

## ENGINEERING SERVICES AGREEMENT

THIS IS AN AGREEMENT made as of February 12, 2013, between the LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT (**OWNER**) and CDP Engineers, Inc. with offices located at 3250 Blazer Parkway, Lexington, KY 40509 (**CONSULTANT**). **OWNER** intends to proceed with the Category 2 (Dig and Replace Pipeline Projects) Professional Engineering Services Program as described in the attached Exhibit A, "RFP #33-2012 Request for Qualifications (RFQ) for Professional Engineering Services." 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 "RFP #33-2012 Request for Qualifications (RFQ) for Professional Engineering Services" (including Addendum 1), and attached Exhibit C the "Proposal of Engineering Services and Related Matters" (the **CONSULTANT's** response to RFP #33-2012), 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 issue individual task orders for each work assignment performed under this Agreement by **CONSULTANT** or its sub-consultant/s. Each task order shall contain scope of work, fee, and schedule for performance of the work. Individual task orders shall be of the form included in **EXHIBIT D**.

- 5.1.1.a Fee payable to **CONSULTANT** under individual task order shall be developed using hourly rates included in **EXHIBIT D** or as amended in accordance with provisions therein.
- 5.1.1.b Terms of payment to **CONSULTANT** shall be specified in each task order. For assignments with defined scope, lump sum task orders shall be issued. Otherwise, task orders shall include time and materials payment terms.
- 5.1.1.c Each task order issued shall receive prior written approval of **OWNER** prior to **CONSULTANT** proceeding with said

work. The **OWNER's** designated agent in Section 8.1.1. shall be the only person authorized to provide such approval.

**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<br>(Insurance Services Office Form CG 00 01)              | \$1 million per occurrence, \$2 million aggregate or \$2 million combined single limit |
| Commercial Automobile Liability<br>(Insurance Services Office Form CA 0001) | combined single,<br>\$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 a Pollution Liability endorsement unless it

is deemed not to apply by OWNER.

- 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 understands and agrees that OWNER is in no way responsible for the safety and property of CONSULTANT or its personnel. CONSULTANT shall comply with all applicable federal, state, and local safety standards related to the performance of its

work or services under this Agreement and take reasonably necessary action to protect the life, health and safety and property of its personnel, the public, and **OWNER** in the locations and areas in which **CONSULTANT** is performing services under the Agreement.

#### **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. The **OWNER'S** designee will be identified in each

approved Task Order. 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**

**CDP Engineers Inc.**

BY: \_\_\_\_\_

JIM GRAY, MAYOR

BY: \_\_\_\_\_

FRANCIS X. COLLINS-CAMARGO, PC CFM.  
PRESIDENT

ATTEST:

Meredith Nelson, Deputy  
URBAN COUNTY COUNCIL CLERK )  
COMMONWEALTH OF KENTUCKY )  
COUNTY OF FAYETTE )

The foregoing Agreement was subscribed, sworn to and acknowledged before me by Francis J. Collins, Manager, as the duly authorized representative for and on behalf of CDP Engineers, on this the 27<sup>th</sup> day of December, 2012.

My commission expires: 11/21/2015.

Walter A. Clate  
NOTARY PUBLIC



# CERTIFICATE OF LIABILITY INSURANCE

CDPENGI-01

LSHAW

DATE (MM/DD/YYYY)

12/27/2012

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).

**PRODUCER**  
Neace Lukens - Lexington/ Assured NL Insurance Agency Inc  
2416 Sir Barton Way, Suite 300  
Lexington, KY 40509

**CONTACT NAME:** Laura Shaw  
**PHONE (A/C, No, Ext):** (859) 543-1716  
**FAX (A/C, No):** (859) 543-1987  
**E-MAIL ADDRESS:** laura.shaw@neacelukens.com

**INSURED**  
CDP Engineers Inc./Mapsync LLC  
3250 Blazer Parkway  
Lexington, KY 40509

**INSURER(S) AFFORDING COVERAGE**

|  |                     |
|--|---------------------|
| <b>INSURER A:</b> Selective Insurance Company of America | <b>NAIC #</b> 12572 |
| <b>INSURER B:</b> Bridgefield Casualty Insurance Co      | <b>NAIC #</b> 10335 |
| <b>INSURER C:</b>  |                     |
| <b>INSURER D:</b>  |                     |
| <b>INSURER E:</b>  |                     |
| <b>INSURER F:</b>  |                     |

**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  |
|---|---|------------------------------------|---------------|-------------------------|-------------------------|---|
| <b>GENERAL LIABILITY</b>  |   |                                    |               |                         |                         |   |
| A   | X COMMERCIAL GENERAL LIABILITY  |                                    | S1853822      | 8/7/2012                | 8/7/2013                | 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 \$ 3,000,000<br>PRODUCTS - COMP/OP AGG \$ 3,000,000 |
| GEN'L AGGREGATE LIMIT APPLIES PER:<br>POLICY _____ PRO-JECT _____ LOC _____ |   |                                    |               |                         |                         |   |
| <b>AUTOMOBILE LIABILITY</b>   |   |                                    |               |                         |                         |   |
| A   | X ANY AUTO ALL OWNED AUTOS<br>HIRED AUTOS   | SCHEDULED AUTOS<br>NON-OWNED AUTOS | S1853822      | 8/7/2012                | 8/7/2013                | COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000<br>BODILY INJURY (Per person) \$<br>BODILY INJURY (Per accident) \$<br>PROPERTY DAMAGE (PER ACCIDENT) \$   |
| A   | X UMBRELLA LIAB   | X OCCUR                            | S1853822      | 8/7/2012                | 8/7/2013                | EACH OCCURRENCE \$ 5,000,000<br>AGGREGATE \$  |
| DED X RETENTION \$  |   |                                    |               |                         |                         |   |
| <b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>                        |   |                                    |               |                         |                         |   |
| B   | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)<br>If yes, describe under DESCRIPTION OF OPERATIONS below | Y / N<br>N / A                     | 19610622      | 8/7/2012                | 8/7/2013                | <b>Aggregate</b><br>X WC STATUTORY LIMITS OTH-ER<br>E.L. EACH ACCIDENT \$ 1,000,000<br>E.L. DISEASE - EA EMPLOYEE \$ 1,000,000<br>E.L. DISEASE - POLICY LIMIT \$ 1,000,000  |

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

- Employee Dishonesty-Including welfare & Pension Plan ERISA Compliance \$100,000 - Forgery & Alteration \$15,000 - Money & Securities \$10,000 Inside Premises / \$5,000 Outside Premises PROFESSIONAL LIABILITY, \$2,000,000 EA CLAIM/AGGREGATE; \$25,000 DEDUCTIBLE

**CERTIFICATE HOLDER**

For Information 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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ACORD 25 (2010/05)

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**AFFIDAVIT**

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

1. His/her name is Francis X. Collins-Camargo, PE, CFM and he/she is the individual submitting the proposal or is the authorized representative of CDP Engineers 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.

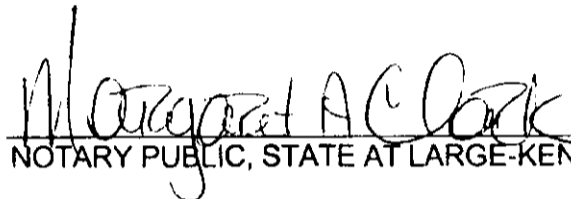
  
Francis X. Collins-Camargo, PE, CFM

STATE OF  Kentucky

COUNTY OF  Fayette

The foregoing instrument was subscribed, sworn to and acknowledged before me by  Francis X. Collins-Camargo, PE, CFM  on this the  13<sup>th</sup>  day of  November , 2012.

My Commission expires:  November 4, 2015   
Notary ID  454453

  
NOTARY PUBLIC, STATE AT LARGE-KENTUCKY



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) or national origin.
- Executive Order No. 11245 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

CDP Engineers, Inc.  
Name of Business

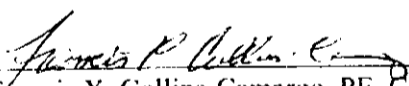
Lexington-Fayette Urban County Government  
 MBE/WBE Participation Form  
 Bid/RFP/Quote Reference # 33-2012

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 Name, Address & Phone  | Work to be Performed   | Dollar Value of Work   | % Value of Total Contract |
|--|--|--|---------------------------|
| 1. Integrated Engineering<br>1716 Sharkey Way<br>Suite 200,<br>Lexington, KY 40511<br>(859) 368-0145 | Design Support-<br>Preliminary Design,<br>Engineering Analysis | Unknown at this time.<br>Submittal is for a<br>prequalification list with<br>no defined project. | Up to 10%                 |
| 2. TesTech, Inc.<br>11505 Commonwealth Dr<br>Suite 104<br>Louisville, KY 40299<br>(502) 261-0462     | Geotechnical Engineering                                       | Unknown at this time.<br>Submittal is for a<br>prequalification list with<br>no defined project. | Up to 10%                 |
| 3. Abbie Jones Consulting<br>1022 Fontaine Rd<br>Lexington, KY 40502<br>(859) 559-3443               | Resident Observation if<br>required by task order.             | Unknown at this time.<br>Submittal is for a<br>prequalification list with<br>no defined project. | Up to 10%                 |

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: CDP Engineers, Inc.

By:   
 Francis X. Collins-Camargo, PE, CFM

Date: 11/13/2012

Title: President

Lexington-Fayette Urban County Government  
**MBE QUOTE SUMMARY FORM**  
 Bid/RFP/Quote Reference # 33-2012

|   |   |
|---|---|
| Company Name<br>CDP Engineers, Inc.   | Contact Person<br>Francis X. Collins-Camargo, PE, CFM |
| Address/Phone/Email<br>3250 Blazer Parkway, Lexington, KY 40509<br>859-264-7500 scamargo@cdpengineers.com | RFP Package / RFP Date<br>33-2012                     |

| MBE/WBE Company Address  | Contact Person  | Contact Information (work, phone, email, ccell)  | Date Contacted | Services to be performed | Method of Communication (email, phone, meeting, ad, event, etc.) | Total dollars \$\$ Do Not Leave Blank (Attach Documentation) | MBE *<br>AA<br>HA<br>AS<br>NA<br>Female |
|--|-----------------|--|----------------|--------------------------|--|--|---|
| Integrated Engineering<br>1716 Sharkey Way, Suite 200<br>Lexington, KY 40511 | Harsha Wijesiri | Harsha@int-engineering.com<br><br>(859) 351-9748 | 10/22/12       | Design Support           | Email  | TBD-Prequalification Submittal                               | SRI<br>Lanka<br>n                       |
| TesTech, Inc.<br>11505 Commonwealth Dr., Suite 104<br>Louisville, KY 40299   | Jon Pickering   | pickering@testechinc.com<br><br>(937) 435-3200   | 11/1/12        | Geotechnical             | Email  | TBD-Prequalification Submittal                               |   |
| Abbie Jones Consulting   | Abbie Jones     | abbie@abbie-jones.com<br><br>(859) 559-3443      | 10/22/12       | Resident Observation     | Email  | TBD-Prequalification Submittal                               |   |

(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.

CDP Engineers, Inc.  
**Company**

11/13/2012  
**Date**

  
**Company Representative**

President  
**Title**


**LFUCG STATEMENT OF GOOD FAITH EFFORTS**  
**Bid/RFP/Quote # 33-2012**

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.  
Phone calls, emails and personal contacts with all DBE's  
included in this submittal.  
\_\_\_\_\_  
\_\_\_\_\_

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.

CDP Engineers, Inc.  
**Company**  
11/13/2012  
**Date**

  
**Company Representative**  
President  
**Title**

Firm Submitting Proposal: CDP Engineers, Inc.

Complete Address: 3250 Blazer Parkway Lexington 40509  
Street City Zip

Contact Name: Francis X. Collins-Camargo, Title: President  
PE, CFM

Telephone Number: 859-264-7500 Fax Number: 859-264-7501

Email address: scamargo@cdpenglneers.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.

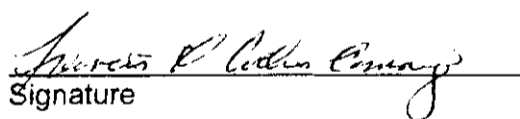
#### B. At Will Termination

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

11/13/2012  
Date



# CERTIFICATE OF LIABILITY INSURANCE

CDPEN-1 OP ID: SHLA

DATE (MM/DD/YYYY)  
11/13/2012

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>Neace Lukens - Lexington<br>Assured NL Insurance Agcy Inc<br>2416 Sir Barton Way, Suite 300<br>Lexington, KY 40509<br>Christopher P. Ice |  | 859-543-1716<br>859-543-1987              | <b>CONTACT NAME:</b> Laura Shaw<br><b>PHONE (A/C, No, Ext):</b> 859-685-6516<br><b>E-MAIL ADDRESS:</b> laura.shaw@neacelukens.com | <b>FAX (A/C, No):</b> 859-543-1987 |
| <b>INSURED</b>  | CDP Engineers Inc./MapSync LLC<br>3250 Blazer Parkway<br>Lexington, KY 40509 | <b>INSURER(S) AFFORDING COVERAGE</b>      |   | <b>NAIC #</b>                      |
|   |  | INSURER A: Selective Insurance Company    |   | 12572                              |
|   |  | INSURER B: Bridgefield Casualty Insurance |   |                                    |
|   |  | INSURER C: CNA Insurance Companies        |   | 02186                              |
|   |  | INSURER D:                                |   |                                    |
|   |  | INSURER E:                                |   |                                    |
|   |  | INSURER F:                                |   |                                    |

**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 X      | <b>GENERAL LIABILITY</b><br>COMMERCIAL GENERAL LIABILITY<br>AUTOMOBILE LIABILITY<br>UMBRELLA LIABILITY<br>EXCESS LIABILITY<br>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY<br>PROFESSIONAL LIABILITY |                       | S1853822      | 08/07/12                | 08/07/13                | EACH OCCURRENCE<br>DAMAGE TO RENTED PREMISES (Ea occurrence)<br>MEDICAL EXPENSES<br>PERSONAL & ADVERTISING<br>GENERAL AGGREGATE<br>PRODUCTS-COMMERCIAL<br>Emp Ben.<br>COMBINED SINGLE LIMIT (Per accident)<br>BODILY INJURY (Per person)<br>BODILY INJURY (Per accident)<br>PROPERTY DAMAGE (Per occurrence) |
|          |   |                       |               |                         |                         | \$ 1,000,000<br>\$ 300,000<br>\$ 10,000<br>\$ 1,000,000<br>\$ 3,000,000<br>\$ 3,000,000<br>\$ 1,000,000  |
| A X      | <b>AUTOMOBILE LIABILITY</b><br>ANY AUTO<br>ALL OWNED AUTOS<br>HIRER/RENTER<br>NON-OWNED AUTOS   |                       | S1853822      | 08/07/12                | 08/07/13                | \$ 1,000,000<br>\$<br>\$   |
|          |   |                       |               |                         |                         |  |
| A X      | <b>UMBRELLA LIAB</b><br><b>EXCESS LIAB</b>  |                       | S1853822      | 08/07/12                | 08/07/13                | \$ 5,000,000<br>\$ 5,000,000   |
|          |   |                       |               |                         |                         |  |
| B        | <b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b><br>ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/EMPLOYEE EXCLUDED (Mandatory in NH)<br>If yes, describe under DESCRIPTION OF OPERATIONS below        | Y/N<br>N/A            | 19610622      | 08/07/12                | 08/07/13                | X<br>\$ 1,000,000<br>\$ 1,000,000<br>\$ 1,000,000  |
|          |   |                       |               |                         |                         |  |
| C        | <b>Professional Liab</b>  |                       | AEH006092226  | 06/21/12                | 06/21/13                | Ea. Incid<br>Aggregate<br>\$ 2,000,000<br>\$ 2,000,000   |
|          |   |                       |               |                         |                         |  |

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

Professional Liability - \$2,000,000 ea incident/\$2,000,000 aggregate with \$25,000 deductible

**CERTIFICATE HOLDER**      **CANCELLATION**

|   |  |
|---|--|
| Lexington-Fayette Urban County Government<br>Room 338, Government Center<br>200 East Main Street<br>Lexington, KY 40507 | 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><i>Christopher P. Ice</i>   |

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ACORD 25 (2010/05)

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Lexington-Fayette Urban County Government  
DEPARTMENT OF FINANCE & ADMINISTRATION

Jim Gray  
Mayor

Jane C. Driskell  
Commissioner

**ADDENDUM #1**

RFP Number: **33-2012**

Date: November 6, 2012

Subject: **RFQ for Professional Engineering Services**

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

**TO ALL PROSPECTIVE BIDDERS:**

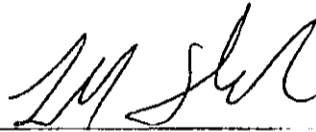
Please be advised of the following clarifications to the above referenced RFP:

| Questions  | Answers  |
|--|--|
| Footnote 2, page 7, paragraph 6, Selection Criteria, implies that private projects completed in accordance with the LFUCG Sanitary Sewer and Pump Station Manual and the LFUCG Stormwater Manual are equal in standing to those public projects completed under specific government contracts. Is that correct?  | Each project will be evaluated on its individual merits. The proposer should use his/her discretion in selecting projects relating to the specific category that will best demonstrate the proposer's experience.  |
| Can you provide examples of similar type projects that will be included in Category 4?   | Examples of projects in Category 4 would be any type of trenchless pipeline and /or manhole rehabilitation projects, e.g., Cured In Place Pipeline Rehabilitation (CIPP), pipe bursting, sliplining, or manhole rehabilitation with various coatings or injection systems. |
| Do the one-page resumes for key project team members that are requested in the Project Team section count toward the specified page limit (i.e. are they to be counted in the 6 pages)?  | Yes -- Resumes should be one page maximum. Proposers should use their discretion in providing the information requested in six pages maximum.  |
| From reviewing the minutes of the meeting, Mr. Martin made the statement encouraging teaming to maximize local participation. Then in answer to the first question he said that only the qualifications of the Prime would be scored. Then in answer to another question he said that relevant projects by subs would count. Since there seems to be some question here related to scoring of prime and not sub, the following question is posed.<br><br>If a firm had a local office and wanted to be prime, but wanted to subcontract with a smaller local firm for an experienced | Yes -- Scoring of the Project Manager is maximized by project experience and being located locally (locally defined as being within the Bluegrass Area Development District boundaries).   |

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| wastewater project manager, would the Prime/Team receive the points for having a local project manager?   |  |
| In the meeting minutes the answer to the first question was only the qualifications of the prime would be scored, not the subs. If a small local firm wanted to be the prime and subcontract with a larger firm to supplement their qualifications, would that preclude the small prime from receiving the benefit of having the larger firm as a sub?  | No -- The intent of the evaluation process will be to identify and rank the most qualified firm or team of firms.  |
| Does the Division of Water Quality have a list of the 82 projects, and possibly a breakdown of the projects in each category, that are anticipated to be completed with this RFQ?   | Yes. See attached list titled RMP Projects. The 82 projects are those listed in the Remedial Measures Plan. There will be other projects awarded under this contract that are not listed.  |
| Could you provide what specific items that you will require responders to submit for an affirmative action plan for the RFP #33-2012? Management in our firm considers some information proprietary, however we want to be responsive and comply with the requirements of the RFP.  | Please submit your current affirmative action plan with your response and identify the pages containing proprietary information as confidential and/or proprietary. Any confidential and/or proprietary information contained in your response should be clearly identified in both hard copy and electronic versions. |
| A question regarding <u>Contract 4 – Pipeline, manhole, inlet, and junction chamber rehabilitation projects</u> . Does the scope of work include providing flow monitoring, smoke testing, and dye testing services?  | At present, no. DWQ reserves the right to compose or revise any Scope of Work necessary to meet its needs at any time during the duration of this contract.  |
| It would seem that to accurately compare the mean deviation of hourly rates between firms proposing, that consultants should be expected to use a standard personnel classification system for hourly rates. Does LFUCG intend to issue such a list?  | Hourly Rates will no longer be considered in the evaluation process (see attached REVISED scoring sheet; however hourly rates must be submitted for the specific job classifications on the attached form that will be used at time of contract negotiation.   |
| As an office originally founded in Lexington over 40 years ago and subsequently acquired by another out of state firm, it seems unfair that we are only entitled to a score of 3.5 or 4.0 for the "Offices status and location of employees" category. Under this scenario, a recently established prime firm with a local headquarters, small work force, and no prior experience working with LFUCG could be awarded more points than a firm founded in Lexington that has continuously served LFUCG for over 40 years. Can additional consideration be given for length of service and/or longevity of office existence in Fayette County? | No – The proposer will be able to demonstrate and score points in other categories.  |
| Can you release the list of anticipated Remedial Measures Plan projects and their estimated costs of construction?  | Yes –see attachment pdf's (G3 RMP Implementation Plan & RMP Project Maps by Sewershed)   |

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| How will a firm be ranked if there is a joint venture?   | DWQ will require that the Contract be executed with a single consultant. In the case of a team, the prime consultant must be identified and must execute the Contract. Joint Ventures will not be considered due to the contractual requirements. |
| George Woolwine (HDR) asked Mr. Martin to further define Category 2 and distinguish the work in Category 2 from Category 4. Mr. Martin said that Category 2 is dig and replace while Category 4 is rehabilitation for the purpose of reducing I&I (Inflow and Infiltration) in the collection system. Cole Mitcham (OBG) asked if the hourly rates within 15% were plus or minus, and if there was a prime that teamed how would we establish the mean rate? | Regarding the difference between Category Nos. 2 and 4, see the response to question No. 2 above.<br><br>Regarding the question on hourly rates, see the response to question No. 9 above.  |

**SPECIAL NOTE TO PROPOSER:** Please note that the Selection Criteria (attachment 2 – RFP Scoring Sheet) have been revised – hourly rates have been removed and the points assigned have been changed.



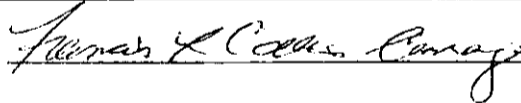
Todd Slatin, Acting Director  
Division of Central Purchasing

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: CDP Engineers, Inc.

ADDRESS: 3250 Blazer Parkway, Lexington, KY 40509

SIGNATURE OF PROPOSER:



**EXHIBIT D**

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

**LFUCG TASK ORDER NO. \_\_\_\_\_**  
**UNDER LFUCG AGREEMENT WITH \_\_\_\_\_ FOR**

---

**CONSULTANT**

**OWNER**

|                         |       |  |
|-------------------------|-------|--|
| <b>Street Address</b>   | <hr/> | Lexington Fayette Urban County<br>Government |
| <b>City, State, Zip</b> | <hr/> | 200 East Main Street                         |
| <b>Contact Person</b>   | <hr/> | Lexington, KY 40507                          |
| <b>Telephone</b>        | <hr/> | Charles Martin                               |
| <b>Fax</b>              | <hr/> | 859-425-2438                                 |
| <b>E-Mail</b>           | <hr/> | 859-254-7787                                 |
|                         |       | chmartin@lexingtonky.gov                     |

**Task Order Date:** \_\_\_\_\_

**Task Name:** \_\_\_\_\_

**Task ID:** \_\_\_\_\_

**SCOPE OF WORK/DELIVERABLES**

See Attached

**SCHEDULE OF WORK**

See Attached

**FEE**

See Attached

**ADDITIONAL PROVISIONS**

Because this is a Remedial Measures Plan project, **CONSULTANT** understands and agrees that the performance of these services is related to the Consent Decree entered in a case styled *United States & Commonwealth of Kentucky v. Lexington Fayette Urban County Government*, United States District Court for the Eastern District of Kentucky, Civil Action No. 5:06-cv-386-KSF (the "**CONSENT DECREE**"), a copy of which has been made available for review by the **CONSULTANT**, and which is incorporated herein by reference. The **CONSULTANT** further agrees that the services performed pursuant to this task order are necessary for the **OWNER** to meet the deadlines of the **CONSENT DECREE** and that the following requirements and conditions, which are in addition to those provided in the Engineering Services Agreement, shall apply to all work and services performed by the **CONSULTANT** under this task order: