

## ENGINEERING SERVICES AGREEMENT

**THIS IS AN AGREEMENT** made as of January 31, 2017, between the LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT (**OWNER**) , an urban county government pursuant to KRS Chapter 67A, located at 200 East Main Street, Lexington, KY 40507, and [REDACTED], located at 1211 Jessamine Station, Nicholasville, KY 40356 (**CONSULTANT**).

**OWNER** intends to proceed with the services as described in the attached Exhibit A, "Request for Qualifications for Professional Engineering Services, Contract 1, Roadway Corridor and Intersection Design Planning RFQ #38-2016." The services are to include customary civil, sanitary, mechanical, storm, structural, and electrical engineering services as related to completion and submission of reports and deliverables as described in Exhibit A, which may include, among other things, 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 with respect to 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, structural, mechanical, storm, electrical and sanitary engineering services incidental thereto.

#### **1.2. Project Phase**

After written authorization to proceed, **CONSULTANT** shall:

**1.2.1.** Notify the **OWNER** in writing of its authorized representative who shall act as Project Engineer and liaison representative between the **CONSULTANT** and the **OWNER**.

**1.2.2.** The **CONSULTANT** must perform all duties necessary to fully complete the deliverables described in attached Exhibit A "Request for Proposals/Scope of Engineering Services and Related Matters, Contract 1, RFP# 38-2016", and attached Exhibit B the "Proposal of Engineering Services and Related Matters" (the **CONSULTANT's** response to RFP# 38-2016 and a current

**Certificate of Insurance), and amendments to the CONSULTANT'S proposal included in attached Exhibit C "Further Description of Basic Engineering Services and Related Matters." (Project Assignment for Template).**

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 C**, and then **EXHIBIT B**.

- 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 submit three (3) copies (hard copies) 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 deliver five (5) copies (hard copies). One electronic copy of 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 (hard copies) 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 or approvals necessary 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 C "Further Description of Basic Engineering Services and Related Matters" for the project schedule. Unless otherwise stated, **CONSULTANT** shall perform the services described in Exhibit C for a period of one (1) year from the date of contract execution. LFUCG, at its sole discretion, shall have the option to renew this Agreement for an additional period of one (1) year.
- 4.2. The provisions of this Section Four (4) and the various rates of compensation for **CONSULTANT'S** services provided for in Section 5 of 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 Project Assignment 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 Project Assignment within ninety (90) days of the time specified therein, **OWNER** shall have the option of cancelling the **PROJECT**/Final Project Assignment 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 Project Assignment within forty-five (45) days of the time specified therein, **OWNER** shall have the option of cancelling the **PROJECT**/Final Project Assignment 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 Project Assignments for each work assignment performed under this agreement by **CONSULTANT** or its sub-consultant(s). Each Project Assignment shall contain scope of work, fee and schedule for performance of the work. Individual Project Assignments shall be of the form included in Exhibit C.

- 5.1.1.a Fee payable to **CONSULTANT** under individual Project Assignments shall be developed using hourly rates included in Exhibit C or as amended in accordance with provisions herein.
- 5.1.1.b Terms of payment to **CONSULTANT** shall be specified in each Project Assignment. For assignments with defined scope, lump sum assignments shall be issued. Otherwise

Project Assignments shall include time and materials payment terms.

- 5.1.1.c Each Project Assignment 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 Kentucky law, and that venue of any legal action shall only 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, 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 Planning, Preservation & Development, 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 or subconsultants 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**

- a. It is understood and agreed by the parties that **CONSULTANT** hereby assumes the entire responsibility and liability for any and all damages to persons or property caused by or resulting from or arising out of any act or omission on the part of **CONSULTANT** under or in connection with this agreement and/or the provision of goods or services and the performance or failure to perform any work required thereby.
- b. **CONSULTANT** shall indemnify, save, hold harmless and defend **OWNER** from and against all liability, damages, and losses, including but not limited to, demands, claims, obligations, causes of action, judgments, penalties, fines, liens, costs, expenses, interest, defense costs and reasonable attorney’s fees that are in any way incidental to or connected with, or that arise or are alleged to have arisen, directly or indirectly, from or by **CONSULTANT**’s performance or breach of the agreement and/or the provision of goods or services provided that: (a) it is attributable to personal injury, bodily injury, sickness, or death, or to injury to or destruction of property (including the loss of use resulting therefrom), or to or from the negligent acts, errors or omissions or willful misconduct of the **CONSULTANT**; and (b) not caused solely by the active negligence or willful misconduct of **OWNER**.



- c. 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.
- d. 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.
- e. These provisions shall in no way be limited by any financial responsibility or insurance requirements, and shall survive the termination of this agreement.
- f. **OWNER** (Lexington-Fayette Urban County Government) is a political subdivision of the Commonwealth of Kentucky. **CONSULTANT** acknowledges and agrees that **OWNER** is unable to provide indemnity or otherwise save, hold harmless, or defend the **CONSULTANT** in any manner.

### **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 Section 6.9 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 at its cost and expense 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**.

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

The policies above shall contain the following conditions:

- a. All Certificates of Insurance forms used by the insurance carrier shall be properly filed and approved by the Department of Insurance for the Commonwealth of Kentucky. **OWNER** shall be named as an additional insured in the General Liability Policy and Commercial Automobile Liability Policy using the Kentucky DOI approved forms. A copy of the certificates shall be submitted to **OWNER** and attached as **Exhibit "B"** to this Agreement.
- 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 Products and Completed Operations endorsement or Premises and Operations Liability endorsement and a Products Liability endorsement unless they are deemed not to apply by **OWNER**.
- d. The General Liability Policy shall have a Professional Liability endorsement (including Errors and Omissions) for any services performed pursuant to the contract, and/or a separate Professional Liability Policy shall be obtained unless it is deemed not to apply by **OWNER**.
- e. 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**.
- f. **OWNER** shall be provided at least 30 days advance written notice via certified mail, return receipt requested, in the event any of the required policies are canceled or non-renewed.

- g. 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 Doug Burton, P.E., Director of the Division of Engineering (the "**OWNER'S** Agent"), as the authorized agent of **OWNER**, to monitor, direct and review the performance of work of the **CONSULTANT**. Documents, data, reports, and all matters associated with carrying out this Agreement shall be addressed to the **OWNER'S** Agent or his designee. Questions by the **CONSULTANT** regarding interpretations of the terms, provisions and requirements under this Agreement shall be addressed to the **OWNER'S** Agent or his designee. The **CONSULTANT** shall look only to the **OWNER'S** Agent or his designee for direction in its performance under this Agreement; no other direction shall be binding upon **OWNER**. **OWNER** shall respond to written requests by **CONSULTANT** within thirty (30) days.
- 8.2. This Agreement, together with the Incorporated Documents (Section 1.2) constitutes the entire Agreement between **OWNER** and **CONSULTANT** and supersedes all prior written or oral understandings. This Agreement and **EXHIBITS A, B, C and D** and any related schedules or documents may only be amended, supplemented, modified or canceled by a duly executed written instrument.

- 8.3. NO THIRD PARTY RIGHTS.** This agreement does not create a contractual relationship with or right of action in favor of a third party against either **OWNER** or **CONSULTANT**.
- 8.4 UNENFORCEABLE TERMS/SURVIVABILITY.** If any term or provision of this Agreement shall be found to be illegal or unenforceable, this Agreement shall remain in full force and such term or provision shall be deemed stricken. The provisions of Section 6 of this Agreement shall survive its termination.
- 8.5. NON-WAIVER.** The failure of either party to enforce any right reserved to it in this Agreement shall not be a waiver of any such right to which the party is entitled.

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

OWNER:

CONSULTANT:

LEXINGTON-FAYETTE URBAN  
COUNTY GOVERNMENT

BANKS ENGINEERING, INC.  
1211 JESSAMINE STATION  
NICHOLASVILLE, KY 40356

BY: *Jim Gray*  
JIM GRAY, MAYOR

BY: *Jason Banks*  
Jason Banks  
Print name  
President  
Print title

ATTEST.  
*Michelle M. Gifford*  
URBAN COUNTY COUNCIL CLERK  
COMMONWEALTH OF KENTUCKY )  
)  
COUNTY OF FAYETTE )

The foregoing Agreement was subscribed, sworn to and acknowledged before me by Jason Banks, as the duly authorized representative for and on behalf of Banks Engineering, Inc., on this the 6 day of Jan, 2017.

My commission expires: 1-26-2020

*Michelle M. Gifford*  
NOTARY PUBLIC



MICHELLE M. GIFFORD  
NOTARY PUBLIC  
STATE AT LARGE  
KENTUCKY  
MY COMMISSION EXPIRES 1-26-20  
NOTARY ID# 549303

**EXHIBIT A**

**REQUEST FOR PROPOSALS/  
SCOPE OF ENGINEERING SERVICES  
AND RELATED MATTERS  
RFP# 38- 2016**



# **Lexington-Fayette Urban County Government**

## **Request for Qualifications**

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The Lexington-Fayette Urban County Government hereby requests proposals for **RFQ #38-2016 Professional Engineering Services Contract 1 - Roadway Corridor and Intersection Design Planning** to be provided in accordance with terms, conditions and specifications established herein.

Sealed proposals will be received in the Division of Central Purchasing, Room 338, Government Center, 200 East Main Street, Lexington, KY, 40507, until **2:00 PM**, prevailing local time, on **November 10, 2016**.

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

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

**RFQ #38-2016 Professional Engineering Services Contract 1 - Roadway Corridor and Intersection Design Planning**

If mailed, the envelope must be addressed to:

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

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



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

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

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

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

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

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

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

### **Laws and Regulations**

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

### **Equal Employment Opportunity**

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

## **Kentucky Equal Employment Opportunity Act**

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

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

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

The Act further provides:

"KRS 45.610. Hiring minorities -- Information required

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

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

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

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

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

#### KRS 45.630 Termination of existing employee not required, when

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

#### KRS 45.640 Minimum skills

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

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

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

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

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

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

### **Contention Process**

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

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

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

**SELECTION CRITERIA:**

1. Overall expertise of the firm in project category 20 points
2. Overall expertise of the Team members in project category 25 points
3. Past performance in the project category 25 points
4. Project Manager Qualifications 10 points
5. Office status and location of employees 20 points

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

**Questions regarding this RFP shall be addressed to:**

Sondra Stone, Buyer Senior  
Division of Central Purchasing  
[ssone@lexingtonky.gov](mailto:ssone@lexingtonky.gov)

## **Affirmative Action Plan**

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

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

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

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

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

## AFFIDAVIT

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

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

**Continued on next page**

7. Proposer acknowledges that "knowingly" for purposes of this Affidavit means, with respect to conduct or to circumstances described by a statute or ordinance defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists.

Further, Affiant sayeth naught.

\_\_\_\_\_  
STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was subscribed, sworn to and acknowledged before me  
by \_\_\_\_\_ on this the \_\_\_\_\_ day  
of \_\_\_\_\_, 2016.

My Commission expires: \_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC, STATE AT LARGE



## EQUAL OPPORTUNITY AGREEMENT

### The Law

- Title VII of the Civil Rights Act of 1964 (amended 1972) states that it is unlawful for an employer to discriminate in employment because of race, color, religion, sex, age (40-70 years) or national origin.
- Executive Order No. 11246 on Nondiscrimination under Federal contract prohibits employment discrimination by contractor and sub-contractor doing business with the Federal Government or recipients of Federal funds. This order was later amended by Executive Order No. 11375 to prohibit discrimination on the basis of sex.
- Section 503 of the Rehabilitation Act of 1973 states:

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

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

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

\*\*\*\*\*

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

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

### Bidders

*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

\_\_\_\_\_  
Name of Business

\_\_\_\_\_

**WORKFORCE ANALYSIS FORM**

Name of Organization: \_\_\_\_\_

Categories	Total	White (Not Hispanic or Latino)		Hispanic or Latino		Black or African-American (Not Hispanic or Latino)		Native Hawaiian and Other Pacific Islander (Not Hispanic or Latino)		Asian (Not Hispanic or Latino)		American Indian or Alaskan Native (not Hispanic or Latino)		Two or more races (Not Hispanic or Latino)		Total	
		M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Administrators																	
Professionals																	
Superintendents																	
Supervisors																	
Foremen																	
Technicians																	
Protective Service																	
Para-Professionals																	
Office/Clerical																	
Skilled Craft																	
Service/Maintenance																	
<b>Total:</b>																	

Prepared by: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

*(Name and Title)*

*Revised 2015-Dec-15*

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

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

Notice of requirement for Affirmative Action to ensure Equal Employment Opportunities and Disadvantaged Business Enterprises (DBE) Contract participation. Disadvantaged Business Enterprises (DBE) consists of Minority-Owned Business Enterprises (MBE) and Woman-Owned Business Enterprises (WBE).

The Lexington-Fayette Urban County Government has set a goal that not less than ten percent (10%) of the total value of this Contract be subcontracted to Disadvantaged Business Enterprises, which is made up of MBEs and WBEs. The Lexington Fayette Urban County Government also has set a goal that not less than three percent (3%) of the total value of this Contract be subcontracted to Veteran-owned Small Businesses. The goal for the utilization of Disadvantaged Business Enterprises as well Veteran -owned Small Businesses as subcontractors is a recommended goal. Contractor(s) who fail to meet such goal will be expected to provide written explanations to the Director of the Division of Purchasing of efforts they have made to accomplish the recommended goal, and the extent to which they are successful in accomplishing the recommended goal will be a consideration in the procurement process. Depending on the funding source, other DBE goals may apply.

For assistance in locating Disadvantaged Business Enterprises Subcontractors contact:

**Sherita Miller, MPA, Division of Central Purchasing  
Lexington-Fayette Urban County Government  
200 East Main Street, 3rd Floor, Room 338  
Lexington, Kentucky 40507  
[smiller@lexingtonky.gov](mailto:smiller@lexingtonky.gov)**



**Lexington-Fayette Urban County Government**  
**MWDBE PARTICIPATION GOALS**

A. GENERAL

- 1) The LFUCG request all potential contractors to make a concerted effort to include Minority-Owned (MBE), Woman-Owned (WBE), Disadvantaged (DBE) Business Enterprises and Veteran-Owned Small Businesses as subcontractors or suppliers in their bids.
- 2) Toward that end, the LFUCG has established 10% of total procurement costs as a Goal for participation of Minority-Owned, Woman-Owned and Disadvantaged Businesses on this contract.
- 3) The LFUCG has also established a 3% of total procurement costs as a Goal for participation of Veteran-Owned Small Businesses (VOSB).
- 4) **It is therefore a request of each Bidder to include in its bid, the same goal (10%) for MWDBE participation and other requirements as outlined in this section.**

B. PROCEDURES

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

### C. DEFINITIONS

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

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

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

### E. DOCUMENTATION REQUIRED FOR GOOD FAITH EFFORTS

- 1) Bidders reaching the Goal are required to submit only the MWDBE Participation Form." The form must be fully completed including names and telephone number of participating MWDBE firm(s); type of work to be performed;

estimated value of the contract and value expressed as a percentage of the total Lump Sum Bid Price. The form must be signed and dated, and is to be submitted with the bid.

- 2) Bidders not reaching the Goal must submit the “MWDBE Participation Form”, the “Quote Summary Form” and a written statement documenting their Good Faith Effort to do so. If bid includes no MWDBE and/or Veteran participation, bidder shall enter “None” on the subcontractor / supplier form). In addition, the bidder must submit written proof of their Good Faith Efforts to meet the Participation Goal:
  - a. Advertised opportunities to participate in the contract in at least two (2) publications of general circulation media; trade and professional association publications; small and minority business or trade publications; and publications or trades targeting minority, women and disadvantaged businesses not less than fifteen (15) days prior to the deadline for submission of bids to allow MWDBE firms and Veteran-Owned businesses to participate.
  - b. Included documentation of advertising in the above publications with the bidders good faith efforts package
  - c. Attended LFUCG Central Purchasing Economic Inclusion Outreach event
  - d. Attended pre-bid meetings that were scheduled by LFUCG to inform MWDBEs and/or Veteran-Owned businesses of subcontracting opportunities
  - e. Sponsored Economic Inclusion event to provide networking opportunities for prime contractors and MWDBE firms and Veteran-Owned businesses.
  - f. Requested a list of MWDBE and/or Veteran subcontractors or suppliers from LFUCG and showed evidence of contacting the companies on the list(s).
  - g. Contacted organizations that work with MWDBE companies for assistance in finding certified MWBDE firms and Veteran-Owned businesses to work on this project. Those contacted and their responses should be a part of the bidder’s good faith efforts documentation.
  - h. Sent written notices, by certified mail, email or facsimile, to qualified, certified MWDBEs soliciting their participation in the contract not less that seven (7) days prior to the deadline for submission of bids to allow them to participate effectively.
  - i. Followed up initial solicitations by contacting MWDBEs and Veteran-Owned Businesses to determine their level of interest.

j. Provided the interested MWDBE firm and/or Veteran-Owned business with adequate and timely information about the plans, specifications, and requirements of the contract.

k. Selected portions of the work to be performed by MWDBE firms and/or Veteran-Owned businesses in order to increase the likelihood of meeting the contract goals. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate MWDBE and Veteran participation, even when the prime contractor may otherwise perform these work items with its own workforce

l. Negotiated in good faith with interested MWDBE firms and Veteran-Owned businesses not rejecting them as unqualified without sound reasons based on a thorough investigation of their capabilities. Any rejection should be so noted in writing with a description as to why an agreement could not be reached.

m. Included documentation of quotations received from interested MWDBE firms and Veteran-Owned businesses which were not used due to uncompetitive pricing or were rejected as unacceptable and/or copies of responses from firms indicating that they would not be submitting a bid.

n. Bidder has to submit sound reasons why the quotations were considered unacceptable. The fact that the bidder has the ability and/or desire to perform the contract work with its own forces will not be considered a sound reason for rejecting a MWDBE and/or Veteran-Owned business's quote. Nothing in this provision shall be construed to require the bidder to accept unreasonable quotes in order to satisfy MWDBE and Veteran goals.

o. Made an effort to offer assistance to or refer interested MWDBE firms and Veteran-Owned businesses to obtain the necessary equipment, supplies, materials, insurance and/or bonding to satisfy the work requirements of the bid proposal

p. Made efforts to expand the search for MWBE firms and Veteran-Owned businesses beyond the usual geographic boundaries.

q. Other--any other evidence that the bidder submits which may show that the bidder has made reasonable good faith efforts to include MWDBE and Veteran participation.

**Note: Failure to submit any of the documentation requested in this section may be cause for rejection of bid. Bidders may include any other documentation deemed relevant to this requirement which is subject to review by the MBE Liaison. Documentation of Good Faith Efforts must be submitted with the Bid, if the participation Goal is not met.**





## MINORITY BUSINESS ENTERPRISE PROGRAM

Sherita Miller, MPA  
Minority Business Enterprise Liaison  
Division of Central Purchasing  
Lexington-Fayette Urban County Government  
200 East Main Street  
Lexington, KY 40507  
[smiller@lexingtonky.gov](mailto:smiller@lexingtonky.gov)  
859-258-3323

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

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

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

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

- African-American
- Hispanic-American
- Asian/Pacific Islander
- Native American/Native Alaskan
- Non-Minority Female
- Economically and Socially Disadvantaged

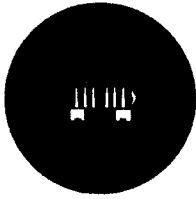
In addition, to that end the city council also adopted and implemented resolution 167-91—Veteran-owned Businesses, 3% Goal Plan in July of 2015. The resolution states in part (a full copy is available in Central Purchasing):

*“A resolution adopting a three percent (3%) minimum goal for certified veteran-owned small businesses and service disabled veteran-owned businesses for certain of those Lexington-Fayette Urban County contracts related to*

*construction for professional services, and authorizing the Division of Purchasing to adopt and implement guidelines and/or policies consistent with the provisions and intent of this resolution by no later than July 1, 2015.”*

We have compiled the list below to help you locate certified MBE, WBE and DBE certified businesses. Below is a listing of contacts for LFUCG Certified MWDBEs and Veteran-Owned Small Businesses in (<https://lexingtonky.ionwave.net>)

<b>Business</b>	<b>Contact</b>	<b>Email Address</b>	<b>Phone</b>
<b>LFUCG</b>	Sherita Miller	<a href="mailto:smiller@lexingtonky.gov">smiller@lexingtonky.gov</a>	859-258-3323
<b>Commerce Lexington – Minority Business Development</b>	Tyrone Tyra	<a href="mailto:ttyra@commercelexington.com">ttyra@commercelexington.com</a>	859-226-1625
<b>Tri-State Minority Supplier Diversity Council</b>	Susan Marston	<a href="mailto:smarston@tsmsdc.com">smarston@tsmsdc.com</a>	502-365-9762
<b>Small Business Development Council</b>	Shirie Hawkins UK SBDC	<a href="mailto:smack@uky.edu">smack@uky.edu</a>	859-257-7666
<b>Community Ventures Corporation</b>	Phyllis Alcorn	<a href="mailto:palcorn@cvky.org">palcorn@cvky.org</a>	859-231-0054
<b>KY Transportation Cabinet (KYTC)</b>	Melvin Bynes	<a href="mailto:Melvin.bynes2@ky.gov">Melvin.bynes2@ky.gov</a>	502-564-3601
<b>KYTC Pre-Qualification</b>	Shella Eagle	<a href="mailto:Shella.Eagle@ky.gov">Shella.Eagle@ky.gov</a>	502-782-4815
<b>Ohio River Valley Women’s Business Council (WBENC)</b>	Sheila Mixon	<a href="mailto:smixon@orvwbc.org">smixon@orvwbc.org</a>	513-487-6537
<b>Kentucky MWBE Certification Program</b>	Yvette Smith, Kentucky Finance Cabinet	<a href="mailto:Yvette.Smith@ky.gov">Yvette.Smith@ky.gov</a>	502-564-8099
<b>National Women Business Owner’s Council (NWBOC)</b>	Janet Harris-Lange	<a href="mailto:janet@nwbo.org">janet@nwbo.org</a>	800-675-5066
<b>Small Business Administration</b>	Robert Coffey	<a href="mailto:robertcoffey@sba.gov">robertcoffey@sba.gov</a>	502-582-5971
<b>LaVoz de Kentucky</b>	Andres Cruz	<a href="mailto:lavozdeky@yahoo.com">lavozdeky@yahoo.com</a>	859-621-2106
<b>The Key News Journal</b>	Patrice Muhammad	<a href="mailto:paatricem@keynewsjournal.com">paatricem@keynewsjournal.com</a>	859-373-9428



## LFUCG MWDBE PARTICIPATION FORM

Bid/RFP/Quote Reference # \_\_\_\_\_

The MWDBE and/or veteran 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. **Failure to submit a completed form may cause rejection of the bid.**

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

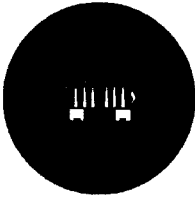
The undersigned company representative submits the above list of MWDBE firms to be used in accomplishing the work contained in this Bid/RFP/Quote. Any misrepresentation may result in the termination of the contract and/or be subject to applicable Federal and State laws concerning false statements and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

\_\_\_\_\_  
Company

\_\_\_\_\_  
Company Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title



## LFUCG MWDBE SUBSTITUTION FORM

Bid/RFP/Quote Reference # \_\_\_\_\_

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

SUBSTITUTED MWDBE Company Name, Address, Phone, Email	MWDBE Formally Contracted/ Name, Address, Phone, Email	Work to Be Performed	Reason for the Substitution	Total Dollar Value of the Work	% Value of Total Contract
1.					
2.					
3.					
4.					

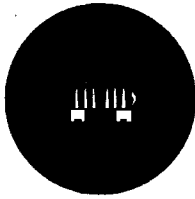
The undersigned acknowledges that any misrepresentation may result in termination of the contract and/or be subject to applicable Federal and State laws concerning false statements and false claims.

\_\_\_\_\_  
Company

\_\_\_\_\_  
Company Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title



**MWDBE QUOTE SUMMARY FORM**  
 Bid/RFP/Quote Reference # \_\_\_\_\_

The undersigned acknowledges that the minority and/or veteran subcontractors listed on this form did submit a quote to participate on this project. Failure to submit this form may cause rejection of the bid.

<b>Company Name</b>	<b>Contact Person</b>
<b>Address/Phone/Email</b>	<b>Bid Package / Bid Date</b>

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

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

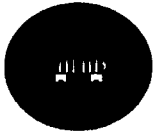
The undersigned acknowledges that all information is accurate. Any misrepresentation may result in termination of the contract and/or be subject to applicable Federal and State laws concerning false statements and claims.

\_\_\_\_\_  
**Company**

\_\_\_\_\_  
**Company Representative**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Title**



**LFUCG SUBCONTRACTOR MONTHLY PAYMENT REPORT**

The LFUCG has a 10% goal plan adopted by city council to increase the participation of minority and women owned businesses in the procurement process. The LFUCG also has a 3% goal plan adopted by cited council to increase the participation of veteran owned businesses in the procurement process. In order to measure that goal LFUCG will track spending with MWDBE and Veteran contractors on a monthly basis. By the signature below of an authorized company representative, you certify that the information is correct, and that each of the representations set forth below is true. Any misrepresentation may result in termination of the contract and/or prosecution under applicable Federal and State laws concerning false statements and false claims. Please submit this form monthly to the Division of Central Purchasing/ 200 East Main Street / Room 338 / Lexington, KY 40507.

**Bid/RFP/Quote #** \_\_\_\_\_

**Total Contract Amount Awarded to Prime Contractor for this Project** \_\_\_\_\_

<b>Project Name/ Contract #</b>	<b>Work Period/ From:</b>	<b>To:</b>
<b>Company Name:</b>	<b>Address:</b>	
<b>Federal Tax ID:</b>	<b>Contact Person:</b>	

<b>Subcontractor Vendor ID (name, address, phone, email)</b>	<b>Description of Work</b>	<b>Total Subcontract Amount</b>	<b>% of Total Contract Awarded to Prime for this Project</b>	<b>Total Amount Paid for this Period</b>	<b>Purchase Order number for subcontractor work (please attach PO)</b>	<b>Scheduled Project Start Date</b>	<b>Scheduled Project End Date</b>

By the signature below of an authorized company representative, you certify that the information is correct, and that each of the representations set forth below is true. Any misrepresentations may result in the termination of the contract and/or prosecution under applicable Federal and State laws concerning false statements and false claims.

\_\_\_\_\_  
**Company**

\_\_\_\_\_  
**Company Representative**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Title**

## **LFUCG STATEMENT OF GOOD FAITH EFFORTS**

**Bid/RFP/Quote # \_\_\_\_\_**

By the signature below of an authorized company representative, we certify that we have utilized the following Good Faith Efforts to obtain the maximum participation by MWDBE and Veteran-Owned business enterprises on the project and can supply the appropriate documentation.

\_\_\_\_\_ Advertised opportunities to participate in the contract in at least two (2) publications of general circulation media; trade and professional association publications; small and minority business or trade publications; and publications or trades targeting minority, women and disadvantaged businesses not less than fifteen (15) days prior to the deadline for submission of bids to allow MWDBE firms and Veteran-Owned businesses to participate.

\_\_\_\_\_ Included documentation of advertising in the above publications with the bidders good faith efforts package

\_\_\_\_\_ Attended LFUCG Central Purchasing Economic Inclusion Outreach event

\_\_\_\_\_ Attended pre-bid meetings that were scheduled by LFUCG to inform MWDBEs and/or Veteran-Owned Businesses of subcontracting opportunities

\_\_\_\_\_ Sponsored Economic Inclusion event to provide networking opportunities for prime contractors and MWDBE firms and Veteran-Owned businesses

\_\_\_\_\_ Requested a list of MWDBE and/or Veteran subcontractors or suppliers from LFUCG and showed evidence of contacting the companies on the list(s).

\_\_\_\_\_ Contacted organizations that work with MWDBE companies for assistance in finding certified MWDBE firms and Veteran-Owned businesses to work on this project. Those contacted and their responses should be a part of the bidder's good faith efforts documentation.

\_\_\_\_\_ Sent written notices, by certified mail, email or facsimile, to qualified, certified MWDBEs soliciting their participation in the contract not less than seven (7) days prior to the deadline for submission of bids to allow them to participate effectively.

\_\_\_\_\_ Followed up initial solicitations by contacting MWDBEs and Veteran-Owned businesses to determine their level of interest.

\_\_\_\_\_ Provided the interested MWDBE firm and/or Veteran-Owned business with adequate and timely information about the plans, specifications, and requirements of the contract.

\_\_\_\_\_ Selected portions of the work to be performed by MWDBE firms and/or Veteran-Owned businesses in order to increase the likelihood of meeting the

contract goals. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate MWDBE and Veteran participation, even when the prime contractor may otherwise perform these work items with its own workforce

\_\_\_\_\_ Negotiated in good faith with interested MWDBE firms and Veteran-Owned businesses not rejecting them as unqualified without sound reasons based on a thorough investigation of their capabilities. Any rejection should be so noted in writing with a description as to why an agreement could not be reached.

\_\_\_\_\_ Included documentation of quotations received from interested MWDBE firms and Veteran-Owned businesses which were not used due to uncompetitive pricing or were rejected as unacceptable and/or copies of responses from firms indicating that they would not be submitting a bid.

\_\_\_\_\_ Bidder has to submit sound reasons why the quotations were considered unacceptable. The fact that the bidder has the ability and/or desire to perform the contract work with its own forces will not be considered a sound reason for rejecting a MWDBE and/or Veteran-Owned business's quote. Nothing in this provision shall be construed to require the bidder to accept unreasonable quotes in order to satisfy MWDBE and Veteran goals.

\_\_\_\_\_ Made an effort to offer assistance to or refer interested MWDBE firms and Veteran-Owned businesses to obtain the necessary equipment, supplies, materials, insurance and/or bonding to satisfy the work requirements of the bid proposal

\_\_\_\_\_ Made efforts to expand the search for MWBE firms and Veteran-Owned businesses beyond the usual geographic boundaries.

\_\_\_\_\_ Other--any other evidence that the bidder submits which may show that the bidder has made reasonable good faith efforts to include MWDBE **and Veteran participation.**

**NOTE: Failure to submit any of the documentation requested in this section may be cause for rejection of bid. Bidders may include any other documentation deemed relevant to this requirement which is subject to approval by the MBE Liaison. Documentation of Good Faith Efforts must be submitted with the Bid, if the participation Goal is not met.**

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

\_\_\_\_\_  
Company

\_\_\_\_\_  
Company Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title



## **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.

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Signature

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Date

**RISK MANAGEMENT PROVISIONS  
INSURANCE AND INDEMNIFICATION**

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**INDEMNIFICATION AND HOLD HARMLESS PROVISION**

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

**FINANCIAL RESPONSIBILITY**

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

## **INSURANCE REQUIREMENTS**

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

### **Required Insurance Coverage**

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

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

The policies above shall contain the following conditions:

- a. All Certificates of Insurance forms used by the insurance carrier shall be properly filed and approved by the Department of Insurance for the Commonwealth of Kentucky. LFUCG shall be named as an additional insured in the General Liability Policy and Commercial Automobile Liability Policy using the Kentucky DOI approved forms.
- b. The General Liability Policy shall be primary to any insurance or self-insurance retained by LFUCG.
- c. The General Liability Policy shall include a Products and Completed Operations endorsement or Premises and Operations Liability endorsement and a Products Liability endorsement unless they are deemed not to apply by LFUCG.
- d. The General Liability Policy shall have a Professional Liability endorsement (including Errors and Omissions) for any services performed pursuant to the contract, and/or a separate Professional Liability Policy shall be obtained unless it is deemed not to apply by LFUCG.
- e. The Professional Liability policy shall be maintained for a minimum of three years beyond the completion date of the project, to the extent commercially available. If not commercially available, CONSULTANT shall notify LFUCG and obtain similar insurance that is commercially available and acceptable to LFUCG.

- f. LFUCG shall be provided at least 30 days advance written notice via certified mail, return receipt requested, in the event any of the required policies are canceled or non-renewed.
- g. Said coverage shall be written by insurers acceptable to LFUCG and shall be in a form acceptable to LFUCG. Insurance placed with insurers with a rating classification of no less than Excellent (A or A-) and a financial size category of no less than VIII, as defined by the most current Best's Key Rating Guide shall be deemed automatically acceptable.

#### Renewals

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

#### Deductibles and Self-Insured Programs

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

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

#### Safety and Loss Control

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

#### Verification of Coverage

CONSULTANT agrees to furnish LFUCG with all applicable Certificates of Insurance signed by a person authorized by the insurer to bind coverage on its behalf prior to final award, and if requested, shall provide LFUCG copies of all insurance policies, including all endorsements.

Right to Review, Audit and Inspect

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

DEFAULT

CONSULTANT understands and agrees that the failure to comply with any of these insurance, safety, or loss control provisions shall constitute default and that LFUCG may elect at its option any single remedy or penalty or any combination of remedies and penalties, as available, including but not limited to purchasing insurance and charging CONSULTANT for any such insurance premiums purchased, or suspending or terminating the work.

00471865



# **Request for Qualifications (RFQ) for Professional Engineering Services Contract 1 – Roadway Corridor and Intersection Design/Planning**

## **1. Background**

Lexington-Fayette Urban County Government (LFUCG) is accepting Statements of Qualifications (SOQs) from interested consulting engineering firms for professional engineering services, including design, bidding assistance and construction administration for infrastructure improvements. This RFQ shall serve as the initial step in solicitations for specific projects. Prequalification of firms will be followed by solicitation of design fee bids for specific projects from select firms. Prequalification of consultants does not constitute a guarantee of being awarded projects at any point in the future; **there will be no guarantee of work for any firm or firms.**

Currently there are eight (8) active prequalification categories, as listed below. Historically, only Contract 1: *Roadway Corridor and Intersection Design/Planning* has been significantly utilized. Current Contracts 2-8 are being renewed, per terms of the 2014 contract. Therefore, **this Request for Qualifications shall only address Contract 1.** The current Contract 1 will expire upon passage of new Contract 1; therefore, all firms interested in Contract 1 will have to re-submit for this RFQ. The possible number of firms that will be prequalified in this process shall be increased from six (6) to ten (10).

- Contract 1 - Roadway corridor and intersection design/planning – re-bid in this RFQ package.
- Contract 2 - Right-Of-Way or easement acquisition – renewed.
- Contract 3 - Construction drawings review for DOE manual compliance – renewed.
- Contract 4 - Structures or bridge design – renewed.
- Contract 5 - Pedestrian, bike, or multimodal trail design/planning – renewed.
- Contract 6 - Traffic signal design – renewed.
- Contract 7 - Geotechnical testing, analysis and design (subgrade improvements, foundations, pavement design or rehabilitation, etc.) – renewed.
- Contract 8 - Construction inspection – renewed.

Engineering services for other disciplines not detailed above may be solicited in a separate procurement.

The Urban County Government reserves the right to periodically re-solicit for qualifications. Furthermore, if a firm that submitted qualifications in response to this solicitation experiences a change in staffing or expertise that substantially changes their qualifications to perform work under this program, they must communicate the change in qualifications to LFUCG in written addenda.

## **2. Contracting Process**

Each prequalified firm shall be awarded with an indefinite service delivery contract. Projects assigned to prequalified consultants shall be completed on a fee basis, authorized in an approved Project Assignment. Only the approval of a project-specific Project Assignment shall constitute a notice to proceed on specific projects.

The intent of this procurement process is to assign projects to contracted firms on a rotational basis. LFUCG will rank proposers and select a specified number of qualified consultants in each project category for design work for a 365 day period beginning from contract execution date. LFUCG will have the option to renew the indefinite delivery contracts on an annual basis, at its sole discretion. LFUCG will also reserve the option to add additional qualified firms using another, identical RFQ process.

Once selections are made for the specified number of qualified consultants, the firms will be ranked as follows: The firm with the highest total dollar value of Division of Engineering (DOE) contracts or additions to existing contracts over the last 24 months (from the date of advertisement of this RFQ) will be placed at the bottom of the list for new project work. The process will continue until all firms with recent DOE work have been ranked from highest value of DOE contracts to the lowest value of DOE contracts over the last 24 months. The remaining firms that have not been awarded any DOE contracts over the last 24 months will then be ranked according to their point totals from the initial rankings with the highest scored team being the number one firm on the list.

When LFUCG initiates a particular project, the three highest ranked firms in that particular category of project will be asked to submit a fee proposal to perform the engineering services described by LFUCG, which will generally include the provisions of Section 3 below. Exhibit 1 is a template for a typical fee proposal. In addition to furnishing lump sum line items costs, the consultant shall address DBE utilization, current qualification status, and shall acknowledge receipt of addenda.

The firm submitting the lowest cost proposal will be offered a written Project Assignment. If for any reason the firm currently under consideration rejects the project assignment, the firm submitting the next lowest fee may be offered the project assignment. If the second firm does not accept the project assignment, DOE may then offer the project assignment to the third firm. If that offer does not result in an accepted project assignment, DOE may solicit cost proposals from the next three ranked firms. The cycle will continue until the project is assigned or canceled. Any firms who provided written cost proposals and were offered a project assignment that was then rejected, will be placed at the bottom of the list. Firms that provide a written cost proposal but are not offered a project assignment shall not lose their place on the consideration list. For project categories with three or less pre-qualified firms, all firms will be asked to submit a fee proposal each time.

As each firm is issued a Project Assignment for a specific project, they will then be moved to the bottom of the list, giving the next three highest ranked firms the opportunity to provide bids for the next project. When LFUCG initiates a particular project, any of the current highest ranked firms may choose not to submit pricing if they do not have current capacity to complete the work. A firm may decline up to two projects without being moved to the bottom of that category's list. After declining a third project, the firm will then be moved to the bottom of the list. Excessively high fee proposals (more than twice the lowest proposal) may be counted as declined bids for this purpose.

### **3. General Project Description**

The Consultant shall perform professional services as hereinafter stated which include customary civil, mechanical, structural, electrical, storm, and sanitary engineering services as related to the design, bidding, and construction administration of LFUCG projects. All work shall be conducted in accordance with the LFUCG DOE Manuals, to the best extent practical. Services during design may include:

- Review of DOE/LFUCG supplied or referenced information related to the project, including the latest photographic mapping and digital information that is available.
- Preparation of and adherence to a specific project schedule that ensures compliance with required project completion deadlines.
- Field and cadastral surveying.
- Deed research / easement preparation as required. Easements may be in the form of metes and bounds, centerline, or platted as directed by DOE/LFUCG. If easement acquisition is included in the scope of services of the design consultant, easement negotiations with property owners will be the responsibility of the consultant.
- Preparation of detailed design for new installations, replacement projects, or site specific specification of rehabilitation requirements and methods.
- Preparation of all permit applications (Corps of Engineers (COE), Division of Water (DOW), Kentucky Department of Highways (KDOH), LFUCG, Federal Emergency Management Agency (FEMA), railroad, other).
- Preparation of Storm Water Pollution Prevention Plans (SWPPPs) and/or Erosion and Sediment Control Plans as required.
- Preparation of Contract Documents (Plans and Specifications) in a suitable format for bidding and consistent with all DOE/Division of Traffic Engineering (DOTE)/LFUCG standards. (NOTE: DOE/DOTE may provide each consultant standard front end and technical specifications for their use. However, the consultant shall be responsible for reviewing the documents and incorporating project-specific elements as necessary for each project.).
- Preparation of Engineer's pre-bid Opinion of Project Costs.
  - Attendance at design meetings: kick-off, progress at 30% and 75% complete, final review.

Services during Bidding, including but not limited to the following, may or may not be included in an approved project assignment:

- Conduct pre-bid conference
- Respond to questions and issue addenda as necessary
- Bid review and evaluation and provide recommendation of award
- Enter quantities into Unit Price Contract spreadsheet and solicit the UPC contractors

Services during Construction, including but not limited to the following, may or may not be included in the Scope of Services for specific task orders:

- Contract administration
  - Review and approval of shop drawings
  - Responses to contractor requests for information (RFIs)
  - Review and approval of pay requests and change order requests
  - Preparation of Record Drawings/as-builts in hard copy and electronic formats, as directed by the DOE.
  - Provide Global Positioning Systems (GPS) coordinates for all constructed features in accordance with LFUCG standards
  - Final Inspection and preparation of punchlist
  - Project start-up and preparation of operations and maintenance manuals (pump stations)
  - Project Certification
  - Meetings – consultant will be responsible for agenda and preparation of meeting summary
    - Preconstruction
    - Monthly progress meetings
    - Project closeout meeting
- Resident Observation – full-time, on-site, including preparation of record drawings

#### 4. Submittals

Each firm responding to this RFQ shall submit an SOQ for Contract 1 prequalification. SOQ's should be spiral or comb bound to allow ease for archiving (no 3-ring binders). Each firm must submit one (1) master hardcopy, (1) electronic version in PDF format on a flash drive or CD and seven (7) duplicates (hardcopies). Statements of Qualification shall be structured as follows:

##### Section

1. Letter of Transmittal (one page maximum)
2. Firm Qualifications (two pages maximum)
  - Provide an executive summary explaining why the firm should be selected to provide services for DOE projects, along with general information about the firm (and subconsultants) related to their history and general qualifications specific to Contract 1.
3. Project Team (six pages maximum)
  - Provide an organizational chart for identifying project manager, project engineers, surveyors, Disadvantaged Business Enterprise (DBE) Firm / Minority Business Enterprise Firm (MBE), and others as required. The identified team members must have measurable experience and contributions associated with the projects identified in Item 5 below. The organizational chart should clearly indicate the services to be provided by all sub-consultant firms. Include office locations and one-page resumes of key project team individuals that will be providing substantial contributions to work products.
4. List of Clients for Which Similar Work has Been Performed (one page maximum)
  - Provide client name, contact person, contact phone number and email address, and

identify by name similar projects completed for each client.

5. List of Similar Projects Within the Desired Category (**two pages maximum**)
  - Provide the project name, date, services provided, and a project description detailing the scope of the project and project construction cost. List only those projects where a key member of the project team provided a substantive contribution to the project completion. .
6. Local Office (**one page maximum**)
  - Statement of presence of local office(s) for all firms comprising a Project Team, when the local office was established, local office staffing (number in each local office), and local office utilization (estimated percent of potential project services to be performed by the local offices). “Local office” shall be defined as being located in counties served by the Bluegrass Area Development District (see BGADD.org for a complete list). The attached form (Attachment 1) shall be used for this information.
7. Disadvantaged Business Enterprise (DBE) Involvement (**one page maximum**)
  - Provide a statement regarding the commitment to meeting the goals of LFUCG’s DBE program (see below).

#### **5. Disadvantaged Business Enterprise (DBE) Notice**

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

The Lexington-Fayette Urban County Government has set a goal that not less than ten percent (10%) of the total value of work conducted in this program be subcontracted to DBEs. The goals for the utilization of certified DBEs as subcontractors are recommended goals. Consultants who fail to meet such goals will be expected to provide written explanation to the EEO Officer and the Director of the Division of Purchasing of efforts they have made to accomplish the recommended goals, and the extent to which they are successful in accomplishing the recommended goals will be a consideration in the procurement process. For assistance in locating DBE subcontractors contact the following Urban County Government agency:

Sherita Miller, Division of Central Purchasing  
Lexington-Fayette Urban County Government  
200 East Main Street  
Lexington, KY 40507  
(859) 258-3323

Note: Consultants may, but are not required to identify specific DBE subconsultants in their Pre-qualifications submittal. However, they must indicate their status of DBE utilization on the fee proposal, and furnish supporting documentation for each project assignment they are awarded. A sample Fee Proposal is provided as Exhibit 1.

## 6. Selection Criteria (Attachment 2)

Firms will be individually ranked for each category included in their proposals. The following criteria will be used by the evaluation committee to rank prospective firms:

Overall expertise of the firm in project category <sup>(1)</sup>	20 points
Overall expertise of the Team members in project category <sup>(1)</sup>	25 points
Past performance in the project category <sup>(2)</sup>	25 points
Project Manager Qualifications <sup>(3)</sup>	10 points
Office status and location of employees <sup>(4)</sup>	20 points
<b>TOTAL:</b>	<b>100 points</b>

### Notes:

1. Firms must have relevant experience in at least three similar projects to be rated as “acceptable”. Individual Project Team members should demonstrate significant experience in at least two similar projects in the last three years to be rated as “acceptable”.
2. Past performance on infrastructure projects completed under a government contract or government specifications.
3. Project Manager must have relevant experience with at least three projects in the last three years to receive maximum points.
4. Factors considered: Fayette County headquarters; Fayette County office established more than 12 months prior to issuance of this RFQ; office established in Bluegrass Area Development District counties more than 12 months prior to issuance of this RFQ. Project Manager must be located in the local office to be rated as “acceptable”. Proposals should clearly present all information regarding all firms submitting as a “team”.

Attachment 1

**Project Team Location(s)**

Headquarters				
Local Office				
PM Location				
Name:				
Service Provided				
Headquarters				
Local Office				
Name:				
Service Provided				
Headquarters				
Local Office				
Name:				
Service Provided				
Headquarters				
Local Office				

**Notes:**

1. "Headquarters" refers to the corporate office that provides project support to the local office, if applicable. If support comes from multiple locations, use the blank spaces in the form to provide relevant information.
- 9
2. Listing of sub-consultants is optional and should only be provided if the prime consultant considers the sub-consultant(s) services to be essential to meeting the required qualifications. In this event, documentation from the subconsultant(s) shall be submitted in the SOQ that provides a commitment to be a part of the prime consultant's team in providing the stated services. In such cases, for the purpose of evaluating the proposals, committed sub-consultants will be considered to be part of the prime consultant's workforce. Prime consultants face potential disqualification from future work if DOE finds that the identified sub-consultants are not being utilized to deliver assigned work products.

**EXHIBIT 1**

**TEMPLATE FOR PROFESSIONAL ENGINEERING SERVICES CONTRACTS  
UTILIZING PREQUALIFIED FIRMS ON A FEE BASIS**

**Fee Proposal**

**Project Name**

**Lump Sum Fee Components**

Task No. 1 — Description	\$ _____
Task No. 2 — Description	_____
Task No. 3 — Description	_____
Task No. 4 — Description	_____
Total (Basis of Contact Award)	\$ _____

**DBE Utilization – Check Applicable Box Below**

- A DBE firm will be utilized on this project.
- DBE Name \_\_\_\_\_
- Total \$ \_\_\_\_\_
- Percent Utilization \_\_\_\_\_
- A DBE firm will not be utilized on this project. *Note: Attach a written explanation describing your efforts to secure a DBE and furnish supporting documentation.*

**Qualification Certification**

Have the firm's qualifications significantly changed since submittal of their Statement of Qualifications?

- No
- Yes *If yes, provide supporting documentation explaining the change(s) and demonstrating the firm's currently ability to perform the work.*

**Acknowledge Receipt of Addendum No.#**

Dated xx/xx/xx \_\_\_\_\_

Signed: \_\_\_\_\_

Firm Name: \_\_\_\_\_

Date: \_\_\_\_\_



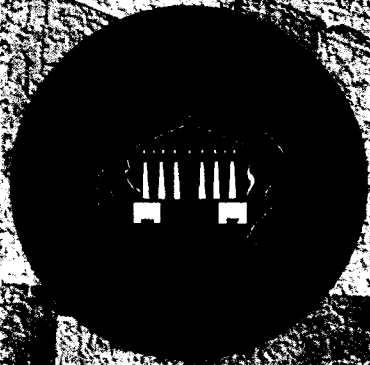
**EXHIBIT B**

**PROPOSAL OF ENGINEERING SERVICES  
AND RELATED MATTERS**

- 1. Proposal of Engineering Services**
- 2. Certificate of Insurance**

**STATEMENT OF QUALIFICATION FOR PROFESSIONAL  
ENGINEERING SERVICES - PFC**

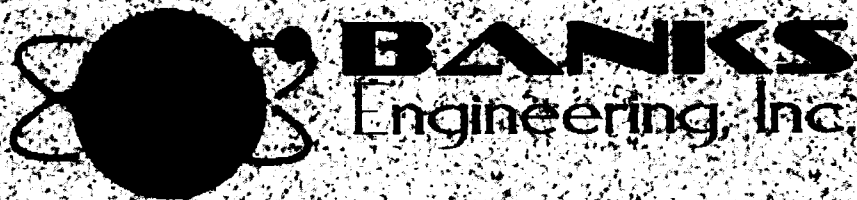
**PREPARED FOR  
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**



**ROADWAY CORRIDOR AND INTERSECTION DESIGN**



**PREPARED BY:**



**NOVEMBER 10, 2016**



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November 10, 2016

Mr. Todd Slatin – Purchasing Director  
Lexington-Fayette Urban County Government  
Division of Central Purchasing, Room 338 Govt. Center  
200 East Main Street  
Lexington, KY 40507

RE: RFQ #38-2016 Professional Engineering Services Contract 1 – Roadway Corridor and Intersection Design Planning

Mr. Slatin:

Banks Engineering is pleased to submit the enclosed Statement of Qualifications (SOQ) in response to your Request for Qualifications. To facilitate your review, we have formatted the SOQ in accordance with instructions in the RFQ and includes the following information:

- Summary of Qualifications, addressing the identified selection criteria
- Project Team, identifying key team members and their applicable experience
- Client List and Descriptions of Similar Projects
- Local Office and DBE Involvement
- Supporting information and required forms

**Banks Engineering** is currently partnering with the Urban County Government on the planning and design for multi-modal corridor improvements for Euclid Avenue and Avenue of Champions. While with another firm, Banks team members have also performed planning and design services for many LFUCG projects including the Clays Mill Road Improvements, the Southland Bike Lane Improvements, and several other transportation projects. Banks Engineering is prequalified by the Kentucky Transportation Cabinet (KYTC) for projects to be covered in this RFQ.

Banks Engineering has the experience and qualifications to provide excellent service and assistance to the Urban County Government with the projects covered under this RFQ due to our extensive experience with Urban County Government transportation projects, and our relationships with the staff of the Urban County Government and KYTC's local District 7 office (for LPA projects).

Thank you for considering our qualifications. If you have any questions or need additional information, please contact me at (859) 881-0020 or by email at [jsteinmetz@banksengineering.net](mailto:jsteinmetz@banksengineering.net).

Very truly yours,

**Banks Engineering, Inc.**

A handwritten signature in black ink that reads "John B. Steinmetz".

John B. Steinmetz, P.E.  
Senior Engineer

## FIRM QUALIFICATIONS

**Banks Engineering** is a Central Kentucky consulting engineering firm established in 2009 by Jason and Josh Banks, providing surveying and engineering services for a variety of public and private clients.

Transportation projects are led by John Steinmetz and Frank Pruitt, who have worked together to provide excellent service to LFUCG and other Central Kentucky communities since 1996. Recent LFUCG projects managed by them include:

- Euclid Avenue Multi-Modal Improvements (current)
- Sanitary Sewer Remedial Measures Plans
- Clays Mill Road Improvements
- Southland Drive Bike Lanes
- Woodland Triangle Intersection Improvements

John and Frank also assisted LFUCG with several neighborhood drainage projects in the past, including Elkhorn Park Phases 1 and 2, and the Liberty Heights Drainage Improvements.

## EXECUTIVE SUMMARY

- **Qualifications of professional personnel** – The Banks project managers, Frank Pruitt and John Steinmetz, have proven reliability in partnering with LFUCG in the completion of many projects over the past 20 years including two of the most high-profile recent projects - the Clays Mill Road Improvements and the Sanitary Sewer Remedial Measures Plans.

The Clays Mill Road Improvements project may be the most controversial project in LFUCG history, and attaining consensus required extensive coordination with stakeholders, the 17-member advisory committee, and local residents. The cost of this 3.7-mile corridor improvements project will be approximately \$30 million when it is complete.

The Remedial Measures Plans were required to be completed on a strict schedule mandated by the US EPA, and Mr. Steinmetz coordinated the work of multiple consultants with LFUCG Division of Water Quality staff to develop \$591 million in proposed improvements to eliminate sanitary sewer overflows.

The RMP development included coordination with multiple stakeholders including the University of Kentucky, the Lexington Homebuilders Association, and numerous neighborhood associations.



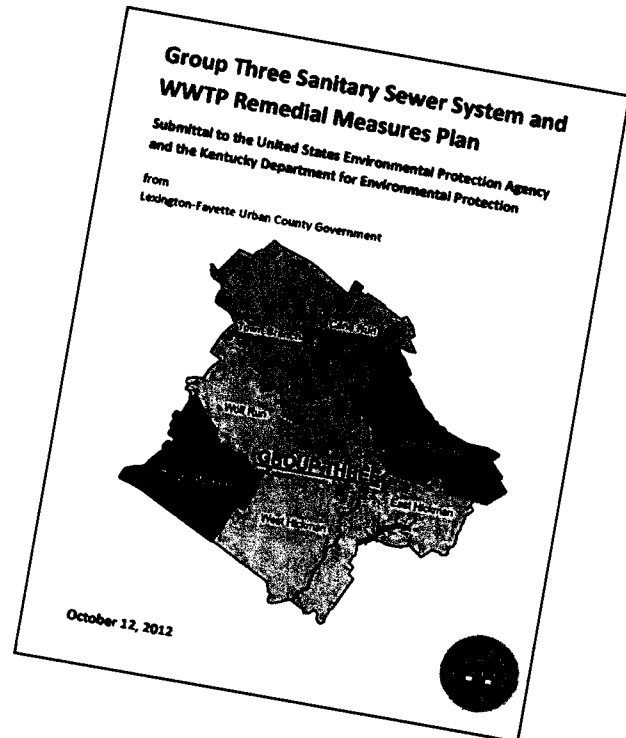
*At the recent Clays Mill Road dedication ceremony Councilperson Jennifer Mossotti gave a great deal of credit for the project's success to the dedication and efforts of Banks' project managers.*

The Banks staff members have also assisted the City of Berea with numerous transportation projects over the past 20 years, ranging from shared use paths to the \$40 million Berea Bypass. This long-standing relationship is another indication of our dedication to providing excellent service to our clients.

- **Past record of performance** – Banks Engineering’s workload from its startup to the present has come primarily from repeat business and word-of-mouth referrals, an indication that the firm’s service and production has been consistently excellent. This project will be led by John Steinmetz and Frank Pruitt, who have provided excellent service to LFUCG and other clients for over 20 years.

Urban County individuals who can attest to our character and reliability include Councilperson Jennifer Mossotti, Director of Water Quality Charles Martin, and Municipal Engineer Seniors Keith Lovan and Mark Feibes. Our team’s experience is highlighted above and in the Personnel section of this proposal. Our efficiency is evidenced by the development by John Steinmetz of the Remedial Measures Plans while **meeting every deadline of the strict EPA schedule with no change orders.**

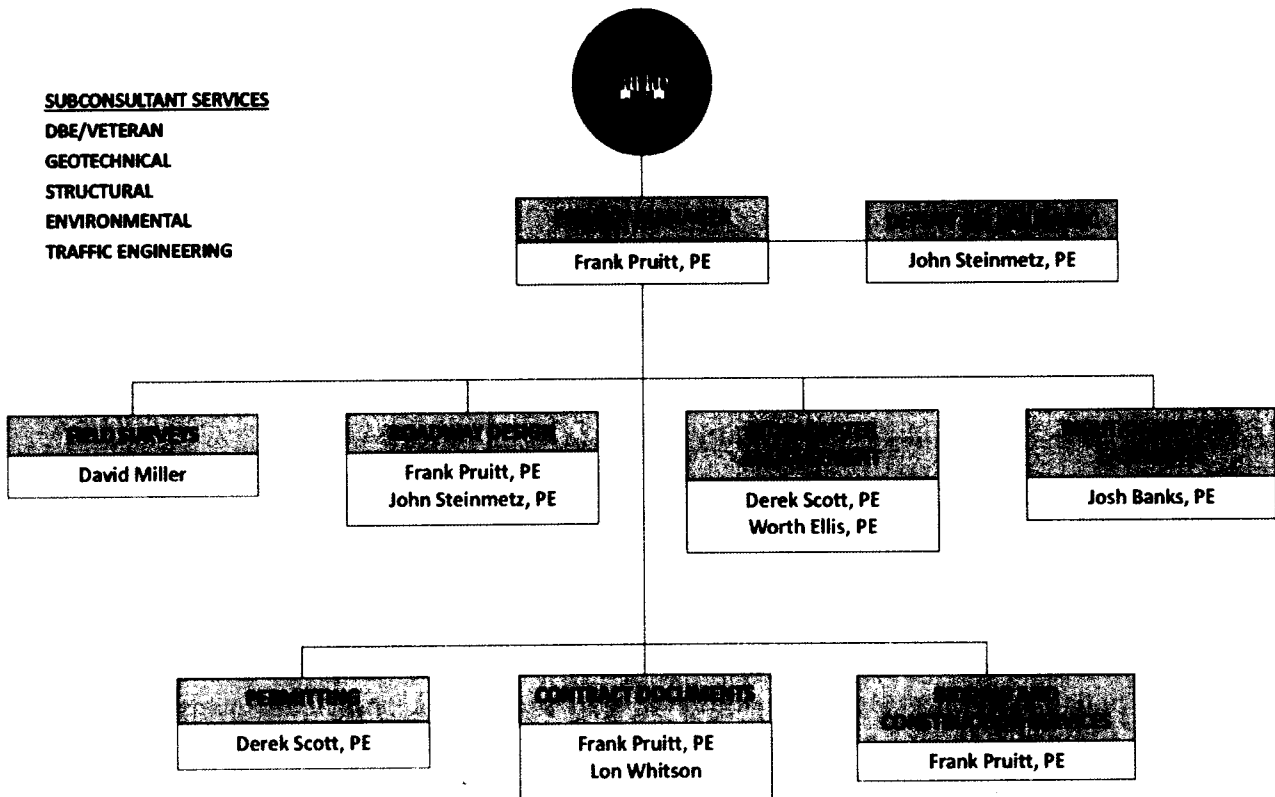
- **Expertise of the proposed project manager** – in addition to the qualifications of Frank Pruitt and John Steinmetz listed above, they have proven repeatedly to the Urban County Government that they can manage large and diverse projects, meeting all budgets and schedules.
- **Low overhead and efficient service** – Banks Engineering is a relatively small firm with a low overhead, which will result in cost-effective service to the Urban County Government.



## PROJECT TEAM

### ORGANIZATIONAL CHART

The following graphic illustrates the proposed staffing for each project. Each of these personnel have excellent qualifications for their role in the projects, and has confirmed that their current and anticipated workload will support giving these projects their highest priority.



### Risk Management Plan

Frank Pruitt, as Project Manager, will be involved in each significant task in the project. John Steinmetz, as Deputy Project Manager, is also a proven project manager for LFUCG and can take over as project manager if necessary.

**Frank Pruitt, P.E.****PROJECT MANAGER****Education**

B.S. Civil Engineering  
University of Kentucky, 1998

**Years of Experience - 18**

**Field of Expertise**

Mr. Pruitt has a variety of transportation and stormwater management experience with infrastructure projects for LFUCG, and has proven his commitment to the success of Urban County Government projects. Mr. Pruitt is well versed in all elements of roadway designs and has significant experience conducting public meetings and coordinating with property owners.

**Relevant Project Experience****Euclid Avenue and Avenue of Champions Multi-Modal Improvements - LFUCG**

Project Engineer for multi-modal improvements to this critical urban corridor linking the University of Kentucky campus to the Chevy Chase commercial and residential district. Primary objectives are to enhance the pedestrian and bicycle facilities while improving the aesthetic character of the 1.25-mile corridor.

**Clays Mill Road Improvements - Lexington-Fayette Urban County Government**

This project involved a scoping study followed by final designs and construction services for approximately 4 miles of 3-lane urban roadways with bike lanes and sidewalks for a “complete street” design concept. The scoping study involved numerous meetings with an appointed advisory committee and numerous public meetings to present designs of alternates and gather feedback.

**Berea Bypass Phases I and II - KYTC and the City of Berea, Kentucky**

Preliminary and final designs for the preparation of right-of-way and construction plans for approximately 6.5 miles of 4 lane and 2 lane rural roadways with shared use trail.

**US 25 Widening - KYTC and the City of Berea, Kentucky**

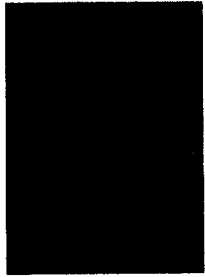
Design of approximately 1.25 miles of 3 lane urban roadway and associated storm drainage systems.

**Woodland Triangle Intersection Improvements - Lexington Fayette Urban County Government**

Redesign of the triangle intersection of East High Street, East Maxwell Street, and Kentucky Avenue adjacent to Woodland Park to include raised medians to redirect traffic flows and allow for improved pedestrian crosswalk safety, and striping plans to include bike lane facilities.

**Southland Drive Bike Lanes - Lexington-Fayette Urban County Government**

Rehabilitation of approximately 1 mile of urban roadway to add bike lanes and associated storm drainage improvements.



**John Steinmetz, P.E.**  
**DEPUTY PROJECT MANAGER**  
**Education**  
B.S. Civil Engineering  
University of Kentucky, 1982  
**Years of Experience - 34**



## Field of Expertise

Mr. Steinmetz has 34 years of relevant experience in a variety of infrastructure projects for LFUCG and other municipal clients. He has successfully managed some of the largest and high-profile projects in recent Lexington history including the Sanitary Sewer Remedial Measures Plans and the Clays Mill Road Improvements. Both of these projects, along with many others, included comprehensive public involvement efforts.

## Relevant Project Experience

### **Euclid Avenue and Avenue of Champions Multi-Modal Designs – Lexington, Kentucky**

Project manager for the development of new streetscape designs to better accommodate pedestrians, bicyclists, private vehicles, and public buses for this 1.25-mile urban corridor that links the University of Kentucky to the Chevy Chase neighborhood. The project also involves aesthetic improvements to the corridor including relocations of overhead utilities and landscaping.

### **Berea Bypass – Berea, Kentucky**

Project Manager for 5.2 miles of new rural multi-lane arterial highway with a shared path from Interstate 75 to KY 21, including alignment studies, preparation of plans and profiles, public involvement meetings, right of way plans and construction plans.

### **Clays Mill Road Scoping Study and Improvements – Lexington, Kentucky**

Project Manager for the reconstruction of approximately 3.4 miles of urban minor arterial, including extensive public involvement to develop a design that addresses congestion and safety issues while maintaining the character of the corridor. Improvements included widening to add a middle turn lane, bike lanes on each side, and a widened sidewalk to facilitate pedestrian movements.

### **North Broadway Streetscape Project – Berea, Kentucky**

Project Manager for the reconstruction of the primary roadway through Old Town, the crafts center and tourist destination of Berea. Project scope elements included on-street parking, landscaping, signage, sidewalk designs, drainage designs, and consideration of budgetary issues. Sidewalk grades were improved to meet Americans with Disabilities Act requirements at building entrances and intersections.

### **Cigar Lane Improvements - Kentucky Horse Park**

Project Manager for design and construction services for approximately 1 mile of 3-lane roadway with a roundabout. The project was completed on a fast-track schedule to be completed prior to the World Equestrian Games.



**Josh D. Banks, P.E., P.L.S.****RIGHTS-OF-WAY AND EASEMENTS****Education**

B.S. Civil Engineering  
University of Kentucky, 2002

**Years of Experience - 17**

**Field of Expertise**

Mr. Banks has 16 years of experience in the civil engineering field and has managed a wide range of projects in and around Central Kentucky. These projects include surveying, planning services, site development, water distribution systems, sanitary sewer collection systems, stormwater management, permitting, easement acquisition, bidding and construction administration, and inspection.

**Relevant Project Experience****Euclid Avenue and Avenue of Champions Multi-Modal Designs – LFUCG**

Principal for the development of new streetscape designs to better accommodate pedestrians, bicyclists, private vehicles, and public buses for this 1.1-mile urban corridor that links the University of Kentucky to the Chevy Chase neighborhood. The project also involves aesthetic improvements to the corridor including relocations of overhead utilities and landscaping.

**Indian Fort Trail, Section 3 – Berea, KY**

Principal for the design of one mile of shared use path completing the route from the urbanized area of Berea to Indian Fort Theatre.

**Eastern Bypass Utility Relocations – Nicholasville Public Utilities**

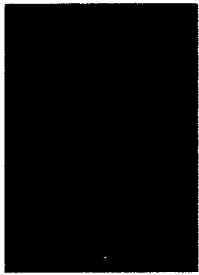
Principal Engineer for the relocation of approximately 10,600 linear feet of 6-inch to 24-inch water mains and 2,330 feet of 8-inch and 18-inch sanitary sewer that were to be impacted by the proposed construction of the Northern and Southern sections of the Eastern Bypass.

**Alta Avenue Parallel Sanitary Sewer Project – City of Nicholasville**

Project Manager and managed field layout, inspection and construction administrator of approximately 4000 feet of 10-inch and 15-inch sanitary sewers that needed to be replaced in an older section of town.

**Town Fork Interceptor Contract 3 – City of Nicholasville, KY**

Principal in charge of courthouse research, easement acquisition, survey layout and construction inspection of 3.5 miles of 8-inch to 48-inch sanitary sewer interceptor lines through areas of Nicholasville & Jessamine County to transport sewage from the old Brown Street WWTP to the Jessamine Creek Water Reclamation Facility on the west side of Nicholasville.

**Worth Ellis, PE****STORMWATER MANAGEMENT****Education**

B.S. Civil Engineering  
University of Kentucky, 2007

**Years of Experience - 10**

**Field of Expertise**

Mr. Ellis has 10 years of experience in the design and management of a wide range of projects, including transportation, storm water management, water distribution systems, sanitary sewer collection systems, and private development. Mr. Ellis has extensive experience with site development, storm sewer drainage and detention analysis, roadway design, and utility design. He has assisted numerous municipalities, corporations, private developers and the Kentucky Transportation Cabinet on various projects throughout the state of Kentucky. Throughout his work on these projects, he has coordinated with many utility companies as well as regulatory agencies.

**Relevant Project Experience****Fulton Road – Winchester, KY**

Project Engineer for the alignment layout, roadways construction plan preparation, drainage analysis and utility relocation for the connection of Fulton Road and East Fulton Road. This project included the relocation of approximately 2,000 linear feet of 12-inch water line with multiple critical connections and detailed system connection details.

**Perryland Road for Begley Properties – Hazard, KY**

Project Engineer for layout, roadway construction plan preparation and drainage analysis for a proposed roadway connecting a new school to KY 80 and associated improvements along KY 80 in Perry County Kentucky

**Rockcastle County Emergency Operations Center – Mt. Vernon, KY**

Project Engineer for civil engineering services for emergency operations center. Performed earthwork analysis to assist in cost estimate evaluations and site selection feasibility. Designed site grading for parking, drives and sidewalks. Graded parking and walkways to be ADA compliant. Provided storm water detention design for site.

**Midway Station for Anderson Communities – Midway, KY**

Project Engineer for the design of a 179-acre mixed use development. Performed site visits to assess proposed options of the development. Assisted with the development of construction plans, assisted with both pre- and post development drainage analysis and aided in the storm sewer design for the site.

**Lon Whitson****CONSTRUCTION DOCUMENTS****Education**

Drafting and Design  
Kentucky State University, 1987

**Years of Experience - 30**

**Field of Expertise**

Mr. Whitson has over 25 years of experience producing exhibits, mapping, drawings and designs using Geographic Information System (GIS) and computer aided drafting and design software (CADD) in the civil, architectural, GIS and mechanical disciplines.

**Relevant Project Experience****Euclid Avenue and Avenue of Champions Multi-Modal Designs – LFUCG**

CADD Tech for the development of new streetscape designs to better accommodate pedestrians, bicyclists, private vehicles, and public buses for this 1.1-mile urban corridor that links the University of Kentucky to the Chevy Chase neighborhood. The project also involves aesthetic improvements to the corridor including relocations of overhead utilities and landscaping.

**Indian Fort Trail, Section 3 – Berea, KY**

CADD Tech for the design of one mile of shared use path completing the route from the urbanized area of Berea to Indian Fort Theatre.

**Berea Traffic Study – Berea, KY**

Preparation of graphics and exhibits for an urban traffic study using the City's GIS information and aerial orthophotos.

**East Nicholasville Bypass Section 2 Utility Relocation – Nicholasville, KY**

Preparation of construction documents for the relocation of water distribution and sanitary sewer facilities to accommodate Section 1 and Section 2 of the East Nicholasville Bypass.

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## LIST OF CLIENTS FOR SIMILAR WORK

Lexington-Fayette Urban County Government  
Division of Planning and Public Works  
Mr. Keith Lovan, Mr. Mark Feibes  
(859) 258-3410  
[klovan@lexingtonky.gov](mailto:klovan@lexingtonky.gov)  
[mfeibes@lexingtonky.gov](mailto:mfeibes@lexingtonky.gov)

City of Berea, KY  
Mr. Randy Stone, City Administrator  
(859) 986-8528  
[rstone@bereaky.gov](mailto:rstone@bereaky.gov)

The projects listed below are a partial listing of relevant experience of the Banks Engineering staff for the clients listed above as well as other municipal and state clients.

- Euclid Avenue and Avenue of Champions Multi-Modal Improvements – LFUCG
- Clays Mill Road Improvements – LFUCG
- Woodland Triangle Intersection Improvements – LFUCG
- Southland Drive Bike Lanes – LFUCG
- Mason Headley Road Improvement – LFUCG
- Cardinal Run Park – Parkers Mill Road Widening – LFUCG
- Cigar Lane Improvements – Kentucky Horse Park (Finance & Administration Cabinet)
- Berea Traffic Study
- Indian Fort Trail – City of Berea
- Mayde Road – KY 595 Bike Path Connector – City of Berea
- Jane Drive Improvements – City of Berea
- US 25 Widening – KYTC and the City of Berea, Kentucky
- Glades Road Reconstruction – Berea, Kentucky
- Berea Trail Master Plan – City of Berea, Kentucky
- Saron Drive Extension to Clearwater Way – LFUCG
- Boone Street Intersection Relocation and Drainage Improvements – Berea, Kentucky
- Carol Road Traffic Study – Winchester, Kentucky
- Menelaus Road Widening – Berea, Kentucky
- US 60 Bridge Replacement and Roadway Reconstruction – Rowan County, Kentucky (KYTC)
- Walnut Street Redevelopment CDBG Project – Nicholasville, Kentucky
- U.S. 23 Reconstruction and Widening – Boyd County, Kentucky (KYTC)

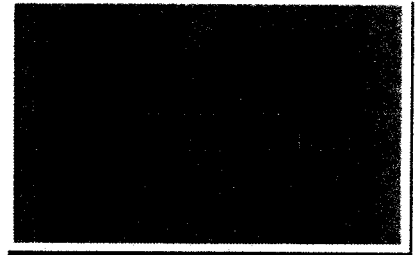
## FIRM REFERENCE PROJECTS

### CLAYS MILL ROAD IMPROVEMENTS

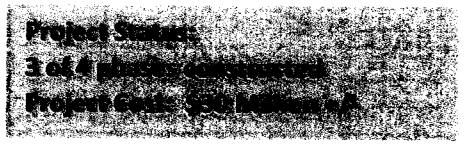
Lexington-Fayette Urban County Government  
Lexington, KY

While with another firm, Banks Engineering's senior engineers served as project manager and lead design engineer for a corridor scoping study and final designs for Clays Mill Road from south of Man o' War Boulevard to Harrodsburg Road, a 3.7-mile arterial within a residential setting. Building public understanding and trust played a major role in the process, and a 22-member advisory committee was formed at the beginning of the project. Representatives from the residential community, corridor users, churches, schools, business leaders, elected officials and several divisions within the Urban County Government formed the majority of the advisory committee. Public meetings and regular advisory committee meetings were conducted to inform and gain public consensus for the project. Project considerations:

- Developing alternatives that address traffic capacity and safety issues while maintaining the residential neighborhood character of the corridor.
- Conducting alignment studies to improve geometrics, reduce congestion, and minimize impacts of construction.
- Improving pedestrian and non-motorized vehicular circulation by including sidewalks and bike lanes along the entire corridor to develop a "complete street".
- Conducting an Environment Assessment to identify any potential adverse impacts.
- Conducting an extensive traffic capacity study and a safety study.
- Implementing a continuous public involvement process including presentations to local organizations and neighborhoods.
- Preparation of a scoping study, final design plans, contract documents, and implementation plan.
- Assistance with bidding and construction of multiple project phases.



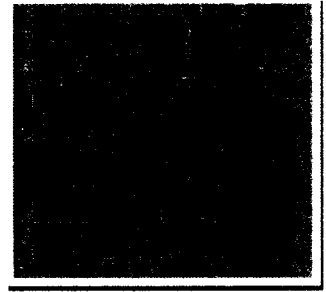
This project was one of the most controversial Lexington projects in history, and the successful consensus-building effort ended two decades of controversy.



## URBAN ROADWAY IMPROVEMENTS / BICYCLE LANES

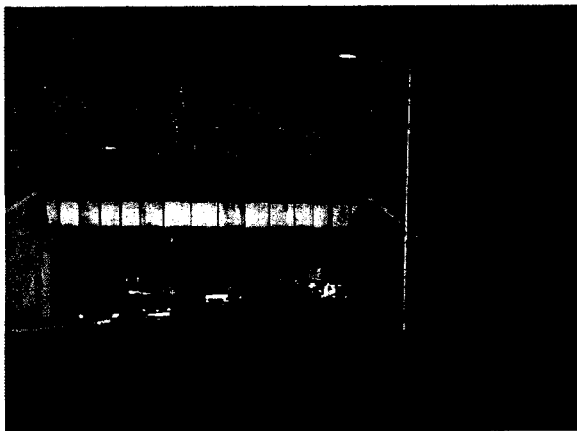
### Lexington, KY

While with another firm, Banks Engineering's senior engineer managed the design and preparation of construction documents for two separate urban roadway improvements to add bicycle lanes and enhance pedestrian safety.



### Southland Drive Bike Lanes

Rehabilitation of approximately 1 mile of urban roadway to add bike lanes and associated storm drainage improvements. This project included resurfacing of Southland Drive and the construction of a section of sidewalk through a railroad overpass constriction.

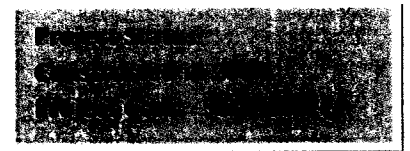


### Woodland Triangle Intersection

Redesign of the triangle intersection of East High Street, East Maxwell Street, and Kentucky Avenue adjacent to Woodland Park including raised medians to redirect traffic flows and allow for improved pedestrian crosswalk safety, and striping plans to include bike lane facilities.

Both of these projects included the following services:

- Alignment development to provide the planned level of service and improve safety
- Review of alternatives to avoid or minimize property and utility impacts, right-of-way acquisition, and construction cost
- Preparation of plan and profile sheets using the Lexington-Fayette Urban County Government's GIS mapping supplemented by additional field surveys
- Drainage designs, connecting to and improving existing drainage facilities



## LOCAL OFFICE (Attachment 1)

Prime Consultant	Location (City, State)	Date Office Established	Total Number of Employees	No. of Employees expected to work on LFUCG projects
Headquarters	Nicholasville, KY	2009	12	8
Local Office	Nicholasville, KY	2009	12	8
PM Location	Nicholasville, KY			
<b>Sub Consultants:</b>				
All sub consultants shall be Lexington firms				

**Notes:**

1. "Headquarters" refers to the corporate office that provides project support to the local office, if applicable. If support comes from multiple locations, use the blank spaces in the form to provide relevant information.
2. Listing of sub-consultants is optional and should only be provided if the prime consultant considers the sub-consultant(s) services to be essential to meeting the required qualifications. In this event, documentation from the sub consultant(s) shall be submitted in the SOQ that provides a commitment to be a part of the prime consultant's team in providing the stated services. In such cases, for the purpose of evaluating the proposals, committed sub-consultants will be considered to be part of the prime consultant's workforce. Prime consultants face potential disqualification from future work if DWQ finds that the identified sub-consultants are not being utilized to deliver assigned work products.

## DBE INVOLVEMENT

Banks Engineering is fully committed to meeting or exceeding the DBE goals of the Urban County Government. Sub consultants will be chosen for individual projects based on the specific scopes of work.

## AFFIDAVIT

Comes the Affiant, Banks Engineering, Inc., and after being first duly sworn, states under penalty of perjury as follows:

1. His/her name is Jason D. Banks, PE, PLS and he/she is the individual submitting the proposal or is the authorized representative of Banks Engineering, Inc., 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.

*Jason Banks*  
STATE OF Kentucky  
COUNTY OF Jessamine

The foregoing instrument was subscribed, sworn to and acknowledged before me  
by Jason Banks on this the 9 day  
of November, 2016.

My Commission expires: 1-26-20

*Michelle M. Gifford*  
NOTARY PUBLIC, STATE AT LARGE



**MICHELLE M. GIFFORD**  
**NOTARY PUBLIC**  
STATE AT LARGE  
KENTUCKY  
MY COMMISSION EXPIRES 1-26-20  
NOTARY ID# 549303

## EQUAL OPPORTUNITY AGREEMENT

### The Law

- Title VII of the Civil Rights Act of 1964 (amended 1972) states that it is unlawful for an employer to discriminate in employment because of race, color, religion, sex, age (40-70 years) or national origin.
- Executive Order No. 11246 on Nondiscrimination under Federal contract prohibits employment discrimination by contractor and sub-contractor doing business with the Federal Government or recipients of Federal funds. This order was later amended by Executive Order No. 11375 to prohibit discrimination on the basis of sex.
- Section 503 of the Rehabilitation Act of 1973 states:

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

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

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

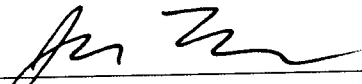
\*\*\*\*\*

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

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

### Bidders

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

  
\_\_\_\_\_  
Signature

Banks Engineering, Inc.

\_\_\_\_\_  
Name of Business

**WORKFORCE ANALYSIS FORM**

Name of Organization: Banks Engineering, Inc.

Categories	Total	White (Not Hispanic or Latino)		Hispanic or Latino		Black or African-American (Not Hispanic or Latino)		Native Hawaiian and Other Pacific Islander (Not Hispanic or Latino)		Asian (Not Hispanic or Latino)		American Indian or Alaskan Native (not Hispanic or Latino)		Two or more races (Not Hispanic or Latino)		Total	
		M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Administrators																	
Professionals		6															6
Superintendents																	
Supervisors																	
Foremen																	
Technicians		5															5
Protective Service																	
Para-Professionals																	
Office/Clerical			1														1
Skilled Craft																	
Service/Maintenance																	
<b>Total:</b>		11	1														11 1

Prepared by: Jason D. Banks, PE, PLS, President Date: 11 / 10 / 16  
*(Name and Title)* *Revised 2015-Dec-15*

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

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

Notice of requirement for Affirmative Action to ensure Equal Employment Opportunities and Disadvantaged Business Enterprises (DBE) Contract participation. Disadvantaged Business Enterprises (DBE) consists of Minority-Owned Business Enterprises (MBE) and Woman-Owned Business Enterprises (WBE).

The Lexington-Fayette Urban County Government has set a goal that not less than ten percent (10%) of the total value of this Contract be subcontracted to Disadvantaged Business Enterprises, which is made up of MBEs and WBEs. The Lexington Fayette Urban County Government also has set a goal that not less than three percent (3%) of the total value of this Contract be subcontracted to Veteran-owned Small Businesses. The goal for the utilization of Disadvantaged Business Enterprises as well Veteran –owned Small Businesses as subcontractors is a recommended goal. Contractor(s) who fail to meet such goal will be expected to provide written explanations to the Director of the Division of Purchasing of efforts they have made to accomplish the recommended goal, and the extent to which they are successful in accomplishing the recommended goal will be a consideration in the procurement process. Depending on the funding source, other DBE goals may apply.

For assistance in locating Disadvantaged Business Enterprises Subcontractors contact:

Sherita Miller, MPA, Division of Central Purchasing  
Lexington-Fayette Urban County Government  
200 East Main Street, 3rd Floor, Room 338  
Lexington, Kentucky 40507  
[smiller@lexingtonky.gov](mailto:smiller@lexingtonky.gov)

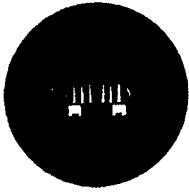
Firm Submitting Proposal: Banks Engineering, Inc.

Complete Address: 1211 Jessamine Station, Nicholasville, KY 40356  
Street City Zip

Contact Name: Jason D. Banks, PE, PLS Title: President

Telephone Number: (859) 881-0020 Fax Number: N/A

Email address: jasonbanks@banksengineering.net



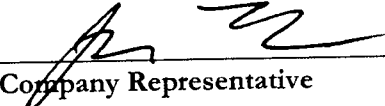
**LFUCG MWDBE PARTICIPATION FORM**  
 Bid/RFQ/Quote Reference # 38-2016

The MWDBE and/or veteran subcontractors listed have agreed to participate on this Bid/RFQ/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. **Failure to submit a completed form may cause rejection of the bid.**

MWDBE Company, Name, Address, Phone, Email	MBE WBE or DBE	Work to be Performed	Total Dollar Value of the Work	% Value of Total Contract
1. To be determined	MBE / WBE			10% min.
2. 2020 Land Surveying 2216 Young Drive Lexington, KY 40505 (859) 351-2171 jdd75@msn.com	VOB	Field Surveys		3% min.
3.				
4.				

The undersigned company representative submits the above list of MWDBE firms to be used in accomplishing the work contained in this Bid/RFQ/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.

Banks Engineering, Inc.  
 Company  
11/10/16  
 Date

  
 Company Representative  
President  
 Title

## 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 RFQ 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 RFQ. 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 RFQ to be submitted with the proposal,
10. Ambiguity, Conflict or other Errors in RFQ: If a Respondent discovers any ambiguity, conflict, discrepancy, omission or other error in the RFQ, 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 RFQ, proposer states that it understands the meaning, intent and requirements of the RFQ 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.

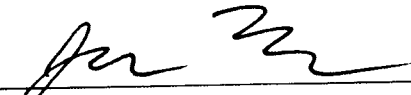
#### B. At Will Termination

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.

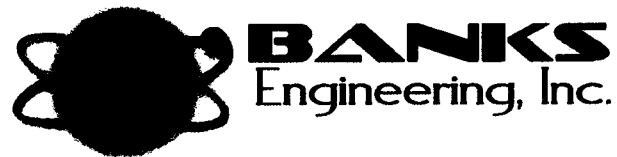
- 13. **Assignment of Contract:** The contractor shall not assign or subcontract any portion of the Contract without the express written consent of LFUCG. Any purported assignment or subcontract in violation hereof shall be void. It is expressly acknowledged that LFUCG shall never be required or obligated 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

11/10/16  
\_\_\_\_\_  
Date



**2016 Affirmative Action Program  
for Women and Minorities**

**Banks Engineering  
1211 Jessamine Station  
Nicholasville, KY 40356**

**EQUAL EMPLOYMENT OPPORTUNITY / AFFIRMATIVE ACTION POLICY  
STATEMENT**


It is the policy of Banks Engineering to consider all qualified applicants for available positions without regard to race, color, sex, religion, age, national origin, disability, or veteran status. Advancement to positions of greater responsibility is based on an individual's demonstrated performance.

Banks Engineering is committed to the EQUAL EMPLOYMENT OPPORTUNITY POLICY and as part of the Affirmative Action plan will:

- recruit, hire, upgrade, train, and promote in all job classifications without regard to race, color, sex, religion, age, national origin, disability, or veteran status;
- base employment decisions on the principles of Equal Employment Opportunity and with the intent to further the company's commitment to affirmative action and workplace diversity;
- ensure that all other personnel actions such as compensation benefits, company-sponsored training, educational tuition assistance, social and recreational programs, shall be administered without regard to race, color, sex, religion, age, national origin, veteran status, or disability;
- take affirmative action to ensure that minority group individuals, women, veterans of the Vietnam Era, qualified persons with a disability, and disabled veterans are introduced into the workforce and that these employees are encouraged to aspire for promotion and are considered, as promotional opportunities arise; and
- ensure that employees and applicants are not subjected to intimidation and/or harassment, threats, coercion, or discrimination because they have filed a complaint, assisted or participated in an investigation or any other activity, or opposed any act or practice made unlawful by VEVRAA 503. 60-741.44 (a) and 503. 60-250.44 (a).

In keeping with the above commitments and policy, Banks Engineering will analyze its personnel transactions once a year to ensure equal opportunity for all individuals. As with any other company goals, management's performance regarding the Affirmative Action Program will be evaluated.

Banks Engineering will ensure that the intent and practice of this policy is carried out. The ultimate responsibility for fulfilling the intent of this policy, however, lies with every department head and supervisor.

  
\_\_\_\_\_  
Signature

11-9-16  
\_\_\_\_\_  
Date

President  
\_\_\_\_\_  
Title



BANKENG-01

KATIEC

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
08/25/2017

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 have ADDITIONAL INSURED provisions or 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).

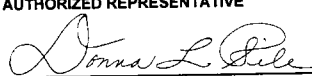
PRODUCER Logan Lavelle Hunt of Lexington 121 Prosperous Place Ste 2 Lexington, KY 40509	CONTACT NAME: <b>Katie Collett</b>	FAX (A/C, No): <b>(859) 254-0894</b>	
	PHONE (A/C, No, Ext): <b>(859) 255-7282</b>	E-MAIL ADDRESS: <b>companyinquiries@llhlex.com</b>	
INSURED  <b>Banks Engineering Inc.</b> 1211 Jessamine Station Rd. Nicholasville, KY 40356	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A : <b>Hartford Fire Insurance</b>		<b>19682</b>
	INSURER B : <b>Hartford Insurance Co.</b>		<b>11000</b>
	INSURER C : <b>Arch Insurance Group</b>		
	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 INSP WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	33SBAUR2377	08/31/2017	08/31/2018	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 EPLI \$ 100,000
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY      SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY      NON-OWNED AUTOS ONLY	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	33UECZB7612	08/31/2017	08/31/2018	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR EXCESS LIAB      CLAIMS-MADE	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	33SBAUR2377	08/31/2017	08/31/2018	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ Prod Com Agg \$ 1,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/> N/A	33WECAA4NLB	07/01/2017	07/01/2018	PER STATUTE      OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	Errors & Omissions		PAAEP0020300	12/07/2016	12/07/2017	Per Claim 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
Certificate Holder is Additional Insured with respect to Liability policies only when required by written contract. Coverage will be Primary and Non-Contributory. A 30 day notice of cancellation will be provided to certificate holder

<b>CERTIFICATE HOLDER</b>  LFUCG 200 E Main St Lexington, KY 40507	<b>CANCELLATION</b>  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  

**EXHIBIT C**

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

**1. Project Assignment Form Template**

**LFUCG PROJECT ASSIGNMENT NO. \_\_\_\_\_**  
**UNDER LFUCG AGREEMENT WITH \_\_\_\_\_ FOR**

---

**CONSULTANT**

**OWNER**

<b>Name</b>		Lexington Fayette Urban County Government
<b>Street Address</b>		200 East Main Street
<b>City, State, Zip</b>		Lexington, KY 40507
<b>Contact Person</b>		
<b>Telephone</b>		859-258-3410
<b>Fax</b>		859-258-3458
<b>E-Mail</b>		

**Project Assignment Date:** \_\_\_\_\_

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

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

**SCOPE OF WORK/DELIVERABLES**

**SCHEDULE OF WORK**

**FEE**

**ACCEPTED BY:**

**AUTHORIZED BY:**

\_\_\_\_\_  
Consultant's Authorized Signature

\_\_\_\_\_  
Owner's Authorized Signature

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Date Signed

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