

## ENGINEERING SERVICES AGREEMENT

THIS IS AN AGREEMENT made as of \_\_\_\_\_, 2012 between the LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT (**OWNER**) and **M2D Design Group** (**CONSULTANT**). **OWNER** intends to proceed with the **Gainesway Trail Project** as described in the attached Scope of Services document. The services include a design and preparation of complete construction plans and specifications for a shared used trail in the vicinity of Armstrong Mill Road and Centre Parkway. 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 and landscape architectural 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 planning, environmental, and civil engineering services, and customary surveying services incidental thereto.

#### 1.2. Preliminary Design Phase

After written authorization to proceed with the design, **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. On the basis of the "Scope of Services", conduct field surveys and gather other necessary data or information, prepare preliminary design document consisting of final design criteria, analysis of design, preliminary drawings, and outline specifications.
- 1.2.3. Based on the information contained in the preliminary design documents, submit an estimate of probable Project costs.
- 1.2.4. Furnish copies as indicated in the Scope of Services of the above preliminary design documents and present them in person to **OWNER**. After **OWNER'S** detailed review, attend conference with **OWNER** to discuss **OWNER'S** comments.

- 1.2.5. Furnish one copy of the above preliminary drawings to each of the local utility companies via certified mail.

### 1.3. **Final Design Phase**

After written authorization to proceed with the Final Design Phase, **CONSULTANT** shall:

- 1.3.1. On the basis of the approved preliminary design documents and the revised estimate of probable Project cost, prepare final Drawings and Specifications to show the character and extent of the Project.
- 1.3.2. Prepare such documents and design data as may be required to apply for approvals of such governmental authorities as have jurisdiction over design criteria applicable to the Project, and obtain such approvals by negotiations with appropriate authorities.
- 1.3.3. Advise **OWNER** of any adjustments to the latest estimate of probable Project cost caused by changes in extent or design requirements of the Project or construction costs and furnish a revised estimate of probable Project cost based on the Drawings and Specifications.
- 1.3.4. Prepare for review and approval by **OWNER**, contract agreement forms, general conditions and supplementary conditions, bid forms, invitations to bid and instructions to bidders, and other related documents.
- 1.3.5. Furnish copies as indicated in the Scope of Services of the above documents and present them in person to **OWNER**. After **OWNER'S** detailed review, attend conference with **OWNER** to discuss **OWNER'S** comments.
- 1.3.6. Furnish one copy of the Final Drawings to each of the local utility companies via certified mail.

### 1.4. **Bidding or Negotiating Phase**

After written authorization to proceed with the Bidding or Negotiation Phase, **CONSULTANT** shall:

- 1.4.1. Assist **OWNER** in obtaining bids or negotiating proposals for each separate prime contract for construction, materials, equipment and services.
- 1.4.2. Consult with and advise **OWNER** as to the acceptability of subcontractors and other persons and organizations proposed by the prime contractor(s) (hereinafter called "Contractor(s)") for those portions of the work as to which such acceptability is required by the bidding documents.
- 1.4.3. Consult with and advise **OWNER** as to the acceptability of substitute materials and equipment proposed by Contractor(s) when substitution prior to the award of contracts is allowed by the bidding documents.
- 1.4.4. Assist **OWNER** in evaluating bids or proposals.

### 1.5. **Construction Phase**

During the Construction Phase, **CONSULTANT** shall:

- 1.5.1. Consult with and advise **OWNER** as requested.
- 1.5.2. When requested by **OWNER**, make visits to the site as an experienced and qualified design professional to determine that work is proceeding in accordance with the Contract Documents. **CONSULTANT** shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of such work.
- 1.5.3. Review and approve (or take other appropriate action in respect of) Shop Drawings and samples, the results of tests and inspections and other data which each Contractor is required to submit, but only for conformance with the design concept of the Project and compliance with the information given in the Contract Documents (but such review and approval or other action shall not extend to means, methods, sequences, techniques or procedures of construction or to safety precautions and programs incidental thereto); determine the acceptability of substitute materials and equipment proposed by Contractor(s).
- 1.5.4. Conduct an inspection, with **OWNER**, to determine if the Project has been completed in accordance with the Contract Documents and if each Contractor has fulfilled all of his obligations thereunder.

## **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 Exhibit A "Scope of Services" (attached) for the detailed project schedule.
- 4.2. The provisions of this Section Four (4) and the various rates of compensation for **CONSULTANT'S** services provided for elsewhere in this Agreement have been agreed to in anticipation of the orderly and continuous progress of the Project through completion.

If delays result by reason of acts of the **OWNER** or approving agencies, which are beyond the control of the **CONSULTANT**, an extension of time for such delay will be considered. If delays occur, the **CONSULTANT** shall within 30 days from the date of the delay apply in writing to the **OWNER** for an extension of time for such reasonable period as may be mutually agreed upon between the parties, and if approved, the Project schedule shall be revised to reflect the extension. Such extension of time to the completion date shall in no way be construed to operate as a waiver on the part of the **OWNER** of any of its rights in the Agreement. Section 6.5, under DISPUTES, of this Agreement, shall apply in the event the parties cannot mutually agree upon an extension of time.

In the event that the overall delay resulting from the above described causes is sufficient to prevent complete performance of the Agreement within six (6) months of the time specified therein, the Agreement fee or fees shall be subject to reconsideration and possible adjustment. Section 6.5 of this Agreement shall apply in the event the parties cannot mutually agree upon an adjustment of fee.

## SECTION 5 - PAYMENTS TO CONSULTANT

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

See Exhibit A "Scope of Services" (attached).

#### **5.1.1 For Basic Services.**

**OWNER** shall pay **CONSULTANT** for Basic Services rendered a fee not exceeding \$43,825.00.

#### **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 an amount bearing the same ratio to the total Agreement fee as the amount of work completed or partially completed and delivered to the **OWNER** is to the total amount of work provided for herein, as determined by mutual agreement between the **OWNER** and the **CONSULTANT**.

**5.3.2.** In the event the services of the **CONSULTANT** are terminated by the **OWNER** for fault on the part of the **CONSULTANT**, the **CONSULTANT** shall be paid reasonable value of the work performed or services rendered and delivered, and the amount to be paid shall be determined by the **OWNER**.

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

## **SECTION 6 - GENERAL CONSIDERATIONS**

### **6.1. Termination**

- 6.1.1. The obligation to provide further services under this Agreement may be terminated by either party upon seven (7) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.
- 6.1.2. The **OWNER** reserves the right to terminate the Agreement at any time upon seven (7) days written notice to the **CONSULTANT**.

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

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

### **6.3. Legal Responsibilities and Legal Relations.**

- 6.3.1. The **CONSULTANT** shall familiarize himself with and shall at all times comply with all federal, state and local laws, ordinances, and regulations which in any manner affect the services of this Agreement.
- 6.3.2. In performing the services hereunder, the **CONSULTANT** and its **CONSULTANTS**, employees, agents and representatives shall not be deemed or construed to be employees of **OWNER** in any manner whatsoever. 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 Kentucky law, and venue shall lie in a court of competent jurisdiction in Fayette County, Kentucky.

### **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 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, to be provided under this Agreement. The **CONSULTANT** shall obtain written approval prior to subletting or assigning any services contained in this Agreement, and consent to sublet or assign any part of this Agreement shall not be construed to relieve the **CONSULTANT** of any responsibility for compliance with the provisions of this Agreement.

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

## 6.5. **Disputes.**

Except as otherwise provided in this Agreement, any dispute concerning the amount of payment due the **CONSULTANT** or any dispute concerning any question of fact of any act to be performed under this Agreement, which is not disposed of by agreement between the Urban County Engineer's Office and the **CONSULTANT**, shall be submitted to the Commissioner, Department of Public Works, Lexington-Fayette Urban County Government for review. The decision of the Commissioner as to the determination of such dispute shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary or so grossly erroneous as necessarily to imply bad faith. Pending a final decision of a dispute hereunder, the **CONSULTANT** shall proceed diligently with the performance of the Agreement in accordance with the directions of the **OWNER**.

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

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

The **CONSULTANT** shall be responsible for the accuracy of all work, even though Drawings and Specifications have been accepted by the **OWNER**, and shall make any necessary revisions or corrections resulting from errors and/or omissions on the part of the **CONSULTANT**, without additional compensation. By submission of reports, soils and subsurface information, quantities estimates, calculations and Drawings and Specifications to the **OWNER**, the **CONSULTANT** has made an incontrovertible representation that the information is accurate. Failure on the part of **CONSULTANT** to provide the expected level of accuracy may be grounds for the **OWNER** to disqualify **CONSULTANT** from consideration for future **CONSULTANT** engineering contracts.

**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**.

**6.8. Access to Records.**

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

**6.9. Resident Services During Construction.**

The **OWNER** will furnish a Resident Project Inspector.

**6.10. Required Risk Management Provisions.**

**6.10.1 GENERAL**

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

As used in these Risk Management Provisions, the terms "**CONSULTANT**" and "**ENTITY**" 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. **ENTITY** means the Lexington-Fayette Urban County Government and its elected and appointed officials, employees, agents, boards, consultants, assigns, volunteers and successors in interest.

**6.10.2 INDEMNITY**

- 6.10.2.1** **CONSULTANT** agrees to defend, indemnify, and hold harmless **ENTITY** from any and all losses or claims of whatever kind that are in any way incidental to or connected with or that arise or are alleged to have arisen,



directly or indirectly, in whole or in part from the execution, performance or breach of this Contract by CONSULTANT, including any environmental problems CONSULTANT may cause, including without limitation, soil and/or water contamination, and remedial investigations and feasibility studies thereof. This indemnity agreement shall in no way be limited by any financial responsibility, insurance, or loss control requirements below and shall survive the termination of this contract.

For purposes of this Indemnity Provision:

- a. The word "defend" includes, but is not limited to, investigating, handling, responding to, resisting, providing a defense for, and defending claims, at CONSULTANT'S expense, using attorneys approved in writing by ENTITY, which approval shall not be unreasonably withheld.
- b. The word "claims" includes, but is not limited to, claims, demands, liens, suits, notices of violation from Governmental agencies and other causes of action of whatever kind.
- c. The word "losses" includes, but is not limited to claims, liens, demands, causes of action, judgments, penalties, interest, court costs, legal fees, and litigation expenses arising from death, injury or damage of any kind.

**6.10.2.2** Prior to and including the contract commencement date, owner shall have the right to examine and inspect the job sites, at any time during reasonable business hours. ENTITY reserves the right to have its own engineers inspect the job sites for environmental compliance, but such right shall in no event relieve CONSULTANT of its obligations hereunder.

### **6.10.3 FINANCIAL RESPONSIBILITY**

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

### **6.10.4 INSURANCE REQUIREMENTS**

#### **6.10.4.1 Required Insurance Coverages**

CONSULTANT shall procure and maintain for the duration of the Contract, insurance 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 the CONSULTANT. Any/all insurance shall be written on an "occurrence form" for

limits not less than those specified below or as required by law, whichever is greater. Below are minimum insurance requirements set to protect the ENTITY interest in this agreement; and to provide guidelines consistent for each bidder, should insurance costs be included in your bid estimation costs. However, it does not limit the CONSULTANT's liability and necessary additional limits of coverage are at the CONSULTANT's discretion. SEE "EVIDENCE OF INSURABILITY" FORM FOR SUBMISSION OF BID.

**6.10.4.1.1**     Professional Liability providing coverage at least or broad as current ISO form:

- a.     Endorsement naming as additional insureds "The Lexington-Fayette Urban County Government, its elected and appointed officials, employees, agents, boards, consultants, assigns, volunteers and successors in interest".
- b.     Endorsement that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice, to Lexington-Fayette Urban County Government, 200 East Main Street, Lexington, Kentucky 40507.

**6.10.4.1.2**     Commercial General Liability Insurance providing coverage at least as broad as Insurance Services Office Form CG-0001 (10/01) with:

- a.     Combination of primary and umbrella coverage limits of not less than \$2,000,000 per occurrence for bodily injury and property damage.
- b.     Business Interruption Coverage must be included.
- c.     Endorsements naming as additional insureds "The Lexington-Fayette Urban County Government, its elected and appointed officials, employees, agents, boards, consultants, assigns, volunteers and successors in interest."
- d.     Endorsement that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice, to Lexington-Fayette Urban County Government, 200 East Main Street, Lexington, Kentucky 40507

**6.10.4.1.3**     Comprehensive Automobile Liability Insurance providing coverage at least as broad as Insurance Service Office Form Number CA 0001 (10/01), code 1 "any auto" with:

- a.     Combined Single Limits not less than \$1,000,000 per occurrence.
- b.     Endorsement naming as additional insured "The Lexington-Fayette Urban County Government, its elected and appointed officials,

employees, agents, Boards, consultants, assigns, volunteers and successors in interest."

- c. Endorsement that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, to Lexington-Fayette Urban County Government, 200 East Main Street, Lexington, Kentucky 40507.

**6.10.4.1.4** Worker's Compensation Insurance as required by the Kentucky Revised Statutes, and Employer Liability Coverage with:

- a. Endorsement that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior notice by certified mail, return receipt requested to Lexington-Fayette Urban County Government, 200 East Main Street, Lexington, Kentucky 40507.

**6.10.4.2** Acceptability of Insurers

Insurance is to be placed with insurers with a rating classification of no less than Excellent (A or better) and a financial size category of no less than VIII, as defined by the most current Best's Key Rating Guide.

**6.10.4.3.** Notice of Coverage Renewals for Expiration

After insurance has been approved by ENTITY, evidence of renewal of an expiring policy must be submitted to ENTITY, at the Division of Law, 200 East Main Street Lexington, Kentucky 40507 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.

**6.10.4.4.** Self-Insured Programs

IF CONSULTANT INTENDS TO SUBMIT SELF-INSURANCE PLAN FOR BID, THIS MUST BE FORWARDED TO LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, Suite 925, 200 East Main Street, LEXINGTON, KENTUCKY 40507 NO LATER THAN A MINIMUM OF FIVE (5) WORKING DAYS PRIOR TO BID OPENING DATE. Self-insurance programs, deductibles, and self-insured retention in insurance policies are subject to separate approval by Lexington-Fayette Urban County Government, upon review of evidence of CONSULTANT'S financial capacity to respond to claims. Any such programs or retention must provide ENTITY with at least the same protection from liability and defense of suits as would be afforded by first-dollar insurance coverages. If CONSULTANT satisfies any portion of the insurance requirements through

deductibles, self-insurance programs, or self-insured retention, CONSULTANT agrees to provide Lexington-Fayette Urban County Government, the following data prior to the final acceptance of bid and the commencement of any work:

- a. CONSULTANT's latest audited financial statement, including auditor's notes;
- b. Any records of any self-insured trust fund plan or policy related accounting statements;
- c. Actuarial funding reports or retained losses;
- d. CONSULTANT'S Risk Management Manual or a description of CONSULTANT'S 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.

#### **6.10.4.5. Verification of Coverage**

Within thirty (30) days following signing of Contract, CONSULTANT agrees to furnish ENTITY with all applicable Certificates of Insurance; and CONSULTANT shall provide ENTITY copies of all bonds and make available for review upon request any insurance policies, including all endorsements.

#### **6.10.4.6. Right to Review, Audit and Inspect**

CONSULTANT understands and agrees that ENTITY may review, audit and inspect any and all of CONSULTANT'S records and operations to insure compliance with these Insurance Requirements in addition to any other proof of insurance required to obtain a license to perform the job stated herein.

### **6.10.5 SAFETY AND LOSS CONTROL**

**6.10.5.1** CONSULTANT agrees to adhere to and comply with William-Steiger Act, enacted December, 1970, and all other federal, state and local safety health, sanitation and environmental laws, regulations and ordinances. The CONSULTANT shall provide all safeguards, safety devices and protective equipment, and take any other action necessary to protect the life, health and safety and property of all persons on the job site, the public and the owner.

**6.10.5.2** The current Kentucky Occupational Safety and Health Standards of the Construction Industry 29 CFR Part 1926 adopted by 803 KAR 2:400 and the Kentucky Occupational Safety and Health Standard for General Industry 29 CFR Part 1910 as adopted by KAR 2:300, and as promulgated by the Kentucky Occupational Safety and Health Standards Board and as amended or modified, are hereby incorporated into and made an integral part of the Contract with full compliance the responsibility solely of the CONSULTANT.

**6.10.5.3.** The CONSULTANT understands and agrees that the ENTITY shall be permitted but not obligated, to inspect the work place, operations, machinery and equipment involved in this contract and review and audit any and all CONSULTANT'S records and documents as deemed necessary by the ENTITY to assure compliance with any and all of the provisions of this Contract and maximize the protection of the OWNER. Safety on the job, however, remains solely the responsibility of the CONSULTANT.

#### **6.10.6 DEFINITION OF DEFAULT**

CONSULTANT understands and agrees that the failure to comply with any of these insurance, safety, or loss control provisions shall constitute default under this Contract. CONSULTANT also agrees that ENTITY 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 Contract.

CONSULTANT understands and agrees that the Risk Management provisions of this Contract define its responsibilities and those of its employees, agents, owners, principals, licensees, assigns, and subcontractors of any tier to the OWNER, its elected and appointed officials, employees, agents, boards, consultants, assigns, volunteers and successors in interest.

#### **6.10.7 RIGHT TO REVIEW, AUDIT AND INSPECT**

CONSULTANT understands and agrees that upon reasonable notice LFUCG may review, audit, and inspect any and all of the CONSULTANT'S records and operations relative to the SERVICES performed under this Agreement to assure compliance with the Risk Management provisions of the Agreement.

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

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

- 7.1.** CONSULTANT agrees to comply with Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Order 11375 and 12086.
- 7.2** CONSULTANT will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, age, disability or other handicap. The CONSULTANT shall take affirmative action to insure that applicants are employed, and that employees are treated during their employment, without regard to their race,

religion, color, national origin, sex, age, disability or other handicap. **CONSULTANT** will take affirmative action to insure that all employment practices include, but are not limited to, the following: employment, hiring, upgrading, demotion, transfer, recruitment, recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection of 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.

**7.3** A Compliance with Civil Rights Act of 1964. During the performance of this AGREEMENT, the **CONSULTANT** agrees as follows:

- A. **CONSULTANT** will comply with the regulations relative to nondiscrimination in federally assisted programs of the U.S. Department of Transportation (Title 49, Code of Federal Regulations, Part 21, hereinafter referred to as the REGULATIONS), which are herein incorporated by reference and made a part of this AGREEMENT.
- B. Nondiscrimination: The **CONSULTANT** with regard to the work performed by it after award and prior to completion of the AGREEMENT work will not discriminate on the ground of race, color, or national origin in the selection and retention of subcontractors including procurement of materials and leases of equipment. The **CONSULTANT** will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when the AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.
- C. Solicitations for Subcontractors, including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiations made by the **CONSULTANT** for work to be performed under a subcontract including procurement of materials or equipment, each potential subcontractor or supplier shall be notified by the **CONSULTANT** or the **CONSULTANT'S** obligations under this AGREEMENT with the REGULATIONS relative to nondiscrimination on the ground of race, color, or national origin.
- D. Information and Reports: the **CONSULTANT** will provide all information and reports required by the REGULATIONS, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the GOVERNMENT to be pertinent to ascertain compliance with such REGULATIONS orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the **CONSULTANT** will so certify to the GOVERNMENT as appropriate, and shall set forth what efforts it has made to obtain the information.

E. Sanctions for Noncompliance: In the event of the **CONSULTANT'S** noncompliance with the nondiscrimination provisions of this AGREEMENT, the GOVERNMENT will impose such contract sanctions as it may determine to be appropriate, including but not limited to:

- 1) Withholding payment to the **CONSULTANT** under the AGREEMENT until the **CONSULTANT** complies; and/or
- 2) Cancellation, termination or suspension of the AGREEMENT, in whole or in part.

7.4 It is the policy of the U.S. Department of Transportation that disadvantaged business enterprises as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this AGREEMENT. Consequently the DBE requirements of 49 CFR Part 23 apply to this AGREEMENT.

7.5 DBE Obligation. The **CONSULTANT** or its subcontractors agree to ensure that disadvantaged business enterprises as defined in 49 CFR Part 23 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this AGREEMENT. In this regard the **CONSULTANT** or subcontractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. The **CONSULTANT** and the subcontractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of U. S. DOT – assisted contracts.

The **CONSULTANT** will make every effort to located DBEs to purchase materials and services for use in this AGREEMENT. The **CONSULTANT** shall document the steps it has taken to obtain DBE participation, including, but not limited to the following:

- A. The names, addresses, and telephone numbers of DBEs that were contacted;
- B. A description of the information provided to DBEs regarding the type of work to be performed.

## **SECTION 8 - SPECIAL PROVISIONS, EXHIBITS AND SCHEDULES**

8.1. This Agreement is subject to the following provisions.

Pursuant to subparagraph 3.4 of this Agreement, **OWNER** has assigned Keith Lovan (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. The following Exhibits are attached to and made a part of this Agreement:

8.2.1. Exhibit A-"Scope of Services" consisting of nine (9) pages.

8.2.2. Exhibit B - "Certificates of Insurance" consisting of four (4) pages.

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

**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

200 East Main Street

Lexington, Kentucky 40507

The Honorable Jim Gray – Mayor

**CONSULTANT:**

M2d Design Group

400 Old Vine Street, Suite 206

Lexington, Kentucky 40507

  
Principal David White



**EXHIBIT A**  
**SCOPE OF SERVICES**

**Scope of Services  
Gainesway Trail Project**

**Engineering and Design Services**

The Lexington Fayette Urban County Government is accepting proposals from qualified firms for professional engineering and/or landscape architectural services to conduct engineering/design services for a shared use trail known as the Gainesway Trail.

Consultants must have the experience necessary such as civil engineering, environmental engineering, hydraulic engineering and landscape architecture to assist the LFUCG in creating a linear park environment and have a proven history of successful linear park/greenway projects. Consultant or consultant team must be pre-qualified with the Kentucky Department of Highways for Multimodal Services (Bikeway Planning);

**Background**

The Gainesway Trail is a proposed shared-use greenway trail that will connect several schools, a park and through the park, a former retail center which houses a daycare and other social services offices.

The trail shall begin at Tates Creek Elementary, Middle and High schools and travel south through Gainesway Park utilizing as much of the new paved asphalt trail as is feasible. In some sections within the park, it is expected that older, failing sections of existing concrete sidewalk will be replaced with the new paved trail.

The trail shall continue through a publicly owned greenway until it reaches Armstrong Mill Parkway. Scope includes design of 7 neighborhood connections along this section that may or may not be built with this phase of work.

Once reaching Armstrong Mill, the trail shall turn east and west within the right of way until reaching the intersections of Armstrong Mill and Appian Way and Armstrong Mill and River Park Drive.

See attached map.

## **Engineering and Design Services**

### **1. General Project Description:**

The consultant shall complete a full design including construction plans, specifications and bid documents for the specified limits of the trail project.

### **2. Design Criteria:**

All designs and plans shall be submitted to the LFUCG Division of Parks and Recreation and Division of Engineering for approval.

- a. The design speed of the trail is to be 20 mph.
- b. Choose an alignment that minimizes right-of-way impact but still meet all other minimum goals of the project as outlined.
- c. Prepare typical Sections based on site conditions and approved by the LFUCG.
- d. Design the trail profile to meet standards in the LFUCG Roadway Manual and AASHTO's Guide for the Development of Bicycle Facilities, 1999 edition, including current revisions.
- e. Unless otherwise approved, design shall conform to LFUCG Standard Drawings, KYDOH Drainage Manual, and Parks and Recreation Design Standards Manual.
- f. All designed drainage structures, including stream crossing details, shall meet the requirements of the Division of Water, Army Corp of Engineers, Federal Emergency Management Agency, LFUCG and LFUCG Standard Drawings.
- g. The preparation of an Erosion and Sediment Control Plan integrating the non-structural and structural practices and procedures of the Stormwater Manual is a requirement for all construction projects. The plans shall be prepared and submitted to the LFUCG Division of Engineering for approval.
- h. Design the trail to meet ADA standards to the extent that is practical.
- i. Prepare road crossing plans as needed.
- j. Prepare a detailed Landscaping Plan showing location, size and number of plants. The Plan shall follow the LFUCG Planting Manual, and the LFUCG sight distance requirements at intersections and driveways. Plants selected within the floodplain should be native species.
- k. Detailed signage plans including directional, interpretive and trail identification signage. Signage shall be compatible with LFUCG Wayfinding Plan.
- l. Preparation of the Project Development Checklist (PDC).
- m. Obtain all required permits for construction.
- n. Determine the Best Management Practices (BMPs) that will be used to control storm water runoff, the specific placement of BMPs, and a visual monitoring and

maintenance program to ensure the effectiveness of erosion and sedimentation controls.

- o. Locate areas for future public art installation.

The consultant shall refer to the applicable state requirements listed in the Interim Federal-Aid Highway Project Development Guide for Local Public Agencies and any future revisions for preparation of the plans and required submittals.

Upon completion of the Preliminary Plan Review, the Consultant shall incorporate all significant comments into the preliminary plans and submit the revised plans to LFUCG Division of Engineering and KYTC District 7.

Upon acceptance of the Final Plans and Specifications, the Consultant will submit reproducibles and an electronic copy of the revised plans to LFUCG Division of Engineering and KYTC in acceptable format including a dwg and shape file format.

The Consultant will be responsible for providing all necessary exhibits and for attending meetings with all elected officials, either local, state or federal, all affected neighbors, and businesses. The Consultant will be responsible for providing minutes of each meeting.

### **3. Field Survey**

The Consultant shall complete a field survey prior to design. The minimum requirements of the field survey shall include, but are not limited to, the following items:

- a. Centerline alignment;
- b. topography showing all existing structures, buildings, and houses, including railroad right of way;
- c. Location of overhead and underground utilities;
- d. Location of storm and sanitary sewers;
- e. Temporary benchmarks for use during construction: set outside construction limits;
- f. Profiles of pertinent existing infrastructure;
- g. Cross sections taken at critical sections, and as otherwise needed;
- h. All survey associated with drainage folders, floodplain modifications and permitting,
- i. staking associated with easement acquisition and prior to bidding for construction.
- j. all existing easements in the project area.

The elevations of utilities, sewers, and other critical items shall be verified during the field survey. Such verification shall be carefully coordinated with the appropriate parties (e.g., utility companies, LFUCG). If digging operations, permission, etc. are necessary in

certain instances it shall be the responsibility of the consultant to see to it that they are performed properly and to get appropriate approvals.

#### **4. Environmental Assessment**

The environmental assessment shall conform to the requirements of the Lexington-Fayette Urban County Government, the Kentucky Department of Highways and the U.S. Department of Transportation, Federal Highway Administration. Guidelines shall be as dictated in the FHA Technical Advisory T 6640.8A dated October 30, 1987 and Volume 7, Right-of-Way and Environment; Chapter 7 Environment; Section 1, Environmental Impact and Related Procedures of the Federal-Aid Highway Program Manual.

Completion of the complete Environmental Assessment shall coincide with completion of the final design. All percentage milestones for the final design will apply to the Environmental Assessment. Individual areas of environmental concerns will be further scoped during a pre-design conference.

Project shall conform with:

National Environmental Policy Act (NEPA)  
Section 4(f) of 49 United States Code (USC) 303  
National Historic Preservation Act  
Section 404 of the Clean Water Act

#### **5. Detailed Cost Estimate:**

The Consultant shall prepare detailed cost estimates at each intermediate stage of the design and at the completion of the design. Each total construction cost estimate shall be accompanied by subtotal cost estimates for each design item, total utility relocation, and total right-of-way acquisition.

#### **6. Rights-of-Way and Easements**

A plat shall be prepared for acquisition of right-of-way, if required and they shall meet all requirements of the Lexington-Fayette Urban County Government Planning Commission and Department of Law.

Permanent and temporary easements shall be drawn to sufficient scale to be clear and distinguishable, and such drawings shall meet the requirements of the Lexington-Fayette Urban County Government Division of Engineering.

The Consultant shall provide a legal description for each easement taking.

## 7. **Drawing Scales, Units, and Unit Conversion**

All quantities measured, calculated, and specified shall be in English units (e.g., feet, pounds).

All drawings and sheets shall conform to the follow scales:

- |                          |   |
|--------------------------|---|
| a. Plan Sheets           | 1" = 20'                                |
| b. Profile sheets        | 1" = 20' horizontal<br>1" = 2' vertical |
| c. Cross sections sheets | 1" = 5' horizontal<br>1" = 5' vertical  |

## 8. **Pavement Design**

If required, pavement design shall be as recommended by the Consultant and approved by the Division of Parks and Recreation. Pavement design shall be based upon standard industrial geotechnical tests and analyses, including, but not limited to CBR tests, moisture analyses, proctor analyses, and other necessary tests and analyses. The Consultant shall be responsible for geotechnical investigations.

## 9. **Plans, Specifications, and Bid Documents**

Plans, construction specifications, and other pertinent bid documents as required by the Lexington-Fayette Urban County Government shall be prepared by the Consultant and shall be subject to review by the Lexington-Fayette Urban County Government Division of Parks and Recreation and Division of Engineering.

Preliminary plans shall include, but are not limited to: existing topography and infrastructure, street addresses, proposed alignment, proposed profile, typical proposed section, proposed drainage improvements, critical cross sections, line and grade review information, environmental overview and a cost estimate. Preliminary plans shall be so identified; the Consultant shall deliver two paper copies to the Division of Parks and Recreation, and the Consultant shall deliver one paper copy to each utility company via certified mail.

Final plans shall contain the completed and approved information provided by the preliminary plans. Final plans shall also include, but are not limited to: a cover sheet, quantities summary, general notes, utility company information, plan and profile sheets, development sheets, cross section sheets, pipe sheets, reference points, detail sheets, typical sections, and right-of-way sheets.

All sheets shall be inked mylar and shall be submitted in a common acceptable format including a dwg and shape file format. The LFUCG owns all rights to data and files associated with project.

The Consultant shall deliver by certified mail one paper copy of the final plans to each utility company. The Consultant shall deliver ten (10) paper copies of the final plans, specifications, and bid documents to the Division of Engineering. After Contractor bids are opened the Consultant shall deliver the final inked mylar sheets and electronic drawings to the Division of Engineering.

**10. Utility Company Coordination**

There are known public and private utility lines in the vicinity of the project, the Consultant will meet and coordinate with all affected utility companies as well as Parks and Recreation staff, as necessary, to minimize disturbance to underground lines and to facilitate the Project.

**11. Construction Inspection:**

The Lexington-Fayette Urban County Government Division of Engineering will provide routine construction inspections. The Consultant shall be available to advise in matters of intent during construction.

**12. Attendance at Bid Opening**

The Consultant shall attend the bid opening in the offices of the LFUCG Division of Central Purchasing. The Consultant shall obtain copies of all bids, evaluate and prepare a tabulation of bid prices and submit a recommendation of award.

**13. Public Meetings**

The Consultant's proposal shall outline and conduct all meetings to be held. Because of limited exposure to concerned adjacent property owners only one public meeting shall be required to be held as part of the required services for the design. If during the Project it can be determined that a public meeting for the design is not required, then the Consultant will not be required to conduct this meeting. Should additional meetings beyond those outlined in this Project be required the terms will be negotiated at that time.

**14. Bid Administration**

The Consultant's scope shall include assisting with Bid Administration. At minimum, this includes responding to technical questions during the bid period, preparing addendum, approving alternates, attending pre-bid meeting and evaluating bids received.

Once a contractor has been selected, the Consultant will be expected to attend a pre-construction meeting to review and approve initial submittals or shop drawings.

Consultant shall review and determine appropriateness of the Erosion and Sediment Control Plan prepared by the Contractor integrating the non-structural and structural practices and procedures of Stormwater Manual, which is a requirement for all construction projects. The plans shall be prepared and submitted to the LFUCG Division of Engineering for approval.

#### **15. Schedule and Completion**

The Consultant shall meet deadlines as provided in the following schedule. Calendar days are counted from the date that a written notice to proceed is received by the Consultant. Exact times of meetings shall be arranged by the Consultant; locations of meetings shall be at either the sites of proposed improvements or at the offices of the Division of Engineer, as appropriate.

|   |          |
|---|----------|
| Meeting to review design intent   | 10 days  |
| Submission of brief preliminary engineering report and environmental overview | 30 days  |
| Submission of preliminary plans   | 45 days  |
| Meeting to review preliminary plans   | 60 days  |
| Submission of revised preliminary plans (if necessary)                        | 75 days  |
| Submission of final plans   | 90 days  |
| Meeting to review final plans   | 110 days |
| Submission of completed final plans   | 120 days |

#### **16. Method of Invoice and Payment:**

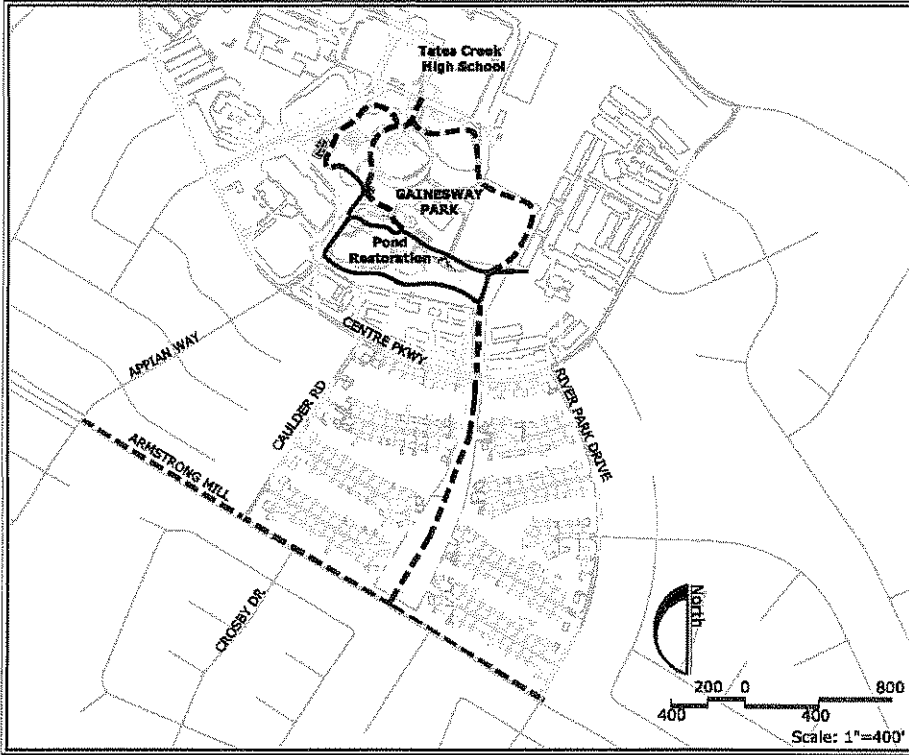
The Consultant may submit monthly invoices for basic services or rendered work, based upon the Consultant's estimate of the portion of the total services actually completed during the billing period. Each invoice shall be accompanied by a breakdown of hours attributed to each design category for both the billing period and the cumulative project period. Payments to DBE's are to be separated. A monthly report (in digital format) and an invoice summary (forms to be provided) are to be submitted with each invoice. Each invoice must be submitted at a meeting with the Division of Parks and Recreation in which the content of and basis for the invoice are reviewed. The Division of Parks and Recreation shall respond to the invoice within thirty (30) days, either denying or approving payment. Specific project time sheets and other payroll information may be subject to reviews and audits by the LFUCG.



Regardless of the invoices submitted by the Consultant, the Division of Parks and Recreation shall not approve a greater percentage of payment than outlined in the following schedule, as based upon the completion schedule of Section 15:

|   |      |
|---|------|
| Submission of brief preliminary engineering report and environmental overview | 15%  |
| Submission of preliminary plans   | 30%  |
| Submission of final plans   | 60%  |
| Submission of completed final plans   | 90%  |
| Submission of bid tabulations and award recommendation                        | 100% |

# Project Alignment



## GAINESWAY TRAIL

Jan 12th, 2010

### Proposed Connections & Existing Trails

- EXISTING TRAIL
- - - PROPOSED TRAIL



L.F.U.C.G. DIVISION OF PARKS  
469 Parkway Drive Lexington, Kentucky 40504  
PL 02/09/02 P000000000

**EXHIBIT B**  
**CERTIFICATES OF INSURANCE**



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
02/10/2012

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).

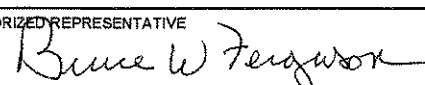
| <b>PRODUCER</b><br>The Underwriters Group, Inc.<br>1700 Eastpoint Parkway<br><br>P.O. Box 23790<br>Louisville KY 40223 | <b>CONTACT NAME:</b><br>PHONE (A/C, No, Ext): 502-244-1343      FAX (A/C, No): 502-244-1411<br>E-MAIL ADDRESS:  |  |                               |        |   |       |            |  |            |  |            |  |            |  |            |
|--|---|--|-------------------------------|--------|---|-------|------------|--|------------|--|------------|--|------------|--|------------|
|  | <table border="1"> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> <tr> <td>INSURER A: XL Specialty Insurance Company</td> <td>37885</td> </tr> <tr> <td>INSURER B:</td> <td></td> </tr> <tr> <td>INSURER C:</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> </table> |  | INSURER(S) AFFORDING COVERAGE | NAIC # | INSURER A: XL Specialty Insurance Company | 37885 | INSURER B: |  | INSURER C: |  | INSURER D: |  | INSURER E: |  | INSURER F: |
| INSURER(S) AFFORDING COVERAGE  | NAIC #  |  |                               |        |   |       |            |  |            |  |            |  |            |  |            |
| INSURER A: XL Specialty Insurance Company  | 37885   |  |                               |        |   |       |            |  |            |  |            |  |            |  |            |
| INSURER B:   |   |  |                               |        |   |       |            |  |            |  |            |  |            |  |            |
| INSURER C:   |   |  |                               |        |   |       |            |  |            |  |            |  |            |  |            |
| INSURER D:   |   |  |                               |        |   |       |            |  |            |  |            |  |            |  |            |
| INSURER E:   |   |  |                               |        |   |       |            |  |            |  |            |  |            |  |            |
| INSURER F:   |   |  |                               |        |   |       |            |  |            |  |            |  |            |  |            |
| <b>INSURED</b><br>M2D Design Group, PLLC<br>400 Old Vine Street<br><br>Suite 206<br>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 INSR | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS                                    |           |
|----------|--|-----------|----------|---------------|-------------------------|-------------------------|---|-----------|
|          | <b>GENERAL LIABILITY</b><br><input type="checkbox"/> COMMERCIAL GENERAL LIABILITY<br><input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR<br><br>GEN'L AGGREGATE LIMIT APPLIES PER:<br><input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC |           |          |               |                         |                         | EACH OCCURRENCE                           | \$        |
|          |  |           |          |               |                         |                         | DAMAGE TO RENTED PREMISES (Ea occurrence) | \$        |
|          |  |           |          |               |                         |                         | MED EXP (Any one person)                  | \$        |
|          |  |           |          |               |                         |                         | PERSONAL & ADV INJURY                     | \$        |
|          |  |           |          |               |                         |                         | GENERAL AGGREGATE                         | \$        |
|          |  |           |          |               |                         |                         | PRODUCTS - COM/OP AGG                     | \$        |
|          |  |           |          |               |                         |                         |   | \$        |
|          | <b>AUTOMOBILE LIABILITY</b><br><input type="checkbox"/> ANY AUTO<br><input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS<br><input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS   |           |          |               |                         |                         | COMBINED SINGLE LIMIT (Ea accident)       | \$        |
|          |  |           |          |               |                         |                         | BODILY INJURY (Per person)                | \$        |
|          |  |           |          |               |                         |                         | BODILY INJURY (Per accident)              | \$        |
|          |  |           |          |               |                         |                         | PROPERTY DAMAGE (Per accident)            | \$        |
|          |  |           |          |               |                         |                         |   | \$        |
|          | <b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR<br><b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE<br><br><input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$   |           |          |               |                         |                         | EACH OCCURRENCE                           | \$        |
|          |  |           |          |               |                         |                         | AGGREGATE                                 | \$        |
|          |  |           |          |               |                         |                         |   | \$        |
|          | <b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b><br>ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y <input checked="" type="checkbox"/> N<br>If yes, describe under DESCRIPTION OF OPERATIONS below                                       |           |          |               |                         |                         | WC STATUTORY LIMITS                       | OTHER     |
|          |  |           |          |               |                         |                         | E.L. EACH ACCIDENT                        | \$        |
|          |  |           |          |               |                         |                         | E.L. DISEASE - EA EMPLOYEE                | \$        |
|          |  |           |          |               |                         |                         | E.L. DISEASE - POLICY LIMIT               | \$        |
| 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)  
 Gainesway Trail Project

|   |   |
|---|---|
| <b>CERTIFICATE HOLDER</b><br><br>Lexington-Fayette Urban County Government<br>200 East Main Street<br>Lexington, KY 40507 | <b>CANCELLATION</b><br><br>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<br>   |





# CERTIFICATE OF LIABILITY INSURANCE

M2DDE-1

OP ID: AC

DATE (MM/DD/YYYY)

02/09/12

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|   |              |                               |                |
|---|--------------|-------------------------------|----------------|
| PRODUCER<br>GCH Insurance Group<br>2250 Thunderstick Dr Ste. 1104<br>Lexington, KY 40505<br>Jerry Catlett | 859-254-1836 | CONTACT NAME:                 |                |
|   | 859-226-0277 | PHONE (A/C, No, Ext):         | FAX (A/C, No): |
|   |              | E-MAIL ADDRESS:               |                |
|   |              | INSURER(S) AFFORDING COVERAGE | NAIC #         |
|   |              | INSURER A : The Hartford      |                |
|   |              | INSURER B :                   |                |
|   |              | INSURER C :                   |                |
|   |              | INSURER D :                   |                |
|   |              | INSURER E :                   |                |
|   |              | INSURER F :                   |                |

INSURED  
M2D Design Group PLLC  
David White  
400 Old Vine St Ste 206  
Lexington, KY 40507

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

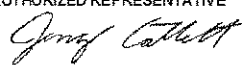
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE 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   |
|----------|---|--------------------|---------------|-------------------------|-------------------------|--|
| A        | <b>GENERAL LIABILITY</b><br><input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY<br><input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR<br>GEN'L AGGREGATE LIMIT APPLIES PER:<br><input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC | X                  | 33SBAUD1994   | 11/06/11                | 11/06/12                | EACH OCCURRENCE \$ 1,000,000<br>DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000<br>MED EXP (Any one person) \$ 10,000<br>PERSONAL & ADV INJURY \$ 1,000,000<br>GENERAL AGGREGATE \$ 2,000,000<br>PRODUCTS - COM/OP AGG \$ 2,000,000<br>\$ |
| A        | <b>AUTOMOBILE LIABILITY</b><br><input type="checkbox"/> ANY AUTO ALL OWNED AUTOS<br><input checked="" type="checkbox"/> HIRED AUTOS<br><input type="checkbox"/> SCHEDULED AUTOS<br><input checked="" type="checkbox"/> NON-OWNED AUTOS  |                    | 33SBAUD1994   | 11/06/11                | 11/06/12                | COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000<br>BODILY INJURY (Per person) \$<br>BODILY INJURY (Per accident) \$<br>PROPERTY DAMAGE (Per accident) \$<br>\$  |
|          | <b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR<br><b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE<br>DED <input type="checkbox"/> RETENTION \$   |                    |               |                         |                         | EACH OCCURRENCE \$<br>AGGREGATE \$<br>\$   |
|          | <b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b><br>ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)<br>If yes, describe under DESCRIPTION OF OPERATIONS below   | Y/N                | N/A           |                         |                         | WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER <input type="checkbox"/><br>E.L. EACH ACCIDENT \$<br>E.L. DISEASE - EA EMPLOYEE \$<br>E.L. DISEASE - POLICY LIMIT \$  |

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

Project Name:                      Gainesway Trail Project

Additional Insured is listed under Holder Notes

|   |   |
|---|---|
| <b>CERTIFICATE HOLDER</b><br><br>LEXFAYU<br><br>Lexington Fayette Urban<br>County Government<br>200 E. Main Street<br>Lexington, KY 40507 | <b>CANCELLATION</b><br><br>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<br>   |

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**NOTEPAD:**

HOLDER CODE LEXFAYU  
INSURED'S NAME M2D Design Group PLLC

M2DDE-1  
OP ID: AC

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DATE 02/09/12

**Additional Insured with respects to General Liability:**

Lexington-Fayette Urban County Government, its elected and appointed officials, employees, agents, boards, consultants, assigns, volunteers and successors in interest