

**HARDIN COUNTY FISCAL COURT
RESOLUTION NO. 2012-035**

WHEREAS, Hardin County, Kentucky desires to enter into an agreement with Lincoln Trail Area Development District (LTADD) for professional services for the Federal Transportation Enhancement Program for the Historic Glendale Community Enhancement Project.

WHEREAS, the County of Hardin has entered into an agreement with the Commonwealth of Kentucky for the implementation of a Federal-Aid Transportation Enhancement Project; and,

WHEREAS, the County of Hardin desires to engage the LTADD to render certain technical assistance services in connection with its Federal-Aid Transportation Enhancement Project;

NOW THEREFORE, BE IT RESOLVED this 27th day of March 2012 by Hardin County, Kentucky,

The Judge/Executive is hereby authorized to sign and execute all required documentation, including a Contract/Agreement for Professional Services, as may be required for the furtherance of the above-referenced project and to act as the authorized correspondent for said project.

ADOPTED, by Hardin County Fiscal Court in its regular meeting this 27th day of March 2012.


Harry L. Berry
Hardin County Judge/Executive

ATTEST


Kenneth L. Tabb
Hardin County Clerk

CONTRACT FOR PROFESSIONAL SERVICES

Federal Transportation Enhancement Program
Historic Glendale Community Enhancement Project

PART I -- AGREEMENT

This Contract for professional services is by and between the Hardin County Fiscal Court, State of Kentucky (hereinafter called the "County") acting herein by Harry L. Berry, Judge/Executive, hereunto duly authorized and Lincoln Trail Area Development District (hereinafter called the "LTADD"), acting herein by Wendell C. Lawrence, Executive Director, hereunto duly authorized;

WITNESSETH THAT:

WHEREAS, the County has entered into an agreement with the Commonwealth of Kentucky for the implementation of a Federal-Aid Transportation Enhancement (TE) Project; and,

WHEREAS, the County desires to engage the LTADD to render certain technical assistance services in connection with its Federal-Aid Transportation Enhancement (TE) Project:

NOW, THEREFORE, the parties do mutually agree as follows:

A. Employment of LTADD

The County hereby agrees to engage the LTADD and the LTADD hereby agrees to perform the following Scope of Services:

B. Scope of Services

The LTADD shall, in a satisfactory and proper manner, perform the following services:

1. Assist the County in following the guidelines established in the *Interim Federal-Aid Project Development Guide for Local Public Agencies – December 18, 2009.*
2. Ensure the requirements established in the *Kentucky Federal-Aid Highway Program Stewardship Plan – July 2, 2008* are met.
3. Coordinate with the County the Request for Payments to ensure consistency with the accounting procedures established for the Federal-Aid Transportation Enhancement Program.
4. Ensure that the County has an acceptable financial management system as it pertains to finances of the Federal-Aid Transportation Enhancement Program.
5. Establish project files in local government office. These files must demonstrate compliance with all applicable Federal, State, and Local regulations. Monitor projects files throughout the project to ensure they are complete and that all necessary documentation is being retained in the County's files.

6. If applicable to the project, assist recipients in complying with regulations governing land acquisition (real property, easements, rights-of-way, donation of property, etc.).
7. Prepare Semi-Annual Progress Reports for submittal to the Kentucky Transportation Cabinet.
8. Assist the County and Community with purchasing procedures that follow the County's Procurement Procedures.
9. Obtain determination of contractor and subcontractor eligibility from the State.
10. Assist the Hardin County Engineer and Hardin County Road Supervisor on Progress Inspection and Certification.
11. Work with the Hardin County Engineer on final inspection and final certificate of payment.
12. Prepare closeout documents to include Program Completion Report, Final Wage Compliance Report and Certificate of Completion.
13. Assist the County on monitoring visits and resolution of any findings.

Services in each of the above work areas shall be performed under and at the direction of the County Judge/Executive, or his designated representative.

C. Time of Performance

The services of the LTADD shall commence on March 15, 2012. Such services shall be continued in such sequence as to assure their relevance to the purposes of this Contract. In any event, all of the services required and performed hereunder shall be the same as the close-out date of the project.

D. Access to Information

It is agreed that all information, data, reports, records and maps as are existing, available and necessary for the carrying out of the work outlined above, shall be furnished to the LTADD by the County and its agencies. No charge will be made to the LTADD for such information, and the County and its agencies will cooperate with the LTADD in every way possible to facilitate the performance of the work described in this Contract.

E. Compensation and Method of Payment

The total amount of compensation and reimbursement to be paid hereunder shall be \$7,500.00 for all services required. The LTADD shall submit periodic invoices to the County for payment. These invoices shall be on a flat-fee basis not to exceed contract amount. Invoices shall be submitted by the tenth day of the month. The County will make payment to the LTADD within twenty (20) days after the receipt of each invoice.

F. Ownership Documents

All documents, including original drawings, estimates, specifications, field notes and data are the property of the County. LTADD may retain reproducible copies of drawing and other documents.

G. Professional Liability

LTADD shall be responsible for the use of reasonable skill and care befitting the profession in the preparation of particular drawings, plans, specifications, studies and reports and in the designation of particular materials for the project covered by this Contract.

H. Indemnification

The LTADD shall comply with the requirements of all applicable laws, rules and regulations in connection with the services of LTADD, and shall exonerate, indemnify and hold harmless the County, its officers, agents and all employees from and against them, and local taxes or contributions imposed or required under the Social Security, Workers' Compensation, and Income Tax laws. Further, LTADD shall exonerate, indemnify and hold harmless the County with respect to any damages, expenses or claims arising from or in connection with any of the work performed or to be performed under this Contract by LTADD. This shall not be construed as a limitation of the LTADD's liability under the Contract or as otherwise provided by law.

I. Terms and Conditions

This Contract is subject to the provision titled, "Part II -- Terms and Conditions," attached hereto and incorporated by reference herein.

J. Address of Notices and Communications

Harry L. Berry, Judge/Executive
Hardin County Fiscal Court
P.O. Box 568
Elizabethtown, Kentucky 42702

Wendell C. Lawrence, Executive Director
613 College Street Road
Elizabethtown, Kentucky 42702-0604

K. Captions

Each paragraph of this Contract has been supplied with a caption to serve only as guide to the contents. The caption does not control the meaning of any paragraph or in any way determine its interpretation or application.

L. Authorization

HARDIN COUNTY FISCAL COURT

By:  Date: 3/27/12
Harry L. Berry, County Judge/Executive

Attest:  Date: 3/27/12
Kenneth L. Tabb, Hardin County Clerk

LINCOLN TRAIL AREA DEVELOPMENT DISTRICT

By: _____ Date: _____
Wendell C. Lawrence, Executive Director

Attest: _____ Date: _____

CONTRACT FOR PROFESSIONAL SERVICES

PART II -- TERMS AND CONDITIONS

A. Termination of Contract for Cause

If, through any cause, the LTADD shall fail to fulfill in timely and proper manner its obligations under this Contract, or if the LTADD shall violate any of the covenants, agreements or stipulations of this Contract, the County shall thereupon have the right to terminate this Contract by giving written notice to the LTADD of such termination and specifying the effective date thereof, at least five days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the LTADD under this Contract shall, at the option of the County, become its property and the LTADD shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

Notwithstanding the above, the LTADD shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the Contract by the LTADD, and the County may withhold any payments to the LTADD for the purpose of set-off until such time as the exact amount of damages due the County from the LTADD is determined.

B. Termination for Convenience of the County

The County may terminate this Contract at any time by giving at least ten (10) days notice in writing to the LTADD. If the Contract is terminated by the County as provided herein, the LTADD will be paid for the time provided and expenses incurred up to the termination date. If this Contract is terminated due to the fault of the LTADD, Paragraph 1 hereof relative to termination shall apply.

C. Changes

The County may, from time to time, request changes in the scope of services of the LTADD to be performed hereunder. Such changes, including any increase or decrease in the amount of the LTADD's compensation, which are mutually agreed upon by and between the County and the LTADD, shall be incorporated in written amendments to this Contract.

D. Personnel

1. The LTADD represents that it has, or will secure at its own expense, all personnel required in performing the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the County.
2. All of the services required hereunder will be performed by the LTADD or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and local law to perform such services.
3. None of the work or services covered by this Contract shall be subcontracted without the prior approval of the County. Any work or services subcontracted hereunder shall be

specified by written contract or agreement and shall be subject to each provision of this Contract.

E. Assignability

The LTADD shall not assign any interest on this Contract, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the County thereto: provided, however, that claims for money by the LTADD from the County under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the County.

F. Reports and Information

The LTADD, at such times and in such forms as the County may require, shall furnish the County such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Contract, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Contract.

G. Findings Confidential

All of the reports, information, data, etc., prepared or assembled by the LTADD under this Contract are confidential and the LTADD agrees that they shall not be made available to any individual or organization without the prior written approval of the County.

H. Copyrights and Patents

Any copyrightable work resulting from this Agreement is available to the author for such, but the County and the Kentucky Governors Office for Local Development reserve the option for unlimited use and license to such work. Any discovery or invention shall be reported promptly to the County and the Kentucky Governors Office for Local Development for the determination as to whether patent protection should be sought and how the rights of any patent shall be disposed of and administered in order to protect the public interest. No reports, maps, or other documents produced in whole or in part under this Contract shall be the subject of an application for copyright by or on behalf of the LTADD.

I. Compliance with Local Laws

The LTADD shall comply with all applicable laws, ordinances and codes of the State and local governments, and the LTADD shall hold the County harmless with respect to any damages arising from any actions committed in performing any of the work embraced by this Contract.

J. Access To Records

The LTADD shall maintain accounts and project records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the County to assure proper accounting for all project funds, both HMGP and non-HMGP shares. These records will be made available to the County, the Kentucky Office of Emergency Management, Federal Emergency Management

Agency, and the Comptroller General of the United States, or any of their duly authorized representatives. These parties shall have access to any books, documents, papers and records of the LTADD, which are directly pertinent to the project for the purpose of making audit, examination, excerpts and transcriptions. All records shall be maintained for three years after project closeout.

K. Title VI Civil Rights Act of 1964

Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

L. Section 109 of the Housing and Community Development Act of 1974

No person in the United States shall on the ground of race, color, national origin or sex can be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

M. Conflict of Interest Clauses

1. Interest of Members of a County

No member of the governing body of the County and no other officer, employee, or agent of the County who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract; and the LTADD shall take appropriate steps to assure compliance.

2. Interest of Other Local Public Officials

No member of the governing body of the locality and no other public official of such locality, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract; and the LTADD shall take appropriate steps to assure compliance.

3. Interest of LTADD and Employees

The LTADD covenants that it presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of its services hereunder. The LTADD further covenants that in the performance of this Contract, no person having such interest shall be employed.

N. "Section 3" Compliance

1. The work to be performed under this Contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban

Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.

2. The parties to this Contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this Contract. The parties to this Contract certify and agree that they are under no contractual or other disability, which would prevent them from complying with these requirements.
3. Lincoln Trail Area Development District will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment and training.
4. LTADD will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. LTADD will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
5. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued hereunder prior to the execution of the contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

O. Equal Opportunity Clause

During the performance of this Contract, LTADD agrees as follows:

1. LTADD will not discriminate against any employee or applicant for employment because of race, creed, sex, color or national origin. LTADD will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, sex, color or national origin. 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 of training, including apprenticeship. LTADD agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the County setting forth the provisions of this non-discrimination clause.

2. LTADD will, in all solicitation or advertisements for employees placed by or on behalf of LTADD, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex or national origin.
3. LTADD will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
4. LTADD will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
5. LTADD will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the County's Department of Housing and Community Development and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
6. In the event of LTADD's noncompliance with the non-compliance clause of this Contract or with any of such rules, regulations or orders, this Contract may be canceled, terminated or suspended in whole or in part and LTADD may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.
7. LTADD will include the provisions of paragraphs (A) through (G) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. LTADD will take such action with respect to any subcontract or purchase order as the County's Department of Housing and Community Development may direct as a means of enforcing such provisions including sanctions for noncompliance: provided, however, that in the event LTADD becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the County's Department of Housing and Community Development, LTADD may request the United States to enter such litigation to protect the interests of the United States.

P. Contract Work Hours and Safety Standards Act

All grantees and subgrantee's contracts must contain provisions requiring compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 USC 327-330)

as supplemented by Department of Labor regulations (29 CFR Part 5) where construction contracts are awarded by grantees or subgrantees in excess of \$2,000, and in excess of \$2,500 for other contracts involving the employment of mechanics and laborers.

Q. Certification of Compliance with Air and Water Acts

Compliance with Air and Water Acts

During the performance of this Contract, the Contractor and all Subcontractors shall comply with the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Contract Act, as amended, 33 USC 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended.

In addition to the foregoing requirements, all nonexempt" Contractors and Subcontractors shall furnish to the Owner, the following:

1. A stipulation by the Contractor or Subcontractors, that any facility to be utilized in the performance of any nonexempt contract or subcontract, is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 15.20.
2. Agreement by the Contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 USC 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 USC 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
3. A stipulation that as a condition for the award of the Contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized, or to be utilized for the Contract, is under consideration to be listed on the EPA List of Violating Facilities.
4. Agreement by the Contractor that he will include, or cause to be included, the criteria and requirements in paragraphs A through D of this section in every nonexempt subcontract and requiring that the Contractor will take such actions as the Government may direct as a means of enforcing such provisions.

R. Energy Efficiency

The Contractor shall recognize mandatory standards and policies relating to energy efficiency, which are contained in the State Energy Conservation Plan issued in Compliance with the Energy Policy and Conservation Act.