



Commonwealth of Kentucky CONTRACT

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Document Description: Fayette County Detention Center - 20-Bed SB192 SAP/MAT

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Memorandum of Agreement

Reason for Modification:

Issuer Contact:Name: Michelle Trevino
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Vendor Name: LEXINGTON FAYETTE URBAN CO GOVERNMENT FAYETTE COUNTY DETENTION CENTER 600 OLD FRANKFORT CIR LEXINGTON KY 40510	Vendor No.: KY0033801 Vendor Contact Name: BILL O'MARA Phone: 859-258-3300 Email: BILLO@LEXINGTONKY.GOV
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Effective From: 2020-07-01 Effective To: 2022-06-30

Line Item	Delivery Date	Quantity	Unit	Description	Unit Price	Contract Amount	Total Price
1		14600.00000	DAY	Fayette County Detention Center 20 Bed Female-SB192	\$9.000000	\$0.00	\$131,400.00

Extended Description:

Fayette County Detention Center 20 Bed Female-SB192

Effective From: 2020-07-01 Effective To: 2022-06-30

Line Item	Delivery Date	Quantity	Unit	Description	Unit Price	Contract Amount	Total Price
2		14600.00000	DAY	Fayette County Detention Center -20 Bed Male -SB192	\$9.000000	\$0.00	\$131,400.00

Extended Description:

Fayette County Detention Center -20 Bed Male -SB192

Shipping Information:Administrative Services - Central Office
P.O. Box 2400**Billing Information:**Administrative Services - Central Office
P.O. Box 2400

275 East Main Street Room G-37

Frankfort

KY

40602-2400

275 East Main Street Room G-37

Frankfort

KY

40602.24

TOTAL CONTRACT AMOUNT:

\$262,800.00

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Memorandum of Agreement Terms and Conditions

This Memorandum of Agreement (MOA) is entered into, by and between the Commonwealth of Kentucky, Justice and Public Safety Cabinet, Department of Corrections ("the Commonwealth") and The Lexington Fayette County Urban Co. Government for The Fayette County Detention Center ("the Contractor") to establish an agreement for substance abuse and addiction treatment. The initial MOA is effective from July 1, 2020 through June 30, 2022.

I. Definitions:

For the purposes of this Agreement, the definitions listed in this section shall represent the common and exclusive understanding of the parties hereto. The singular and plural form, as well as the small or upper case, of any defined term can be used interchangeably regardless of whether the definition refers to the singular or plural term, or uses the small or upper case, and pronouns shall be deemed to include all genders.

1. "CPP" means Department of Corrections' policy and procedure.
2. "Inmate" means an offender in the custody of the Commonwealth that is housed, or resides in, a prison, county jail, or local or state correctional or detention facility.
3. "PREA" means the Prison Rape Elimination Act, 34 U.S.C.A. § 30301, et seq., (formerly cited as 42 U.S.C. §15601, et seq.), and all applicable PREA National Standards (28 C.F.R. Part 115).
4. "SAMAT" means Supportive Assistance with Medications for Addiction Treatment.
5. "SAP" means Substance Abuse Program.
6. "SAP staff" means an agent, employee, subcontractor, volunteer, or any other individual or entity, acting on behalf of the Contractor that provides services pursuant to this agreement.

II. Scope of Services:

A. The Commonwealth shall

1. Provide clinical oversight and review program performance and compliance as outlined in this MOA.
2. Ensure that an inmate meets, at a minimum, the following qualifications before being approved for SAP:
 - 2.1. Is an adult felony offender;
 - 2.2. Has a verified history of substance use disorder;
 - 2.3. Is within thirty six (36) months of a Parole Board hearing or minimum expiration date.
 - 2.4. Has not received a CPP 15.2 Category V penalty or above (with the exception of CPP 15.2 Category VI-14 and VI-15) within a sixty (60) day period immediately prior to admission;
 - 2.5. Has no active psychosis diagnosis; and
 - 2.6. Is classified by the Commonwealth and assigned a custody level.
3. Have discretion to place in a pretreatment curriculum individuals who:
 - 3.1. Have received a CPP 15.2 Category III-11 penalty, or a CPP 15.2 Category IV penalty, or higher, within six (6) months of admission to SAP; or
 - 3.2. Have been terminated from SAP within twelve (12) months of admission.
4. Have final approval on all admissions to, and discharges from, SAP.
5. Ensure that an inmate meets, at a minimum, the following qualifications before being approved for SAMAT:
 - 5.1. Is a state inmate currently residing in the Contractor's facility; and
 - 5.2. Has a verified history of substance use disorder.
6. Provide names of approved inmates to fill SAP participant vacancies and candidates for SAMAT.
 - 6.1. Vacancies filled in any other manner will be considered a breach of the terms of this MOA, result in non-payment for such participants, and constitute cause for immediate termination of this MOA.
7. Provide names of approved inmates to be screened for SAMAT.

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- 7.1. Participants enrolled in SAMAT in any other manner will be considered a breach of the terms of this MOA, result in non-payment for such participants, and constitute cause for immediate termination of this MOA.
8. Notify the Contractor upon approval of an offender to be transferred to the Contractor's facility for SAP and/or SAMAT.
9. In conjunction with the Contractor, complete all administrative tasks necessary for the transfer of approved inmates to the Contractor's facility based upon bed availability.
10. Process any administrative appeals by the Contractor of inmate placement as appropriate and make a final determination.
11. Reassign any inmate whose placement was successfully appealed by the Contractor.
12. Determine inmate success in SAP by successful completion of respective program phases based on classroom testing, consistent behavioral change, and active participation.
13. Approve or deny any Contractor request for the Program Director or the Program Director's designee to be absent from a Jail Provider meeting.
14. Within ninety (90) days after cancelation or expiration of this MOA, transport SAP and/or SAMAT participants to another facility if required.
15. Provide an additional \$9.00 (Nine Dollars and 00/100) per SAP inmate per day increment above the standard per diem paid to the Contractor for housing a state inmate.
 - 15.1. This additional per diem is authorized for only those inmates that the Commonwealth approves and enrolls into the Contractor's SAP.
 - 15.2. Payment includes the date of arrival but not the date of departure.
16. Determine funding for those offenders placed in SAP and SAMAT by non-Commonwealth staff.
 - 16.1. Funding for such offenders is at the discretion of the Commonwealth and subject to funds availability.
17. Maintain final authority on all SAP and/or SAMAT completions.
18. Reimburse the Contractor in accordance with the Pricing section within this MOA.

B. The Contractor shall

1. Provide residential SAP for a minimum of ninety (90) days and maximum of one hundred and eighty (180) days based on the direction of the Commonwealth for state inmates housed in the Contractor's facility.
2. Administer SAP in accordance with the Therapeutic Community model as approved by the Commonwealth, including, but not limited to:
 - 2.1. Cognitive behavioral counseling;
 - 2.2. 12-step intervention;
 - 2.3. Relapse prevention;
 - 2.4 Evidence-based curriculum approved by the Commonwealth; and
 - 2.5 Following all SAMAT protocols as directed by the Commonwealth.
3. Provide each participant the opportunity to participate in SAP for a minimum of ninety (90) days and maximum of one hundred and eighty (180) days based on the direction of the Commonwealth.
4. Accept all inmates approved by the Commonwealth and assigned to the Contractor's facility.
5. Confirm to the Commonwealth in writing the arrival and enrollment of inmates into SAP. Electronic mail constitutes a writing.
6. Confirm to the Commonwealth in writing the enrollment of inmates into SAMAT. Electronic mail constitutes a writing.
7. Ensure that security staff, which shall exclude SAP clinical staff, shall drug test all new participants upon arrival.
8. Adhere to the Commonwealth's drug testing policy as per CPP 15.8.
9. Ensure that security staff, which shall exclude SAP clinical staff, shall randomly drug test at least 10% of the SAP Program population each month.

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10. Provide all drug test results to the Commonwealth within forty-eight (48) hours.
11. Ensure that SAP participants' living area, classroom, and recreation time are segregated from the general population.
12. Provide size appropriate clothing free from fading, rips, tears, and stains to SAP participants that distinguishes them from non-participating inmates as approved by the Commonwealth.
13. Maintain a minimum staffing level of one (1) SAP staff per twenty (20) inmate participants.
14. Ensure that SAP Clinical staff possess a Bachelor's Degree in social work, psychology, or a related field.
15. Participate in any Commonwealth-sponsored follow-up studies to determine effectiveness of services.
16. Provide a monthly performance report to the Commonwealth in accordance with Commonwealth requirements.
17. Contact the Commonwealth for consultation and approval prior to termination when a participant is discharged from SAP and/or SAMAT.
 - 17.1. Participants who pose an immediate threat to safety and security may be removed from the program pending termination.
18. Obtain and maintain the required certifications, permits, and licenses required to provide services pursuant to this MOA, including but not limited to, independent alcohol and other drug treatment entity ("AODE") license and 908 KAR 1:370 Licensure Procedures and Standards. The AODE license shall not be a site license from another contracted agency.
19. Ensure that the SAP Program Director meets the requirements for licensure as specified in 908 KAR1:370.
20. Ensure that all SAP staff comply with all applicable requirements of this MOA, including, but not limited to, certifications, permits, and licenses.
21. Ensure that all SAP staff meet or exceed the minimum criteria set by the Commonwealth.
22. Obtain the Commonwealth's written approval prior to hiring SAP staff.
23. Comply with the Commonwealth's SAP Policy Guidelines, available at <http://corrections.ky.gov> and CPP 13.8.
24. Comply with the Commonwealth's SAMAT protocol.
25. Comply with the Commonwealth's training requirements, which may include webinars.
26. Comply with all Kentucky Jail Standards.
27. Ensure that the SAP Program Director or the Program Director's designee attends all Jail Provider meetings in their entirety.
28. SAP staff shall enter all program related information as directed by the Commonwealth into Kentucky Offender Management System as approved by the Director of Information Services and the Director of Local Facilities.
29. Agree and acknowledge that this MOA does not constitute an agreement for confinement in the Contractor's facility, which is governed by applicable statutes and regulations, and is not a contract for the confinement of inmates within the scope of PREA.
30. Expend all state funds paid to the Contractor for inmates participating in SAP and any interest earned on the funds on the treatment of inmates in SAP.
31. Ensure that SAP staff shall enter all program related information and SAMAT information as directed by the Commonwealth into the Kentucky Offender Management System.
32. Direct all program-related communications to the following:

Sarah G. Johnson, Director
Addiction Services
Kentucky Department of Corrections
PO Box 2400
Frankfort, Kentucky 40602

SarahG.Johnson@ky.gov

33. Direct all communications regarding invoicing and payment pursuant to this MOA to:
Pat Sudduth

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Director
Administrative Services
Kentucky Department of Corrections
PO Box 2400
Frankfort, Kentucky 40602
Pat.Sudduth@ky.gov

C. The Contractor may

1. Bill the Commonwealth for SAP.
2. Bill the Commonwealth for SAMAT, specifically:
 - 2.1. Laboratory/toxicology tests not to exceed \$50.00 (Fifty Dollars and 00/100) per participant;
 - 2.2. Initial medical examinations; and
 - 2.3. Screening for co-occurring disorders and undiagnosed medical conditions.
3. Appeal the assignment of an inmate to the Contractor's facility.
 - 3.1. The appeal must be specific to the inmate and must articulate the reason the Contractor cannot accept the inmate and the impact to its facility and operations.
 - 3.2. The Commonwealth will process the appeal internally as appropriate and make a final determination.
 - 3.3. If the appeal is granted, the Commonwealth will reassign the inmate.

Other services not listed herein must be approved by the Commonwealth for reimbursement.

III. Pricing:

A. The Commonwealth shall

1. Reimburse the Contractor for allowable expenses incurred as a function of the performance of and in accordance with the terms and conditions specified within this MOA.
2. Reimburse the Contractor \$9.00 (Nine Dollars and 00/100) per day per inmate in SAP, provided that the inmate is approved by and enrolled in SAP at the direction of the Commonwealth.
 - 2.1. Payment includes the date of arrival but not the date of departure.

B. The Contractor shall

1. Not allow or authorize Contractor personnel to financially obligate Commonwealth funds.
2. Bill the Commonwealth for services rendered from the first to last day of each calendar month and provide all supporting documentation used to constitute the invoice.
3. Provide all invoices to the Commonwealth no later than thirty (30) calendar days after the end of the billing period.
4. Not invoice the Commonwealth for any fund types listed in this Pricing section for which it does not provide services.
5. Submit a separate invoice and roster for all general funded SAP. Labs approved through SAMAT protocol shall be submitted for reimbursement up to a total of \$50.00 (Fifty Dollars and 00/100) per person. Medication authorized by the SAMAT protocol but must be ordered from the Commonwealth's contracted pharmaceutical provider when seeking reimbursement.
6. When required by the Commonwealth, submit a separate invoice and roster for all non-general funded SAP.
 - 6.1. If funding for this program is provided pursuant to SB192, the invoice must include a reference to SB192 in the invoice number and follow the format and guidelines specified within this MOA.
7. When required by the Commonwealth, submit a separate invoice and roster monthly or upon use for all SAMAT.

Funding for general funded SAP shall not exceed \$131,400.00 per fiscal year.

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JUSTICE AND PUBLIC SAFETY CABINET TERMS AND CONDITIONS

1. Contractor shall comply with all applicable federal, state, and local laws. Contractor shall also comply with all applicable Commonwealth policies and procedures unless a specific exemption has been granted by the Commonwealth to the Contractor.
2. To the extent permitted by law, the Contractor agrees to indemnify and hold harmless the Commonwealth against any and all claims, losses, demands, obligations, and litigation, including attorneys' fees, that result from or by: (1) services rendered by the Contractor performing or supplying services in connection with performance of this MOA, (2) the erroneous or negligent acts of the Contractor, its officers, or employees in the performance of this MOA, (3) the Contractor's creation of a hazardous condition or exacerbation of a pre-existing hazardous condition; (4) the publication, translation, reproduction, delivery, performance, use, or disposition of any data processed under the contract in a manner not authorized by the contract, or by federal or Commonwealth regulations or statutes by the Contractor, (5) any and all acts and omissions of the Contractor, (6) the policies and procedures specifically involving all the Contractor employment practices used by the Contractor during the term of this MOA, and (7) any failure of the Contractor, its officers, or employees to observe federal, state, and local laws, including but not limited to labor laws and minimum wage laws.
3. Both parties, including any subcontractors or agents of each, agree to comply with all applicable state and federal confidentiality laws, including the Health Insurance Portability and Accountability Act, and to protect the security, confidentiality, and integrity of health information. The Contractor acknowledges and agrees that the Commonwealth shall be entitled, without waiving any other rights or remedies, to injunctive or equitable relief to enforce the requirements of this provision of this MOA.
4. Vendors and other state agencies that receive Personal Information as defined by and in accordance with Kentucky's Personal Information Security and Breach Investigation Procedures and Practices Act, KRS 61.931, et seq. ("the Act"), shall secure and protect the Personal Information by, without limitation, complying with all requirements applicable to non-affiliated third parties set for in the Act.
 - 4.1. "Personal Information" is defined in accordance with KRS 61.931(6) as "an individual's first name or first initial and last name; personal mark; or unique biometric or genetic print or image, in combination with one(1) or more of the following data elements:
 - 4.1.1. An account, credit card number, or debit card number that, in combination with any required security code, access code, or password, would permit access to an account;
 - 4.1.2. A Social Security number;
 - 4.1.3. A taxpayer identification number that incorporates a Social Security number;
 - 4.1.4. A driver's license number, state identification card number, or other individual identification number issued by an agency;
 - 4.1.5. A passport number or other identification number issued by the United States government; or
 - 4.1.6. Individually Identifiable Information as defined in 45 C.F.R. sec. 160.013 (of the Health Insurance Portability and Accountability Act), except for education records covered by the Family Education Rights and Privacy Act, as amended 20 U.S.C. sec. 1232g.
 - 4.2. As provided in KRS 61.931(5), a "non-affiliated third party" means "any person or entity that has a contract or agreement with the Commonwealth and receives (accesses, collects, or maintains) personal information from the Commonwealth pursuant to the contract or agreement."
 - 4.3. The Contractor agrees to cooperate with the Commonwealth in complying with the response, mitigation, correction, investigation, and notification requirements of the Act.

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- 4.4. The Contractor shall notify as soon as possible, but not to exceed seventy-two (72) hours, the Commonwealth, the Commissioner of the Kentucky State Police, the Auditor of Public Accounts, and the Commonwealth Office of Technology of a determination of or knowledge of a breach, unless the exception set forth in KRS 61.932(2) applies and the Contractor abides by the requirements set for in that exception. Notification shall be in writing on a form developed by the Commonwealth Office of Technology
- 4.5. The Contractor agrees to undertake a prompt and reasonable investigation of any breach as required by KRS 61.933.
- 4.6. Upon conclusion of an investigation of a security breach of Personal Information as required by KRS 61.933, the Contractor agrees to an apportionment of the costs of the notification, investigation, and mitigation of the security breach.
- 4.7. In accordance with KRS 61.932(2)(a), the Contractor shall implement, maintain, and update security and breach investigation procedures that are appropriate to the nature of the information disclosed, that are at least as stringent as the security and breach investigation procedures and practices established by the Commonwealth Office of Technology.
- 4.8. The parties acknowledge that records, statistical information, and/or data provided by the Commonwealth to the Contractor are the property of the Commonwealth. In order for the Commonwealth to maintain control and integrity of its records, the Contractor agrees that any Freedom of Information Act request, Kentucky Open Records request, or other request seeking access to information or data provided by the Commonwealth will be reported to the Commonwealth, and if the requestor will agree to do so, the request will be forwarded to the Commonwealth. If the requestor will not agree to withdraw the request and instead submit it to the Commonwealth, then the Commonwealth shall direct the Contractor in answering the request.
5. The Contractor agrees that it will not distribute, divulge, publish, or release any data or information obtained from or owned by the Commonwealth without the prior written approval of the Commonwealth unless compelled to do so by law or by a judicially signed order from a court of competent jurisdiction. The Contractor acknowledges that it receives the Commonwealth's data or information solely for the purposes of this MOA, and that its receipt of the Commonwealth's data or information in no way creates any ownership interest in the Commonwealth's data or information, unless explicitly provided otherwise within the terms and conditions of this MOA.
6. The parties agree that they receive all information communicated between them before the execution of this MOA in strict confidence and that the receiving party, its agents, or employees shall not, without prior written consent of the other party, disclose any such information, subject to Commonwealth of Kentucky and federal disclosure laws.
7. The Contractor shall not represent that a working copy, draft, or the finalized version of this MOA is identical to a previous iteration of this MOA if the Contractor has made edits since the last iteration. The Contractor shall clearly present all edits either through editing functions in word processing software or as a list provided contemporaneously with the most recently edited iteration.
8. Contractor shall perform only the work duties explicitly authorized in this MOA. Any invoice Contractor submits that seeks payment for work other than the work explicitly authorized in this MOA will be rejected in whole or part at the discretion of the Commonwealth. The Commonwealth reserves the right to withhold payment in part or in whole for invoicing submitted by the Contractor that is not in accordance with the terms or conditions set forth in this MOA.
9. Contractor agrees that noncompliance with the terms and conditions within this MOA may result in delayed reimbursements, partial reimbursements, or no reimbursement if the Commonwealth is unable to substantiate the goods and services tendered and rendered by the Contractor through the required documentation. Implicit in the submission of each invoice is a certification that the Contractor has included all supporting documentation for each charge; failure to include all supporting documentation constitutes cause to withhold payment. For all invoices submitted more than 30 calendar days after the end of the final billing period of the applicable fiscal year,

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- the Contractor may be required to pursue payment under KRS 45.231, which shall be the sole responsibility of the Contractor.
10. The Contractor shall implement internal controls to ensure accurate billing and invoicing. In the event that the billing and invoicing error rate exceeds 10% of the total amount billed during a billing cycle, the Commonwealth may withhold the actual amount of the cost to meet its due diligence requirement regarding the mitigation of fraud, waste, and abuse through correct reimbursement of the Contractor.
 11. In the event that the Commonwealth experiences a change in its budget status, Contractor agrees to renegotiate this MOA in good faith upon request of the Commonwealth.
 12. During the term of this MOA, Contractor shall be authorized in its sole discretion to discipline, terminate or take any other personnel action against Contractor personnel. Upon communication by Commonwealth of an issue with Contractor personnel, Contractor shall have the sole authority to take action to effect a solution.
 13. At no point shall any Contractor personnel be considered an employee of the Justice and Public Safety Cabinet, for any purpose, including but not limited to unemployment, taxes, withholding, health insurance, liability, retirement, workers' compensation, vacation, sick or other leave, the Family Medical Leave Act, accrued benefits, evaluations, or any other purpose. At all times, any such individual shall be considered and deemed to be an employee of the Contractor.
 14. Nothing in this MOA shall be construed, in any way, as granting to any individual providing services under this MOA any of the claims, privileges, or rights established or recognized under KRS Chapter 18A or KAR Title 101.
 15. In no event shall any Contractor personnel be deemed to be a third-party beneficiary of this MOA.
 16. Pursuant to the Executive Branch Code of Ethics, Kentucky Revised Statutes Chapter 11A, and in order to avoid conflicts of interest more generally, dual-status personnel may not manage or administer this MOA or any of its individual terms and conditions. Dual-status personnel is defined as any and all individuals who are employed by or receive a tangible benefit from the Commonwealth and the Contractor simultaneously.
 17. Dual-status personnel shall be considered Commonwealth personnel and shall not be considered Contractor personnel for the purposes of this MOA, except for the terms and conditions of this MOA that apply to dual-status personnel by virtue of their dual status.
 18. The Contractor acknowledges that the Commonwealth may execute agreements with other vendors for additional or related goods and services that address, interact with, or otherwise regard this MOA. The Contractor shall fully cooperate with such other vendors and vendor personnel, agents, and designees. The Contractor shall not commit any act; allow any omission; or permit its personnel, agents, or designees to commit any act or allow any omission that will interfere with the performance of work by any other vendor or any other vendor's personnel, agents, or designees.
 19. Each party shall provide a contact to resolve any and all issues related to this MOA and promptly update the contact information as necessary.
 20. All notices under this MOA shall be given in writing. Electronic mail constitutes a writing.
 21. No change, waiver, or discharge of any liability or obligation under this MOA on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.
 22. No party shall assign its respective rights or obligations under this MOA without prior written consent of the other party. Any purported assignment or delegation in violation of this MOA is void.
 23. The terms and conditions of this MOA may only be amended by mutual written consent of both parties.
 24. The Contractor shall report any and all acts and omissions constituting a violation of applicable federal, state, or local law; applicable Commonwealth policies and procedures; or this MOA to the Commonwealth in writing within one business day of the discovery of the violation.

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25. This MOA shall be construed and enforced in accordance with the laws of the Commonwealth of Kentucky.
26. The parties agree that any claim, action, or lawsuit arising under this MOA must be brought in Franklin Circuit Court in the Commonwealth of Kentucky.
27. If any term or provision or any part of this MOA is declared invalid or unenforceable, the remainder of this MOA shall not be affected, and each term and provision of this MOA shall be valid and enforceable to the fullest extent permitted by the law.
28. This MOA is the final and exclusive agreement between the parties. All prior negotiations and agreements are superseded by this MOA.

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Memorandum of Agreement Standard Terms and Conditions

1.00 Cancellation clause:

Either party may cancel the agreement at any time for cause or may cancel without cause on 30 days' written notice.

2.00 Funding Out Provision:

The state agency may terminate this agreement if funds are not appropriated to the contracting agency or are not otherwise available for the purpose of making payments without incurring any obligation for payment after the date of termination, regardless of the terms of the agreement. The state agency shall provide the Contractor thirty (30) calendar days written notice of termination of the agreement due to lack of available funding.

3.00 Reduction in Contract Worker Hours:

The Kentucky General Assembly may allow for a reduction in contract worker hours in conjunction with a budget balancing measure for some professional and non-professional service contracts. If under such authority the agency is required by Executive Order or otherwise to reduce contract hours, the agreement will be reduced by the amount specified in that document.

4.00 Access to Records:

The state agency certifies that it is in compliance with the provisions of KRS 45A.695, "Access to contractor's books, documents, papers, records, or other evidence directly pertinent to the contract." The Contractor, as defined in KRS 45A.030(8) and (10), agrees that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this agreement for the purpose of financial audit or program review. The Contractor also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the agreement and shall be exempt from disclosure as provided in KRS 61.878(1)(c).

5.00 Effective Date:

All Memorandum of Agreements are not effective until the Secretary of the Finance and Administration Cabinet or his authorized designee has approved the agreement and

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until the agreement has been submitted to the government contract review committee. However, in accordance with KRS 45A.700, memoranda of agreement in aggregate amounts of \$50,000 or less are exempt from review by the committee and need only be filed with the committee within 30 days of their effective date for informational purposes.

KRS 45A.695(7) provides that payments on personal service contracts and memoranda of agreement shall not be authorized for services rendered after government contract review committee disapproval, unless the decision of the committee is overridden by the Secretary of the Finance and Administration Cabinet or agency head, if the agency has been granted delegation authority by the Secretary.

6.00 Violation of tax and employment laws:

KRS 45A.485 requires the Contractor and all subcontractors performing work under the agreement to reveal to the Commonwealth, prior to the award of a contract, any final determination of a violation by the Contractor within the previous five (5) year period of the provisions of KRS chapters 136, 139, 141, 337, 338, 341, and 342. These statutes relate to corporate and utility tax, sales and use tax, income tax, wages and hours laws, occupational safety and health laws, unemployment insurance laws, and workers compensation insurance laws, respectively.

To comply with the provisions of KRS 45A.485, the Contractor and all subcontractors performing work under the agreement shall report any such final determination(s) of violation(s) to the Commonwealth by providing the following information regarding the final determination(s): the KRS violated, the date of the final determination, and the state agency which issued the final determination.

KRS 45A.485 also provides that, for the duration of any contract, the Contractor and all subcontractors performing work under the agreement shall be in continuous compliance with the provisions of those statutes, which apply to their operations, and that their failure to reveal a final determination as described above, or failure to comply with the above statutes for the duration of the agreement shall be grounds for the Commonwealth's cancellation of the agreement and their disqualification from eligibility for future state contracts for a period of two (2) years.

[Check box section below need only be included for Contractors that are quasi-governmental entities or 501(c)3 non-profit entities.]

Contractor must check one:

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_____ The Contractor has not violated any of the provisions of the above statutes within the previous five (5) year period.

_____ The Contractor has violated the provisions of one or more of the above statutes within the previous five (5) year period and has revealed such final determination(s) of violation(s). Attached is a list of such determination(s) , which includes the KRS violated, the date of the final determination, and the state agency which issued the final determination.

7.00 Discrimination:

This section applies only to agreements disbursing federal funds, in whole or part, when the terms for receiving those funds mandate its inclusion. Discrimination (because of race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability) is prohibited. During the performance of this agreement, the Contractor agrees as follows:

The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity or age. The Contractor further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The Contractor agrees to provide, upon request, needed reasonable accommodations. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability. 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 compensations; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

In all solicitations or advertisements for employees placed by or on behalf of the Contractor, the Contractor will, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability.

The Contractor will send to each labor union or representative of workers with which he/ she has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the Contractor's commitments

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under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965 as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.

The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, 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 administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

In the event of the Contractor's noncompliance with the nondiscrimination clauses of this agreement or with any of the said rules, regulations or orders, this agreement may be cancelled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.

The Contractor will include the provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 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 No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

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Approvals

This contract is subject to the terms and conditions stated herein. By affixing signatures below, the parties verify that they are authorized to enter into this contract and that they accept and consent to be bound by the terms and conditions stated herein. In addition, the parties agree that (i) electronic approvals may serve as electronic signatures, and (ii) this contract may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all counterparts together shall constitute a single contract.

1st Party:

_____	_____
Signature	Title
_____	_____
Printed Name	Date

2nd Party:

_____	_____
Signature	Title
_____	_____
Printed Name	Date

Other Party:

_____	_____
Signature	Title
_____	_____
Printed Name	Date

Approved as to form and legality:

Attorney

ANNUAL AFFIDAVIT FOR BIDDERS, OFFERORS AND CONTRACTORS

Affidavit Effective Date: _____
Affidavit Expiration Date: _____
Maximum Length One-Year

REQUIRED AFFIDAVIT FOR BIDDERS, OFFERORS AND CONTRACTORS

PAGE 1 OF 2

FOR BIDS AND CONTRACTS IN GENERAL:

- I. Each bidder or offeror swears and affirms under penalty of perjury, that to the best of their knowledge:
- a. In accordance with [KRS 45A.110](#) and [KRS 45A.115](#), neither the bidder or offeror as defined in [KRS 45A.070\(6\)](#), nor the entity which he/she represents, has knowingly violated any provisions of the campaign finance laws of the Commonwealth of Kentucky; and the award of a contract to the bidder or offeror or the entity which he/she represents will not violate any provisions of the campaign finance laws of the Commonwealth.
 - b. The bidder or offeror swears and affirms under penalty of perjury that, to the extent required by Kentucky law, the entity bidding, and all subcontractors therein, are aware of the requirements and penalties outlined in [KRS 45A.485](#); have properly disclosed all information required by this statute; and will continue to comply with such requirements for the duration of any contract awarded.
 - c. The bidder or offeror swears and affirms under penalty of perjury that, to the extent required by Kentucky law, the entity bidding, and its affiliates, are duly registered with the Kentucky Department of Revenue to collect and remit the sales and use tax imposed by [KRS Chapter 139](#), and will remain registered for the duration of any contract awarded.
 - d. The bidder or offeror swears and affirms under penalty of perjury that the entity bidding is not delinquent on any state taxes or fees owed to the Commonwealth of Kentucky and will remain in good standing for the duration of any contract awarded.
 - e. The bidder or offeror swears and affirms under penalty of perjury that the entity bidding, is not currently engaged in, and will not for the duration of the contract engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which Kentucky can enjoy open trade, as defined in Executive Order No. 2018-905.
 - f. The bidder or offeror swears and affirms that the entity bidding, and all subcontractors therein, have not violated any of the prohibitions set forth in KRS 11A.236 during the previous ten (10) years, and further pledge to abide by the restrictions set forth in such statute for the duration of the contract awarded.

FOR "NON-BID" CONTRACTS (I.E. SOLE-SOURCE; NOT-PRACTICAL OR FEASIBLE TO BID; OR EMERGENCY CONTRACTS, ETC):

- II. Each contractor further swears and affirms under penalty of perjury, that to the best of their knowledge:
- a. In accordance with [KRS 121.056](#), and if this is a non-bid contract, neither the contractor, nor any member of his/her immediate family having an interest of 10% or more in any business entity involved in the performance of any contract awarded, have contributed more than the amount specified in [KRS 121.150](#) to the campaign of the gubernatorial slate elected in the election last preceding the date of contract award.

ANNUAL AFFIDAVIT FOR BIDDERS, OFFERORS AND CONTRACTORS

REQUIRED AFFIDAVIT FOR BIDDERS, OFFERORS AND CONTRACTORS

- b. In accordance with KRS 121.330(1) and (2), and if this is a non-bid contract, neither the contractor, nor officers or employees of the contractor or any entity affiliated with the contractor, nor the spouses of officers or employees of the contractor or any entity affiliated with the contractor, have knowingly contributed more than \$5,000 in aggregate to the campaign of a candidate elected in the election last preceding the date of contract award that has jurisdiction over this contract award.

- c. In accordance with KRS 121.330(3) and (4), and if this is a non-bid contract, to the best of his/her knowledge, neither the contractor, nor any member of his/her immediate family, his/her employer, or his/her employees, or any entity affiliated with any of these entities or individuals, have directly solicited contributions in excess of \$30,000 in the aggregate for the campaign of a candidate elected in the election last preceding the date of contract award that has jurisdiction over this contract.

As a duly authorized representative for the bidder, offeror, or contractor, I have fully informed myself regarding the accuracy of all statements made in this affidavit, and acknowledge that the Commonwealth is reasonably relying upon these statements, in making a decision for contract award and any failure to accurately disclose such information may result in contract termination, repayment of funds and other available remedies under law. If the bidder, offeror, or contractor becomes non-compliant with any statements during the affidavit effective period, I will notify the Finance and Administration Cabinet, Office of Procurement Services immediately. I understand that the Commonwealth retains the right to request an updated affidavit at any time.

_____ Signature	_____ Printed Name
_____ Title	_____ Date

Company Name _____
Address _____

Commonwealth of Kentucky Vendor Code (if known) _____

Subscribed and sworn to before me by _____
(Affiant) (Title)

of _____ this _____ day of _____, 20____.
(Company Name)

Notary Public
[seal of notary] My commission expires: _____