

**MADISON COUNTY FISCAL COURT
MADISON COUNTY, KY
RESOLUTION 2022-101**

**A RESOLUTION TO APPROVE A PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE MADISON COUNTY FISCAL COURT AND MWM CONSULTING, LLC**

WHEREAS, the Madison County Fiscal Court (the "County") wishes to enter into a Professional Services Agreement with MWM Consulting, LLC; and

WHEREAS, economic development and the creation of jobs is a priority for Madison County; and

WHEREAS, MWM Consulting, LLC will conduct an Economic Development Study for the County to determine the best locations and industries to recruit to Madison County; and

WHEREAS, MWM Consulting, LLC and the County agree to the terms of the attached Proposal for an Economic Development Analysis and application for the State Product Development Initiative (PDI) to receive grant funding;

NOW, THEREFORE, BE IT RESOLVED THAT THE FISCAL COURT DOES HEREBY APPROVE THIS RESOLUTION AND AUTHORIZES THE JUDGE EXECUTIVE AND/OR HIS DESIGNEE TO EXECUTE SAME ON BEHALF OF THE COUNTY.

Motion made by Tudor, seconded by Botkin.

Vote:	Yes	No
Judge Executive Reagan Taylor	☒	☐
Magistrate Ben Robinson III	☒	☐
Magistrate John Tudor	☒	☐
Magistrate Roger Barger	<u>ABSENT</u>	☐
Magistrate Tom Botkin	☒	☐

Signed:

R-Taylor
Reagan Taylor
Madison County Judge Executive

7-26-2022
Date

Attested:

Kenny Barger
Kenny Barger
Madison County Clerk

7-26-2022
Date

CONSULTING AGREEMENT

THIS CONSULTING AGREEMENT (this "Agreement") is made and entered into this the 26TH day of July, 2022, by and between **MWM Consulting, LLC** a Kentucky limited liability company ("Consultant"), and **Madison County Fiscal Court** (the "Community").

WITNESSETH:

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Services to be Provided.

(a) The Community hereby engages Consultant and Consultant hereby accepts such engagement, to provide such consulting services identified on Exhibit "A" attached hereto and incorporated herein, and such other services as the Community may from time to time reasonably request (collectively, the "Services"), in connection with the business of the Community.

(b) Consultant agrees that during the term of this Agreement, it will perform such Services in an ethical manner and in accordance with the commercially reasonable standards of care, diligence, skill and judgment normally exercised by unaffiliated professional firms and individuals operating on an arm's length basis with respect to services of a similar nature. Further, Consultant shall comply with all applicable laws (including rules, regulations, codes, plans, injunctions, judgments, orders, decrees, rulings, and charges thereunder and including laws prohibiting bribery and other corrupt practices) of federal, state, local, and foreign governments (and all agencies thereof). Consultant shall be permitted to engage in other business interests of Consultant so long as such business activity does not interfere with the performance of Consultant's duties and obligations hereunder.

2. Term. The Term of this Agreement shall commence on the date of this Agreement and shall terminate upon completion of the Services enumerated in Exhibit A, or until canceled by either Party. In the event the Agreement is canceled by the Community under circumstances not constituting a Breach of this Agreement, Consultant shall be entitled to the Compensation set forth in Exhibit B

3. Compensation. In exchange for the services provided by Consultant, Consultant shall be paid in accordance with Exhibit "B" attached hereto and incorporated herein.

4. Confidentiality. Consultant acknowledges and agrees that any Confidential Information obtained by Consultant while engaged pursuant to this Agreement concerning the Community is important to the Community and to the effective operation of the Community's business. The term "Confidential Information" shall include the existence of this Agreement and all the Community's information, documentation, data, materials, trade secrets, business processes, and intellectual property, but shall not include, and the obligations imposed under this Agreement shall not apply to Confidential Information that is: (a) made public by the Community; (b) generally available to the public other than by a breach of this Agreement by Consultant; (c) was known to Consultant prior to receipt from the Community; and/or (d) rightfully received from

a third person having the legal right to disclose the Confidential Information free of any obligation of confidence.

Consultant will not use or disclose to any third party the Confidential Information for any purpose other than to perform its obligations and exercise its rights granted under this Agreement. If Consultant is legally requested or required to disclose the Confidential Information to any third party, Consultant shall promptly notify the Community of such request or requirement prior to disclosure so the Community may seek an appropriate protective order and/or waive compliance with the terms of this Agreement. Consultant agrees to protect the confidentiality of the Confidential Information in the same manner and utilizing the same safeguards that it protects the confidentiality of its own proprietary and confidential information, but in no event using less than reasonable care.

5. Independent Contractor.

(a) The Community and Consultant hereby affirm that Consultant is an independent Consultant and not an employee of the Community. Consultant acknowledges and understands that, as an independent Consultant, Consultant will not be eligible for any benefits or privileges to which employees of the Community are entitled. Rather, the only benefits or privileges for which Consultant may be eligible are those specifically set forth in this Agreement. Consultant also acknowledges that, as an independent consultant, the compensation that Consultant receives pursuant to this Agreement shall not be considered "wages" for purposes of income tax withholding, the Federal Insurance Contributions Act ("FICA"), and unemployment taxes. Consultant further acknowledges that Consultant is solely responsible for any tax liability arising from payments made under this Agreement, and Consultant agrees to indemnify the Community fully from any and all liability that might be assessed against the Community for Consultant's failure to withhold or pay taxes on such compensation.

(b) Consultant shall not have any authority to assume or create any obligation, express or implied, on behalf of the Community, and Consultant shall have no authority to represent the Community as an employee or agent or in any other capacity.

(c) With respect to all services rendered under the terms of this Agreement, Consultant agrees that Consultant, (i) shall not be eligible for, nor make any claim or seek participation in any Community employee benefit plan, policy, or practice, including but not limited to any savings, pension, bonus, health, welfare, severance, or vacation plan, policy or practice, even if Consultant, is, or is deemed classified at any time by a finding by any agency, court or other tribunal or by any other means, as, for any purpose, an "employee" or a "common law employee" of the Community or any affiliate thereof, or (ii) to the fullest extent allowed by law, shall not be eligible for, nor make any claim under, any workers compensation plan or unemployment insurance.

6. Cooperation with the Community After Termination. Following termination of this Agreement, Consultant shall fully cooperate with the Community in all matters relating to the winding up of work on behalf of the Community and the orderly transfer of any pending work to such persons as may be designated by the Community.

7. Surrender of Books and Records. Consultant acknowledges that all files, records, lists, books, literature, and other materials owned by the Community or used by it in connection with the conduct of its business shall at all times remain the property of the Community. Upon termination of this Agreement, regardless of cause, Consultant, or its representative, will surrender to the Community all such files, records, lists, books, literature and other materials.

8. Limitations on Liability. Consultant's and its owners' and employees' total liability arising out of this Agreement shall be limited to an amount equal to the lesser of (a) the fees paid to Consultant during the course of this Agreement or (b) \$5,000.00. In no event shall either party or its owners or employees be liable to any other party for any indirect, incidental, special, consequential or exemplary damages.

9. Miscellaneous.

(a) Governing Law and Venue. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Kentucky without regards to its choice of law provisions. The parties hereto agree and submit to the exclusive jurisdiction of the state and federal courts situated in Frankfort, Kentucky, in the event any action or proceeding is commenced by either party arising from, related to, or in connection with this Agreement.

(b) Validity. The invalidity or unenforceability of any provisions of the Agreement shall not affect the validity or enforceability of any other provisions of the Agreement and such other provisions shall remain in full force and effect.

(c) Modification and Amendment. This Agreement shall not be modified or amended except by an instrument in writing signed by or on behalf of the parties hereto.

(d) Notices. All notices, requests, demands and other communications required or permitted to be given or made under this Agreement shall be in writing will be deemed to have been given on the date of delivery personally or by confirmed facsimile or by deposit in the United States Mail postage prepaid by registered or certified mail, return receipt requested, addressed as follows, until changed by written notice to the other party:

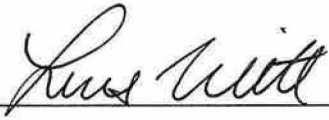
To Consultant: MWM Consulting, LLC
135 West Short, Suite 200
Lexington, Kentucky 40507

To the Community: Madison County Fiscal Court
135 W. Irvine Street, 3rd Floor
Richmond, KY 40475

[Signature Page Follows]

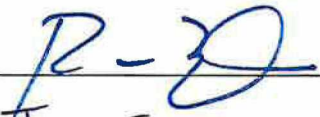
IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

MWM CONSULTING, LLC

By: 

Its: Member

MADISON COUNTY FISCAL COURT

By: 

Its: JUDGE EXECUTIVE

EXHIBIT "A"

SERVICES

SERVICES PROVIDED BY MWM CONSULTING

**Please note the "Proposal" as Exhibit A (attached)*

EXHIBIT "B"

COMPENSATION

1. **Product Development Initiative Retainer.** Consultant shall be paid a "Retainer Fee" in the amount of \$5,000 upon execution of this Agreement.
2. **Incentive/Award Fee.** The Community shall pay Consultant an "Incentive Fee" equivalent to 3% of incentive awards that is recommended by the Site Selection Group and approved by the Kentucky Economic Development Finance Authority.

The Incentive Fee shall be payable within ten (10) business days after the recommendation of the Site Selection Group is provided.

3. **Economic Development Analysis.** Community shall pay the Consultant \$20,000 to complete the Economic Development Analysis outlined in Exhibit A

50% of the fee (\$10,000) shall be paid upon contract execution and the remainder (\$10,000) shall be paid upon delivery of the final product.



ECONOMIC DEVELOPMENT ANALYSIS

July 2022

July 15, 2022

Mr. Reagan Taylor
Madison County Judge Executive
135 West Irvine Street
Richmond, KY 40475

RE: Proposal for Economic Development Analysis
Madison County Fiscal Court
Madison County, KY

Dear Judge Taylor:

MWM Consulting appreciates the opportunity to provide a proposal for an economic development analysis of Madison County and Product Development Initiative, Round 4, submission. Included in this proposal document is our understanding of the project, our scope of services and the fee associated with the anticipated work.

Please review this proposal and let us know if you have any questions or need any additional information.

Sincerely,
MWM CONSULTING



Lucas Witt
Co-Founder &
Partner



Elizabeth Carter
Project Manager

PROJECT SCOPE OF WORK

ECONOMIC DEVELOPMENT ANALYSIS

WORKFORCE ANALYSIS will include data collection and review of material as it pertains to the workforce in Madison County.

SITES & BUILDINGS ANALYSIS will include a desktop review of marketed and off-market opportunities.

INFRASTRUCTURE ANALYSIS will include data collection and review of material as it pertains to the utility (electric, water, wastewater and natural gas) and transportation systems in Madison County.

PRODUCT DEVELOPMENT INITIATIVE SUBMISSION

On behalf of the Madison County Fiscal Court, MWM Consulting proposes to guide the Court through the rigorous Product Development Initiative (PDI), Round 4, investment program.

WORKFORCE REVIEW

While a company may have identified a few properties that suit its project, it must also research the workforce thoroughly. This includes not only finding the number of people to fill the positions, but also the right skill sets for the operation to be successful. Data sources provide helpful numbers on the availability of workforce, but it is also necessary to understand the qualitative side of the workforce. With today's competitive environment, a company must understand who the competitors for labor will be in a location and what wages and benefits will be required to stay competitive, minimize turnover, and operate the facility successfully.

SITES & BUILDINGS ANALYSIS

To attract industrial growth, communities must have an available and marketable product offering. Our expertise and resources in property assessment, development and marketing will allow us to identify and assess current and potential properties, target industries, as well as make recommendations on best practices to market available sites and buildings to industrial prospects.

Steps Involved:

Site selection has evolved considerably over the last few decades. As companies have become more efficient in their processes, the timelines for selecting new sites have become shorter. The shortened duration of time to vet sites under consideration can lead site selectors and company decision-makers toward a path of least resistance, creating an environment where important site attributes are missed prior to selecting the final site for development. This mistake can lead to costly development delays and missed opportunities. Many different site and community attributes may be needed to provide an in-depth analysis of a company's ability to function at

optimum efficiency. Identifying the risk-to-development factors is not only wise, but also assists the site selector and company in playing the selection game intelligently.

Our goal is to identify currently known and unknown properties in the county for evaluation.

- **Site Verification**

MWM Consulting will conduct a desktop review of sites that best fit the predetermined attributes, including but not limited to: number of contiguous acres, ownership verification, price verification and more. MWM will use a desktop tool while also tapping into the Madison County PVA as a resource.

- **Planning, Zoning, Permitting**

MWM will use the Comprehensive Plan as a guide through the search. However, properties that are not identified within the Comprehensive Plan can and will still be considered. Planning and zoning can either prevent or make projects happen. Our goal is to help identify properties of interest and provide recommendations on how to better position said properties through planning and zoning efforts.

- **Preliminary Environmental Review** (*non-engineering*)

MWM Consulting will leverage relationships within the Kentucky Cabinet for Energy and Environment for a preliminary review of the sites for wetlands, floodplains, environmental hazards/contamination, etc. *Note: Should there be a need for a full environmental review, the County would need to hire an Engineering Firm.*

INFRASTRUCTURE ANALYSIS

The location, line size, available capacity, and planned infrastructure upgrades of utilities will be analyzed county-wide and for each site identified during the Sites & Buildings Analysis. If a utility is not present on a site, the projected cost and timeline will be noted. Transportation infrastructure, including road and rail, will also be analyzed.

- **Utility Capacity**

Once sites are identified, MWM Consulting will schedule meetings with each of the utility providers to verify where the current service lines are, the local and overall system capacity, upgrades needed to service the site for an industrial client, cost for and timeline to complete upgrades, and who has what responsibility for the upgrades. The County's GIS Specialist may be needed for assistance on mapping for this part of the project.

- **Logistical Access**

Madison County is lucky enough to have a diversified transportation system, with Interstate 75, federal highways, state highways, and county roads. Furthermore, several sites near the interstate are rail-served, providing excellent industrial service to its clients. The County can leverage these logistical assets to attract businesses. For the

sites not adjacent to I-75, we need to understand what the road access is to the property, what volumes and size of loads they can handle, and what if any upgrades or restrictions are being planned.

APPLICATION FOR PDI SITE DEVELOPMENT PROGRAM

- Gather all necessary information needed for the project site
 - Conduct utility and infrastructure assessment to determine if the current infrastructure is suitable for a mid-to-large size industrial operation. Our team will contact and communicate with local utility partners to understand current capacities and discuss whether upgrades are needed, as well as anticipated cost associated with the upgrade(s).
- Collect and analyze data, i.e. infrastructure capacities, construction bids (if applicable), etc.
- Prepare and submit the PDI application and related paperwork to Site Selection Group (SSG - PDI Consultant) for approval by appropriate entities.
 - MWM Consulting will work directly with Madison County Fiscal Court to ensure the necessary due diligence is provided to support the application.
 - MWM Consulting will work with County government to ensure local support is appropriately conveyed.
- Facilitate site visits for PDI staff and SSG consultant team, to determine suitability for further evaluation.
 - Coordinate logistics of the site visit
 - Prepare and work with relevant partners to present at the site visit
 - Strategize, prepare, and lead the presentation efforts
- Should funding be awarded, MWM Consulting will assist with the award implementation and coordinate requests for additional documentation by the Cabinet for Economic Development, etc.

Based upon our understanding of the project(s), MWM anticipates the following costs associated with our scope of services. Below fees only include MWM Consulting's work and does not include additional fees incurred such as Engineering work and purchase contracts. We appreciate your interest in working with MWM Consulting.

Fee Summary			
Project	Timeline	Payment Structure	Service Fee Total
Economic Development Analysis	4 months	50% upon execution of the contract, 50% upon delivery of the product	\$20,000.00
Product Development Initiative	To follow project due dates	• Retainer Fee: \$5,000 due upon contract execution • Award Fee: Final payment due upon submission AND approval of the financial incentives MWM Consulting secures on behalf of the Madison County Fiscal Court. ○ Payment Amount: 3%	\$5,000 Retainer PLUS 3% of Incentive Award (if approved)