposed site restoration plantings.
- Finalized recommendations and submitted report to LFUCG.
- Provided all project administration, coordination & design services.

Size and Scope: 1/4 acre - \$4,000
Client Contact: David Carroll, PE - 859.258.3426
Email: dcarroll@lexingtonky.gov



Newtown Pike Corridor Restoration Project - Lexington, Kentucky:

This project involved Developing and Implementing a corridor landscape improvement plan along Newtown Pike from Main Street to the new BCTC Campus. The corridor bisects commercial zones, light industrial zones, educational zone and fragmented residential areas and serves as the primary entrance to the city from 175.

Relevant Experience:

- Consensus building with private property owners and obtainment of planting authorization forms.
- Coordination with multi-governmental (local and state) agencies and private property owners.
- Conducted public presentations of proposed roadway planting improvements.
- Responsible for providing all project administration, coordination & design services.

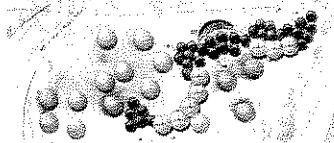
Size and Scope: 1/2 Mile Corridor - \$250,000
Client Contact: Paul Schoninger 859.258.3208
Email: paulas@lexingtonky.gov



Versailles Road Corridor Landscape Enhancements -

Lexington, Kentucky: The design process involved a series of public consensus building meetings, inventory and analysis of existing conditions, the development of constraints and opportunities plans, as well as a series of neighborhood design charettes. Construction phases included developing bid documents, coordination with KYTC district 7, the Department of Local Programs, LFUCG, local residents, neighborhood associations and contractors. M2D also was responsible for performing construction administration during the construction phases.

Size and Scope: 5 Mile Corridor - \$200,000
Client Contact: Paul Schoninger 859.258.3208
Email: paulas@lexingtonky.gov



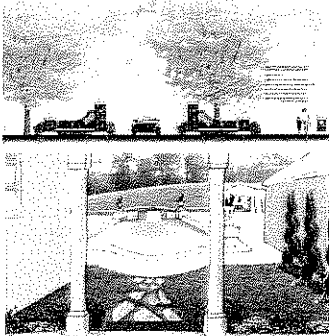
Responsibilities of Key Personnel

Mark Arnold, RLA #423 – Principal in Charge – Mr. Arnold served as Principal in Charge for the projects listed. He is responsible for team coordination, client contact, overall design direction and budget conformance.

Mark Yanik, RLA #797 – Project Manager – Mr. Yanik served as project manager. His responsibilities included overall project management, administration, and coordination with public and government agencies.

Selected Project Experience

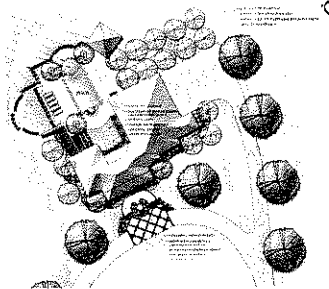
Mark Arnold
Mark Yanik
Dave Leonard



Bridlewood Property Landscape Master Plan - Lexington, Kentucky:

- Assessment of site and review of site opportunities and constraints with client.
- Design of overall Landscape Master Plan.
- Preparation of Construction Documents to include grading, drainage and landscape plans.
- Assisted client with selection of landscape contractor.

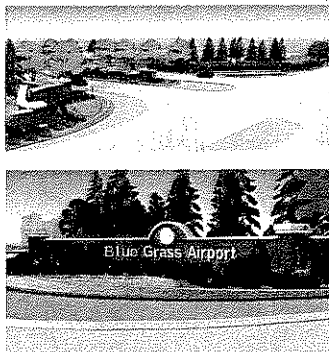
Size and Scope: 1 acre - \$75,000
Client Contact: Stacey Miller
Email: Smiller@uky.edu



Pund Resendential Landscape Master Plan - Lexington, Kentucky:

- Review and assessment of site opportunities and constraints with client.
- Preparation of landscape design concepts and programming idea exhibit.
- Design of overall Landscape Master Plan Concepts.

Size and Scope: 1 acre - \$90,000
Client Contact: Christopher R. Pund
Email: cpund@mesaer.com



Blue Grass Airport Entrance Project- Lexington, Kentucky:

The design for the Main Entrance will has taken first steps towards developing a "Signature Experience" for Blue Grass Airport. The theme is consistent with existing architectural styles at the airport and will incorporate brick masonry walls, limestone capping, low dry- stacked stone walls, signature lighting fixtures and lush landscaping.

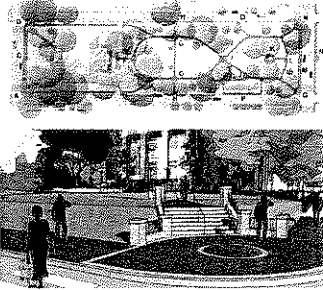
Size and Scope: 3 Acres - \$1.2M
Client Contact: Mark Day, PE - 859.425.3152
Email: mday@bluegrassairport.com

Responsibilities of Key Personnel

Mark Arnold, RLA #423 – Principal in Charge – Mr. Arnold serves as Principal in Charge for the projects listed. He is responsible for team coordination, client contact, overall design direction and budget conformance.

Mark Yanik, RLA #797 – Project Manager – His responsibilities include overall project management and administration for the M2D team and our consultants.

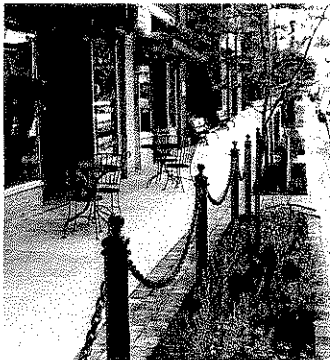
Selected Project Experience



Gratz Park- Lexington, Kentucky

Gratz Park Neighborhood is one of the most historic neighborhoods and green spaces in downtown Lexington, Kentucky. It is approximately 3.3 acres located two blocks north of Main Street bounded by Second and Third Streets to the south and north and Market and Mill Streets to the east and west. The green space is bordered on the north by Transylvania University, which is the oldest college west of the Alleghenies, and by nineteenth century residences on the other three sides.

Size and Scope: 3.3 Acres - \$200,000
Client Contact: John Hackworth - 859.255.0146
Email: jwhackworth@sayerschool.org



London Mainstreet Enhancement - London, KY

The Streetscape for London began with the idea of creating a more friendly pedestrian environment along Main Street. We wanted to enjoy being downtown and have opportunities to experience a cup of coffee or tea at a Sidewalk Cafe. The wide walks allowed for us to add a substantial planting edge along the curb. M2D provided all Master Planning, Construction Documents, and Construction Administration services for the project.

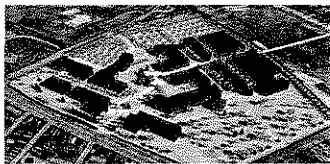
Size and Scope: 1/4 Mile - \$500,000
Client Contact: Sherri Mosley - 606.863.8841
Email: lmaintstreet@windstream.net



Bluegrass Community and Technical College Newtown Pike Campus Master Plan - Lexington, Kentucky

This project entails the repurposing of the 65 acre Eastern State Hospital Campus for the use as the newest Bluegrass Community & Technical College Campus. To help address many of these issues, the design team collaborated with many influential community groups to address the historic and sensitive nature of this site. Preservation of the many mature trees located around the historic entrance and the addition of many new trees will contribute to the overall "green" nature of the campus.

Size and Scope: 65 Acres - \$85,000.00 Fee Only
Client Contact: Joe Meyer, Contract Administration - 502.564.3050
Email: jmeyer@bctcsystems.org



Responsibilities of Key Personnel

Mark Arnold, RLA #423 – Principal in Charge – Mr. Arnold serves as Principal in Charge for the projects listed. He is responsible for team coordination, client contact, overall design direction and budget conformance.

Mark Yanik, RLA #797 – Project Manager – His responsibilities include overall project management and administration for the M2D team and our consultants.

David Leonard, ISA - Arborist - His responsibilities include assessing tree health, identifying tree species, identifying trees of significance and making recommendations for long term tree maintenance programs within the park.



Selected Residential Project Experience

M2D Design Group Additional Residential Projects:

Gina Beare Residence – Fayette Co., Ky.
Ann Marshall Residence – Winchester Ky.
Robert Cattoi Residence – Lexington, Ky.
Johnson Farm House – Fayette Co., Ky.
Pete Slagel Residence – Fayette Co., Ky.
Rupel Development – Cincinnati, Oh.
Wahl Residence – Cincinnati, Oh.
Stuck Residence – Columbia, S.C.
Chestnut Hills Plantation – Columbia, S.C.
Big Woods Development – Rowan, Co., Ky.
Barr Residence – Lexington, Ky.
Walker House - Fayette Co., Ky.
McDonald Property - Lexington, Ky.
Bridgett Smith Residence – London, Ky.

Dave Leonard Tree Specialists - Additional Residential Site Restoration and Insurance Claim Related Projects:

Kentucky Housing Authority

400 Hail Knob Road
P.O. Box 449
Somerset, KY 42502

A tree failed on December 9, 2009, resulting in the death of Kaitlyn Griffin and her unborn child. We concluded that the structural defect that caused this tree to fail is a common flaw in Red Maple trees as well as other species and would not be identified as a problem by an average person. We subsequently performed a tree inventory for the entire property, finding several hazardous trees, which were then removed by a contractor.

Motorist Insurance Company

J.R. Cannady
613 Watage Drive
Louisville, KY

In December 2003, a 37-inch diameter Pin Oak tree had its roots severed by an excavator on the Southeast side, destabilizing the tree. We worked with the tree rather than removing it to re-establish its root system, saving the tree and a large insurance payment. Recommendations were made to care for and monitor the tree for several years.

Selected Residential Project Experience



My Old Kentucky Home State Park Progressive Insurance

On November 28, 2010, a car damaged a large Tulip Poplar tree at this state park. I performed a tree appraisal for the insurance company. The damaged tree is a yellow poplar (*Liriodendron tulipifera*) that is 30 inches in diameter at 4.5 feet above the ground. The tree was in good condition prior to being hit by an automobile. It is located in a section of native woods that has been mowed for several years. The native underbrush has been removed and replaced with turfgrass. All of the existing trees have very high canopies with small crowns.

Although the wound is significant, it will not kill the tree in the next several years. The heartwood of tulip poplar is known to be both decay and insect resistant. The tree is still providing the same benefits it did before it was hit, however, the useful life of the tree has been shortened by the accident.

In establishing compensation for the loss, I consider that this tree is one of many in this forest area and as such the individual contribution is minimal. However, it is a large tree that has taken 80-100 years to attain its size. It cannot be physically replaced, as the commonly available tree for transplant is three inches in diameter.

I would therefore consider the cost of its replacement to be the cost of removal plus the planting of five small replacement trees. These trees would equal half of the thirty-inch diameter of the yellow poplar. You already have a figure for the cost of removal. The cost of a three-inch tree is \$125 at Valley Hill Nursery in Springfield, KY. Planting cost is generally calculated at three times the cost of the tree or \$375 in this case.

Grange Insurance Terry Hodges

On May 28, 2010; determined the appraised value of a Red Oak tree hit by a car on 401 Flat Rock Road. Tree was in poor condition and under power lines. Tree had little or no value and was minimally damaged.

Section 4
Hourly Rates and Estimated Cost of Services



HOURLY RATE QUOTATION
RFP #4-2012
LANDSCAPE ARCHITECTURE SERVICES
APPENDIX II

	Title	Hourly Rate
1	Mark Arnold, RLA - Principal of Firm/ Professional	\$85.00
2	Mark Yanik, RLA - Registered Landscape Architect	\$75.00
3	Morgan Dye, RLA - Registered Landscape Architect	\$75.00
4	Billie Motsch: - Senior Level / Landscape Designer	\$65.00
5	David Leonard, ISA - Board Certified Arborist and	
6	Site Reconstruction Consultant	\$120.00
7		
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RFP #4-2012
 LANDSCAPE ARCHITECTURE SERVICES
 APPENDIX II

	DESCRIPTION	LUMP SUM FEE
Specific Cost Estimate I	1237 Kenesaw Village Drive - estimated fee for sub-tasks 1 thru 3	\$168
Specific Cost Estimate I	149 E. Tiverton Way - estimated fee for sub-tasks 1 thru 3	\$168
Specific Cost Estimate I	1756 Appomattox Rd. - estimated fee for sub-tasks 1 thru 3	\$225
Specific Cost Estimate II	Preparation of the unit price Schedule of Values to be used in work associated with all future parcel inspections and estimates	\$900
	GRAND TOTAL	\$1,461

Part Four - Hourly Rates

Mark Arnold, RLA:
Principal of Firm/ Professional.....\$85.00

Mark Yanik, RLA:
Morgan Dye, RLA:
Registered Landscape Architect (other than Principal).....\$75.00

Billie Motsch:
Senior Level Professional/ Landscape Designer..... \$65.00

David Leonard, ISA - Board Certified Arborist and
Site Reconstruction Consultant:\$120.00





Lexington-Fayette Urban County Government
DEPARTMENT OF FINANCE & ADMINISTRATION

Jim Gray
Mayor

Jane C. Driskell
Commissioner

ADDENDUM #1

RFP Number: **4-2012**

Date: March 1, 2012

Subject: **RFQ for Landscape Architecture Services for Non-Paved Site Restoration (Landscaping & Yards)**

Please address inquiries to:
Betty Landrum (859) 258-3320

TO ALL PROSPECTIVE BIDDERS:

Please be advised of the following clarifications to the above referenced RFP:

- 1) See attached Engineering Services Agreement that applies to this project.
- 2) A typo is currently shown on the Scoring Sheet in the Title of the Project. RFW should be RFQ.

Questions	Answers
Scope of Services The 3rd bullet references a post-construction site visit for negotiations with the property owner. Please expand or clarify the purpose of the post-construction site visit.	The post construction site visit is necessary to finalize the replacement value. Post construction findings should be compared to preconstruction records in order to correctly and accurately determine replacement value.
Is the pay request identified in Bullet 7 the same pay request identified in bullet 5 or are they 2 different pay requests?	Final editing of the scope missed this duplicate wording - they are the same pay requests.
Specific Cost Estimate I Does Sub-Task 3 include negotiating with the owner/contractor, obtaining the waiver, and submitting the pay request?	No
The Scope of Services reference "maintain and submit monthly reports" and "meetings as required with DWQ". Where are the fees for this time to be included in the proposal?	The hourly rates quoted in the proposals will be used to negotiate fees for maintaining monthly reports, submitting monthly reports and meetings as required.


Brian Marcum

Brian Marcum, Director
Division of Central Purchasing

All other terms and conditions of the RFP and specifications are unchanged. This letter should be signed, attached to and become a part of your RFP.

COMPANY: M2D Design Group

ADDRESS: 400 Old vine Street, Ste. 206, Lexington, KY 40507

SIGNATURE OF PROPOSER: 

AFFIDAVIT

Comes the Affiant, Stacey Eggers-Herron, and after being first duly sworn, states under penalty of perjury as follows:

1. His/her name is Mark Arnold and he/she is the individual submitting the proposal or is the authorized representative of M2D Design Group, the entity submitting the proposal (hereinafter referred to as "Proposer").
2. Proposer will pay all taxes and fees, which are owed to the Lexington-Fayette Urban County Government at the time the proposal is submitted, prior to award of the contract and will maintain a "current" status in regard to those taxes and fees during the life of the contract.
3. Proposer will obtain a Lexington-Fayette Urban County Government business license, if applicable, prior to award of the contract.
4. Proposer has authorized the Division of Central Purchasing to verify the above-mentioned information with the Division of Revenue and to disclose to the Urban County Council that taxes and/or fees are delinquent or that a business license has not been obtained.
5. Proposer has not knowingly violated any provision of the campaign finance laws of the Commonwealth of Kentucky within the past five (5) years and the award of a contract to the Proposer will not violate any provision of the campaign finance laws of the Commonwealth.
6. Proposer has not knowingly violated any provision of Chapter 25 of the Lexington-Fayette Urban County Government Code of Ordinances, known as "Ethics Act."

Continued on next page

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 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.

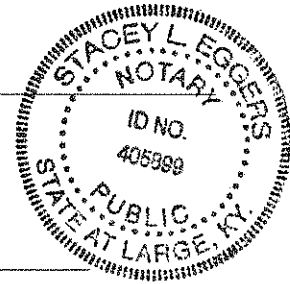
STATE OF Kentucky

COUNTY OF Fayette

The foregoing instrument was subscribed, sworn to and acknowledged before me by Mark Arnold on this the 8th day of March 2011.

My Commission expires: October 1st, 2013

Stacey Eggers-Hermon
NOTARY PUBLIC STATE AT LARGE



EQUAL OPPORTUNITY AGREEMENT

The Law

- Title VII of the Civil Rights Act of 1964 (amended 1972) states that it is unlawful for an employer to discriminate in employment because of race, color, religion, sex, age (40-70 years) or national origin.
- Executive Order No. 11246 on Nondiscrimination under Federal contract prohibits employment discrimination by contractor and sub-contractor doing business with the Federal Government or recipients of Federal funds. This order was later amended by Executive Order No. 11375 to prohibit discrimination on the basis of sex.

Section 503 of the Rehabilitation Act of 1973 states:

The Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap.

- Section 2012 of the Vietnam Era Veterans Readjustment Act of 1973 requires Affirmative Action on behalf of disabled veterans and veterans of the Vietnam Era by contractors having Federal contracts.
- Section 206(A) of Executive Order 12086, Consolidation of Contract Compliance Functions for Equal Employment Opportunity, states:

The Secretary of Labor may investigate the employment practices of any Government contractor or sub-contractor to determine whether or not the contractual provisions specified in Section 202 of this order have been violated.

The Lexington-Fayette Urban County Government practices Equal Opportunity in recruiting, hiring and promoting. It is the Government's intent to affirmatively provide employment opportunities for those individuals who have previously not been allowed to enter into the mainstream of society. Because of its importance to the local Government, this policy carries the full endorsement of the Mayor, Commissioners, Directors and all supervisory personnel. In following this commitment to Equal Employment Opportunity and because the Government is the benefactor of the Federal funds, it is both against the Urban County Government policy and illegal for the Government to let contracts to companies which knowingly or unknowingly practice discrimination in their employment practices. Violation of the above mentioned ordinances may cause a contract to be canceled and the contractors may be declared ineligible for future consideration.

Please sign this statement in the appropriate space acknowledging that you have read and understand the provisions contained herein. Return this document as part of your application packet.

Bidders

I/We agree to comply with the Civil Rights Laws listed above that govern employment rights of minorities, women, Vietnam veterans, handicapped and aged persons.



Signature

M2D Design Group

Name of Business

WORKFORCE ANALYSIS FORM

Name of Organization: M2D Design Group

Date: 03 / 8 / 2012

Categories	Total	White		Latino		Black		Other		Total	
		M	F	M	F	M	F	M	F	M	F
Administrators			1								
Professionals		6	3								
Superintendents											
Supervisors											
Foremen											
Technicians											
Protective Service											
Para-Professionals											
Office/Clerical											
Skilled Craft											
Service/Maintenance											
Total:		6	4								

Prepared by: Mark Arnold - Principal
Name & Title

LFUCG MBE/WBE PARTICIPATION FORM

Bid/RFP/Quote Reference # RFP # 4-2012

The MBE/WBE subcontractors listed have agreed to participate on this Bid/RFP/Quote. If any substitution is made or the total value of the work is changed prior to or after the job is in progress, it is understood that those substitutions must be submitted to Central Purchasing for approval immediately.

MBE/WBE Company, Name, Address, Phone, Email	Work to be Performed	Total Dollar Value of the Work	% Value of Total Contract
1. N/A			
2.			
3.			
4.			

The undersigned company representative submits the above list of MBE/WBE firms to be used in accomplishing the work contained in this Bid/RFP/Quote. Any misrepresentation may result in the termination of the contract and/or be subject to applicable Federal and State laws concerning false statements and false claims.

M2D Design Group
Company
March 8, 2012
Date

Mark Arnold
By
Principal
Title

LFUCG MBE/WBE SUBSTITUTION FORM

Bid/RFP/Quote Reference # RFP # 4-2012

The substituted MBE/WBE 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 MBE/WBE Company Name, Address, Phone, Email	MBE/WBE 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. N/A					
2.					
3.					
4.					

The undersigned acknowledges that any misrepresentation may result in termination of the contract and/or be subject to applicable Federal and State laws concerning false statements and false claims.

M2D Design Group
Company

March 8, 2012
Date

Mark Arnold
Company Representative

Principal
Title



MBE QUOTE SUMMARY FORM

Bid/RFP/Quote Reference # RFP # 4-2012

The undersigned acknowledges that the minority subcontractors listed on this form did submit a quote to participate on this project.

Company Name M2D Design Group	Contact Person Mark Arnold
Address/Phone/Email 400 Old Vine Street, Ste. 206 Lexington, KY 40507 Stacey@m2ddesign.com	RFP Package / RFP Date RFP #4-2012

MBE/WBE Company Address	Contact Person	Contact Information (work phone, Email, cell)	Date Contacted	Services to be performed	Method of Communication (email, phone meeting, or event etc)	Total dollars \$ Do Not Leave Blank (Attach Documentation)	MBE * AA HA AS NA Female
N/A							

(MBE designation / AA=African American / HA= Hispanic American/AS = Asian American/Pacific Islander/ NA= Native American)

The undersigned acknowledges that all information is accurate. Any misrepresentation may result in termination of the contract and/or be subject to applicable Federal and State laws concerning false statements and claims.

M2D Design Group
Company

Mark Arnold
Company Representative

3-8-12
Date

Principal
Title

LFUCG STATEMENT OF GOOD FAITH EFFORTS

Bid/RFP/Quote # _____ RFP # 4-2012 _____

By the signature below of an authorized company representative, we certify that we have utilized the following methods to obtain the maximum practicable participation by minority and women owned business enterprises on the project. Please indicate which methods you used by placing an X in the appropriate place.

- _____ Attended LFUCG Central Purchasing Economic Inclusion Outreach Event
- _____ Sponsored Economic Inclusion event to provide networking opportunities
- X Requested a list of MBE/WBE subcontractors or suppliers from LFUCG Economic Engine
- _____ Advertised for MBE/WBE subcontractors or suppliers in local or regional newspapers
- _____ Showed evidence of written notice of contracting and/or supplier opportunities to MBE/WBE firms at least seven days prior to the proposal opening date
- _____ Provided copies of quotations submitted by MBE/WBE firms which were not used and/or responses from firms indicating they would not be submitting a quote
- _____ Provided plans, specifications, and requirements to interested MBE/WBE subcontractors
- _____ Other Please list any other methods utilized that aren't covered above.

The undersigned acknowledges that all information is accurate. Any misrepresentations may result termination of the contract and/or be subject to applicable Federal and State laws concerning false statements and claims.

M2D Design Group
Company

Mark Arnold
Company Representative

3-8-12
Date

Principal
Title

Firm Submitting Proposal: M2D Design Group

Complete Address: 400 Old Vine Street, Suite 206 – Lexington, KY 40507
Street City Zip

Contact Name: Mark Arnold Title: Principal

Telephone Number: 859-389-6533 Fax Number: 859-389-6534

Email address: mark@m2ddesign.com

GENERAL PROVISIONS

1. Each Respondent shall comply with all Federal, State & Local regulations concerning this type of service or good.

The Respondent 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. The Respondent also agrees to notify the LFUCG in writing immediately upon detection of any unsafe and/or unhealthful working conditions at the job site. The Respondent agrees to indemnify, defend and hold the LFUCG harmless from all penalties, fines or other expenses arising out of the alleged violation of said laws.

2. Failure to submit ALL forms and information required in this RFP may be grounds for disqualification.
3. Addenda: All addenda, if any, shall be considered in making the proposal, and such addenda shall be made a part of this RFP. Before submitting a proposal, it is incumbent upon each proposer to be informed as to whether any addenda have been issued, and the failure to cover in the bid any such addenda may result in disqualification of that proposal.
4. Proposal Reservations: LFUCG reserves the right to reject any or all proposals, to award in whole or part, and to waive minor immaterial defects in proposals. LFUCG may consider any alternative proposal that meets its basic needs.
5. Liability: LFUCG is not responsible for any cost incurred by a Respondent in the preparation of proposals.
6. Changes/Alterations: Respondent may change or withdraw a proposal at any time prior to the opening; however, no oral modifications will be allowed. Only letters, or other formal written requests for modifications or corrections of a previously submitted proposal which is addressed in the same manner as the proposal, and received by LFUCG prior to the scheduled closing time for receipt of proposals, will be accepted. The proposal, when opened, will then be corrected in accordance with such written request(s), provided that the written request is contained in a sealed envelope which is plainly marked "modifications of proposal".
7. Clarification of Submittal: LFUCG reserves the right to obtain clarification of any point in a bid or to obtain additional information from a Respondent.
8. Bribery Clause: By his/her signature on the bid, Respondent certifies that no employee of his/hers, any affiliate or Subcontractor, has bribed or

attempted to bribe an officer or employee of the LFUCG.

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, conditions and specifications;
 - (b) Failure to make delivery within the time specified or according to a delivery schedule fixed by the contract;
 - (c) Late payment or nonpayment of bills for labor, materials, supplies, or equipment furnished in connection with a contract for construction services as evidenced by mechanics' liens filed pursuant to the provisions of KRS Chapter 376, or letters of indebtedness received from creditors by the purchasing agency;
 - (d) Failure to diligently advance the work under a contract for construction services;
 - (e) The filing of a bankruptcy petition by or against the contractor; or
 - (f) Actions that endanger the health, safety or welfare of the LFUCG or its citizens.

B. At Will Termination

Notwithstanding the above provisions, the LFUCG may terminate this contract at will in accordance with the law upon providing thirty (30) days written notice of that intent, Payment for services or goods received prior to termination shall be made by the LFUCG provided these goods or services were provided in a manner acceptable to the LFUCG. Payment for those goods and services shall not be unreasonably withheld.

13. **Assignment of Contract:** The contractor shall not assign or subcontract any portion of the Contract without the express written consent of LFUCG. Any purported assignment or subcontract in violation hereof shall be void. It is expressly acknowledged that LFUCG shall never be required or obligated to consent to any request for assignment or subcontract; and further that such refusal to consent can be for any or no reason, fully within the sole discretion of LFUCG.
14. **No Waiver:** No failure or delay by LFUCG in exercising any right, remedy, power or privilege hereunder, nor any single or partial exercise thereof, nor the exercise of any other right, remedy, power or privilege shall operate as a waiver hereof or thereof. No failure or delay by LFUCG in exercising any right, remedy, power or privilege under or in respect of this Contract shall affect the rights, remedies, powers or privileges of LFUCG hereunder or shall operate as a waiver thereof.

15. Authority to do Business: The Respondent must be a duly organized and authorized to do business under the laws of Kentucky. Respondent must be in good standing and have full legal capacity to provide the services specified under this Contract. The Respondent must have all necessary right and lawful authority to enter into this Contract for the full term hereof and that proper corporate or other action has been duly taken authorizing the Respondent to enter into this 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 or unenforceable, the remainder of the contract shall remain in full force and such term or provision shall be deemed stricken.



Signature

3-8-12

Date

**STATEMENT OF QUALIFICATION
SUBMITTED BY:**

By signing below you are agreeing to all LFUCG Terms & Conditions that are a part of this Request for Qualifications.

Include this page in your response to this RFQ

Firm: M2D Design Group

By: Mark Arnold

Title: Principal

E-Mail Address: mark@m2ddesign.com

Address: 400 Old Vine Street

Suite 206

Telephone: 859-389-6533

Fax: 859-389-6534

Date: 3-8-12


Federal ID Number: 262127557

Consultant's DUNS Number: 827136560

If you do not have a DUNS number, contact Dun & Bradstreet at (866) 705-5711 or go to <http://fedgov.dnb.com/webform/displayHomePage.do>.

Consultant must be registered as a vendor in the federal Central Consultant Registration (CCR). The online registration is at www.ccr.gov. Is the consultant registered in CCR? Yes No

Non-collusion Statement: By my signature below, I, individually and as an agent for the consultant responding to this Statement of Qualifications, certify that neither I, nor the business entity for which I am an agent, nor any other agent for that business entity, have entered into any agreement, participated in any collusion, or otherwise taken any action, in restraint of free competitive bidding in connection with this submitted bid. I understand that failure to submit this statement as part of the bidding documents shall make this bid nonresponsive and therefore not eligible for award consideration.



(Consultant Signature)

3-8-12

(Date)

Please include a copy of your W-9 with your submitted proposal.
You cannot be awarded a contract until this is submitted.


I acknowledge receipt of the following Addendum:

Addendum #1: _____

Addendum #2: _____

Addendum #3: _____

Any Additional Addendum (list all numbers): _____



Consultant Signature (all items above have been read and completed)

Request for Taxpayer Identification Number and Certification

Give form to the requester. Do not send to the IRS.

Print or type See Specific Instructions on page 2.	Name (as shown on your income tax return) M2D Design Group, PLLC	
	Business name, if different from above	
	Check appropriate box: <input type="checkbox"/> Individual/Sole proprietor <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input checked="" type="checkbox"/> Limited liability company. Enter the tax classification (D=disregarded entity, C=corporation, P=partnership) ▶ P..... <input type="checkbox"/> Exempt payee <input type="checkbox"/> Other (see instructions) ▶	
	Address (number, street, and apt. or suite no.) 400 Old Vine St. Suite 206	Requester's name and address (optional)
	City, state, and ZIP code Lexington, Ky. 40507	
	List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number
or
Employer identification number
26 2127557

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here	Signature of U.S. person ▶	Date ▶ 3.8.12
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,

EXHIBIT D

**FURTHER DESCRIPTION OF BASIC
PROFESSIONAL SERVICES AND
RELATED MATTERS**

LFUCG TASK ORDER NO. _____
UNDER LFUCG AGREEMENT WITH _____ FOR _____

CONSULTANT

OWNER

Name		Lexington Fayette Urban County Government
Street Address		200 East Main Street
City, State, Zip		Lexington, KY 40507
Contact Person		Charles Martin
Telephone		859-425-2400
Fax		859-254-7787
E-Mail		chmartin@lexingtonky.gov
Task Order Date:	_____	
Task Name:	_____	
Task ID:	_____	

SCOPE OF WORK/DELIVERABLES

SCHEDULE OF WORK

FEE

ACCEPTED BY:

AUTHORIZED BY:

Consultant's Authorized Signature

Owner's Authorized Signature

Date Signed

Date Signed

Two originals of this work order shall be executed by the Owner and returned to _____. A fully executed copy will be returned to the Owner.